

## CHAPTER 11

### LAND USE REGULATION (ZONING)

**SECTION 11.01. OBJECTIVES; THIS CHAPTER.** This Chapter is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity, and general welfare. More specifically, this Chapter is adopted in order to achieve the following objectives: (1) To assist in the implementation of the City's Comprehensive Land Use Plan, which in its entirety represents the foundation upon which this Chapter is based; (2) To foster a harmonious, convenient, workable relationship among land uses; (3) To promote the stability of existing land uses that conform with the Land Use Plan and to protect them from inharmonious influences and harmful intrusions; (4) To insure that public and private lands ultimately are used for the purposes which are the most appropriate and most beneficial from the standpoint of the City as a whole; (5) To prevent excessive population densities and overcrowding of the land with structures; (6) To promote a safe, effective traffic circulation system; (7) To foster the provision of adequate off-street parking and off-street truck loading facilities; (8) To facilitate the appropriate location of community facilities and institutions; (9) To protect and enhance real estate values; (10) To safeguard and enhance the appearance of the City, including natural amenities; and, (11) To provide for the orderly growth of the City as a whole.

**SEC. 11.02. DEFINITIONS.** The following terms, as used in this Chapter, shall have the meanings stated:

1. **"Accessory Building"** – A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building. For the purpose of this definition a lot may be one or more parcels adjoining each other owned by the same owner.

*Ordinance 76 2<sup>nd</sup> Series, Adopted May 19<sup>th</sup>, 2003*

2. **"Accessory Use"** - A use naturally and normally incidental to, subordinate to, and auxiliary to the principal permitted use of the premises.

*Source: Ordinance No. 93-8 Effective Date: 11-7-93*

3. **"Advertising Sign"** - A sign which directs attention to a business, commodity, service, activity, or product which is produced, sold, or provided for, on the premise upon which the sign is located.

*Source: Ordinance No. 94-1 Effective Date: 1-30-94*

4. **"Agriculture"** - The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry, or fur bearing animals.
5. **"Alley"** - A public right-of-way which affords a secondary means of access to abutting property.

6. **"Animal Shelter"** - Any place where three (3) or more animals of three (3) or more months of age are boarded, bred, and/or offered for sale.
7. **"Automobile Repair-Minor"** - Minor repair, incidental body and fender work, painting and upholstering service, replacement of parts and engine service to passenger vehicles and trucks not exceeding three-quarter ton capacity.
8. **"Automobile Repair-Major"** - General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, and painting.
9. **"Automobile Wrecking or Junkyard"** - A place maintained for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second hand material of any kind, including used motor vehicles, machinery, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron, other metals, or articles from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment. This shall not prohibit the keeping of unlicensed motor vehicles within a garage or other structure in a residential district.
10. **"Basement"** - A story partly underground but having at least 1/2 of its height above the highest level of the adjoining ground. A basement shall be counted as a story except that a basement, the ceiling of which does not extend for more than five (5) feet above curb level or above the highest level of the adjoining ground shall not be counted as a story.
11. **"Block"** - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, lake, public property, natural amenity, or rail line.
12. **"Buffer Strip"** - A strip of land containing trees, shrubs, or other plantings for the purpose of providing a visual break between different land uses.
13. **"Building"** - Any structure for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
14. **"Building Height"** - A distance to be measured from the mean curb level along the front lot line or from the mean ground level for all that portion of the structure having frontage on a public right-of-way, whichever is higher, to the top of the cornice of a flat roof, to the top of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the mean distance of the highest gable on a pitched or hip roof.

15. **"Comprehensive Land Use Plan"** - Compilation of a policy statement containing objectives, standards, and maps for building the physical and social aspects of the City as well as the economic development factor of both public and private means of the municipality and its environs, as defined in the Minnesota Land Use Planning Act, Minn. Stat. Chapter 462.
16. **"Conditional Use"** - A use, which because of its unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location a "Conditional Use Permit" may be granted.
17. **"Corner Lot"** - A lot situated at the junction of and fronting on two (2) or more streets.
18. **"Court"** - An open unoccupied space bounded on two (2) or more sides by the exterior walls of a building or buildings on the same lot.
19. **"Curb Level"** - The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this Chapter.
20. **"Depth of Lot"** - The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.
21. **"Depth of Rear Yard"** - The mean horizontal distance between the rear line of the principal building and the rear lot line.
22. **"District"** - A section of the City for which the regulations governing the height, area, use of buildings, and premises are the same.
23. **"Dwelling (R-1)"** - A building designed for or occupied exclusively by one family.
24. **"Dwelling (R-2)"** - A building designed for or occupied by up to four (4) families.
25. **"Dwelling (R-3)"** - A building designed for multiple family units.
26. **"Dwelling Unit"** - Residential accommodation including complete kitchen facilities, permanently installed, which are arranged, designed, used, or intended for use exclusively as living quarters for one family.
27. **"Easement"** - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

28. **"Essential Services"** - The phrase "essential service" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communication, steam or water transmissions or distribution systems, including poles, wire mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commission for the public health, safety or general welfare.
29. **"Family"** - One or more persons related by blood, marriage or adoption, including foster children or a group of not more than five (5) persons some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household, but not including sororities, fraternities, or other similar organizations.
30. **"Flood"** - A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
31. **"Flood Plain"** - Those areas adjoining a water course which have been or hereafter may be covered by the regional flood.
32. **"Floor Area, Ground"** - The area within the exterior walls of the main building or structure excluding the garage as measured from the outside walls at the ground level.
33. **"Frontage"** - The width of a lot or a building site measured on a line separating it from a public street or right-of-way. For the purpose of this Chapter the frontage shall be defined as that side which contains the main entry way for the building.
34. **"Group Usable Open Space"** - Land area and facilities specifically designed and developed for recreational or social activities of individuals or groups excluding required setback areas. In addition to those areas and facilities designed and developed for the private use of residents of individual dwelling units.
35. **"Home Occupation"** - Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling, and does not change the character thereof or have any exterior evidence of such secondary use except for one (1) one foot by two foot (1' x 2') neutrally colored sign attached to the house, garage, or mailbox post. This occupation shall be carried out primarily by members of the family residing in the dwelling. The equivalent of one full time employee may be employed for the home occupation. Any sales on the premises must be secondary in nature to the primary purpose of the occupation. Products used or produced in the home occupation shall be delivered by single rear axle straight trucks or similar delivery vehicles normally used to serve residential neighborhoods. *Source: Ordinance 57, 2<sup>nd</sup> Series, effective: April 3, 2001*

36. **"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. *Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009*
37. **"Junk Yard"** - (See Automobile Wrecking).
38. **"Loading Space"** - A space accessible from a street, alley, or way, in a building or on a lot, for the use of trucks while loading or unloading merchandise or materials.
39. **"Lot"** - One (1) unit of a recorded plat, subdivision, or registered land survey, occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this Chapter and having frontage on a public street.
40. **"Lot Area"** - The lot area is the land area within the lot lines.
41. **"Lot Coverage"** - That portion of a lot covered with structures and hard surfaces such as parking, loading, and storage.
42. **"Lot-Interior"** - A lot other than a corner lot.
43. **"Lot Line"** - The lines bounding a lot as defined herein. When a lot line abuts on a street, avenue, park, or other public property, such line shall be known as a street line.
44. **"Lot Line Rear"** - That boundary of a lot line which is most distant from and is, or is approximately parallel to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.
45. **"Lot-Through"** - An interior lot having frontage on two (2) streets.
46. **"Lot-Width"** The width of a lot is its own mean width measured at right angles to its mean depth.
47. **"Mining"** - The excavation of earth materials for the purpose of sale. *Source: Ordinance No. 93-8 Effective Date: 11-7-93*
48. **"Manufactured Home"** - Any dwelling unit used or constructed to permit its transportation upon public streets or highways, including self propelled or non-self-propelled vehicles designed in a manner to permit long term occupancy as a dwelling place for one or more persons, having no foundation other than wheels, jacks, or skirtings.

- 49. "Manufactured Home Park"** - Any site or tract of land upon which three (3) or more occupied mobile homes are located regardless of the charge or absence of charge for accommodations. *Source: Ordinance No. 94-6, Effective Date: 9-26-94*
- 50. "Motel-Hotel"** A building or group of buildings used primarily for the temporary residence of motorists or travelers. *Source: Ordinance No. 93-8, Effective Date: 11-7-93"*
- 51. Municipal Facility Sign"** - A sign that promotes the use and awareness of municipal facilities. Such signs are allowed off premise in any zoning district on private or public property with the consent of the property owner and Council approval. *Source: Ordinance No. 94-1, Effective Date: 1-30-94*
- 52. "Non-Conforming Uses"** - Any building, structure, or use of land which does not conform to the regulations of the district or zone in which it is situated.
- 53. "Nursing Homes"** - A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or the treatment of disease or injury, nor does it include maternity care or care of mental illnesses. Its minimum accommodation is six (6) persons. *Source: Ordinance No. 93-8 Effective Date: 11-7-93*
- 54. "Off-Premise Sign"** - A sign which directs attention to a business, commodity, service, activity, or product which is not conducted upon the premises where such a sign is located, not including bus benches, portable reader boards, and political, special event, or signs for non-profit organizations such as churches, schools, hospitals and government units. *Source: Ordinance No. 94-1 Effective Date: 1-30-94*
- 55. "Ordinary High Water Mark"** - The highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- 56. "Outside Storage"** - The keeping, in an unenclosed area, of any goods, junk, material, supplies, finished or semi-finished product, trash, recycling, recreational vehicles or unlicensed or inoperable vehicles in the same place for more than seven days. *Source: Ordinance 66, 2<sup>nd</sup> Series, Effective Date: November 7, 2001 Source: Ordinance 68, 2<sup>nd</sup> Series, Effective Date: March 26, 2002*
- 57. "Parking Space"** - A space for parking of automobiles which has a minimum width of nine (9) feet and a minimum length of nineteen (19) feet.

58. **"Planned Unit Development"** - A procedure for planning a tract of land as a unit under single or unified ownership or control.
59. **"Sanitary Landfills"** - Method of waste disposal involving the dumping and daily covering of waste material all in compliance with State of Minnesota regulations.
60. **"Setback"** - The minimum horizontal distance between a building and the street or lot line or the ordinary high water mark of a public water.
61. **"Single Family Attached Housing"** - One-family dwellings attached to other such units by common walls side by side.
62. **"Single Family Cluster Housing"** - One-family detached dwellings on lots of less area than ten thousand (10,000) square feet
63. **"Single Family Detached Housing"** - A building designed for one family and not connected to other such units.
64. **"Site Area Per Dwelling Unit"** - The site area per dwelling unit is the minimum land area required by this Chapter to be provided for each dwelling unit in a building.
65. **"Stand-Roadside"** - A structure for the display and sale of products with no space for customers within the structure itself.
66. **"Story"** - That portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A basement may be counted as a story (see Basement) but a cellar shall not be counted as a story.
67. **"Street"** - A public way for vehicular traffic whether designated as street, highway, thoroughfare, parkway, throughway, road, arterial, lane, place or however other designed. The width of a street is measured between right-of-way lines.
68. **"Street Line"** - The line coinciding with the lot and the street right-way-line.
69. **"Structure"** - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.
70. **"Structure-Alterations"** - Any change in the supporting members of a building such as bearing walls, columns, beams, or girders
71. **"Use"** - The purpose for which land or premises or a building thereof is designed, arranged, or intended, or for which it is or may be occupied or maintained.

- 72. "Use-Principal"** - The main use of land or buildings as distinguished from a subordinate or accessory use.
- 73. "Use-Accessory"** - A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use.
- 74. "Variance"** - The waiving of specific literal provisions of this Chapter in instances where their strict enforcement would cause practical difficulties. Practical Difficulties are described as follows:
- The property owner proposes to use the property in a reasonable manner not permitted by an official control;
  - The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - The variance, if granted, will not alter the essential character of the locality  
*Source: Ordinance 156 2<sup>nd</sup> Series, Effective Date: November 7, 2011*
- 75. "Veterinary Clinic"** - A commercial activity catering to the medical needs of animals and having no outside runs.
- 76. "Yard"** - Any space in the same lot with a building open and unobstructed from the ground to the sky.
- 77. "Yard-Front"** - A yard extending across the front of the lot between the inner side yard lines and lying between the front street line of the lot and nearest line of the building.
- 78. "Yard-Rear"** - An open space unoccupied on the same lot with a building between the building and the side line of the lot, and extension from the front lot line to the rear of the backyard.

### **SEC. 11.03. DEVIATIONS FROM REGULATIONS AND ADMINISTRATION.**

**Subd. 1. Non-Conforming Uses.** Any non-conforming use, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- A.** The nonconformity or occupancy is discontinued for a period of more than one year; or
- B.** Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.



- C.** Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The City may, but ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit the City from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.
- D.** Any building or structure that is non-conforming in nature that is in progress or granted a building permit can be continued as long as it is started within sixty (60) days after received.
- E.** No junkyard may continue as a non-conforming use for a period of more than one (1) year.
- F.** Non-conforming uses shall comply with all regulations for off-street parking, loading, screening, landscaping, and performance standards. *Source: Ordinance 105 2<sup>nd</sup> Series, Effective Date: 07-09-05*

(Sections 11.04 through 11.09, inclusive, reserved for future expansion.)

**SEC. 11.10. BOARD OF ADJUSTMENT.** The Board of Adjustment shall be the Planning Commission and shall act upon all questions as they may arise in the administration of this Chapter. Questions and appeals shall be directed to the Planning Commission for recommendation to the Council. This includes the interpretation of zoning maps and boundaries. The Board of Adjustment shall hear and make recommendations upon appeals from any order, requirement, decision, or determination made by an administrative official charged with enforcing this Chapter. Such appeal may be taken by any person aggrieved, or by an officer, staff, or the Planning Commission. The Planning Commission shall have the power to recommend variations to this Chapter to the Council. The Board of Adjustment shall have the power to vary or adapt the strict application of any of the requirements of this Chapter in the case of exceptionally irregular, narrow or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of land or building involved, but in no other uses except specifically described. The Standards for Findings are prescribed herein. Any appeals on a Board of Adjustment decision shall be made to the District Court. Board of Adjustment decisions shall be final except said appeal to District Court.

*Source: Ordinance No. 94-6, Effective Date: 9-26-94*

**SEC. 11.11. VARIANCES.** No variance in the provisions or requirements of this Chapter shall be authorized by the Board of Adjustments unless it finds evidence that all the following facts and conditions exist:

**Subd. 1. Facts and Conditions.**

- A.** That there are practical difficulties that apply to the property in questions as to the intended use of the property.
- B.** That such a variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not in itself be deemed sufficient to warrant a variance.
- C.** The Variance if granted will not alter the essential character of the locality.
- D.** That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not so general or recurrent in nature as to make reasonable practicable the formulation of a general regulation for such conditions or situation.
- E.** In granting a variance, the Board of Adjustment may impose conditions to insure compliance to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Chapter for the property in the district where the affected person's land is located.
- F.** The Variance if issued is in harmony and with the general purpose and intent of the ordinance and consistent with the Comprehensive Plan.

**Subd. 2. The Following Conditions must be met:**

- (a) the landowner's land cannot be put to a reasonable use under the terms of the Zoning Ordinance or Subdivision Regulations;
- (b) the plight of the landowner is due to circumstances unique to the land which were not created by the landowner;
- (c) the grant of variance will not alter the essential character of the neighborhood;
- (d) the grant of variance does not create a use not provided in the zoning district;

*Source: Ordinance 156 2<sup>nd</sup> Series, Effective Date: November 7, 2011*

**Subd. 3. Lapses of Variances.** Any variance granted but not used shall become null and void one (1) year after its effective date, also no application for the same or substantially the same variance shall be made within six (6) months of the date of final denial.

**SEC. 11.12. AMENDMENTS.** The purpose of this Section is to show the procedures that must be followed in the amendment process. This subdivision is to allow for amendments to, or changes in zoning district boundaries and the zoning provisions contained herein.

**Subd. 1. Application.** Application for hearings by the Board of Adjustments must be made to the City Clerk or Zoning Administrator on forms provided by the City and shall include all information and data requested. On the date the application is received, the City has sixty (60) days to make a decision. Within the first ten (10) days the City must review the application to determine if all information required has been submitted. If the application is incomplete, a letter requesting additional information will be sent out within the ten (10) day period and the application restarts upon receipt of the requested information. The City may request additional information from the applicant once the ten day period passes, but may not restart the sixty (60) day limit. The application must be deemed complete and the proper fees paid prior to the City posting and publishing notice in the official newspaper for the required public hearing.

*Source: Ordinance 18, 2<sup>nd</sup> Series, Effective Date: March 4<sup>th</sup>, 1997, Source: Ordinance 48, 2<sup>nd</sup> Series, Effective Date: Sept. 9, 2000*

**Subd. 2. Public Hearing.** Within thirty (30) days after filing of a request for a variance, interpretation, or appeal, the Board of Adjustments shall set a date for hearing thereof. For a variance, interpretation, or appeal, notice shall be published at least ten (10) days prior to the day of the hearing and for a variance, notice shall be mailed to each property owner within three hundred fifty (350) feet of all boundaries of the property to which the variance relates. Upon hearing the request, the Board may approve or deny the request and shall state reasons for said action. It shall thereafter prepare an order on the petitioner by personal service or regular United States mail. In the granting of a variance, the Board may impose conditions and state those conditions in the order to insure compliance with the Ordinance.

**Subd. 3. Response.** The City must make a final decision on an application within sixty (60) days from the date the application is deemed complete or 10 days after application is received, whichever is sooner. Absent a decision within sixty (60) days, the request is deemed approved.

1. If an Environmental Assessment Worksheet (EAW) is required, the deadline will be extended until sixty (60) days after the submittal of an EAW.
2. If an Environmental Impact Statement (EIS) is required, the deadline will be extended until sixty (60) days after the submittal of an EIS.
3. If prior approval from a state agency is necessary, the sixty (60) day period for city action does not begin until approval is granted from the state agency.
4. If prior approval from a federal agency is necessary, the sixty (60) day period for city action does not begin until approval is granted from a federal agency.

*Source: Ordinance No. 18, 2<sup>nd</sup> Series, Effective Date: 3-4-97*

**Subd. 4 Extensions.** The City can extend the initial 60 day period by giving written notice to the applicant, stating the reasons for the extension, and the anticipated length of the extension. The applicant can extend the initial 60 day period by giving written notice to the City, stating the reasons for the extension, and the anticipated length of the extension. In no case shall the extension exceed 60 days. An applicant must withdraw an application or have the request denied if an extension is needed that exceeds a period of 60 days.

**Subd. 5 Appeals.** Within fifteen (15) days of the date of the order, the petitioner or an affected property owner may file with the City Clerk an appeal to the City Council from the decision of the Board of Adjustments. The Council shall thereafter set a public hearing and make a decision thereon to approve or reverse the order of the Board of Adjustments, and to grant or deny the relief sought by the petitioner. *Ordinance 48 2<sup>nd</sup> Series, Sept. 9, 2000*

**Subd. 6. Adoption.** Amendments to the Zoning Ordinance shall be adopted by a vote of at least three (3) members of the City Council.

**Subd. 7. Re-application.** No application for the same or substantially the same amendment shall be made within six (6) months of the date of denial.

**Subd. 8. Zoning District Boundary.** Zoning District Boundary dated 2-27-95 is hereby adopted. Any subsequent changes shall be listed in numeric order as follows:

1. Lot 1 Block 1 of Willow Estates (formally a portion of Lot 4 & Lot 3, Block 3 Oak View Estates) shall be zoned Community Commercial.

2. Lot 4, Block 1 of Willow Estates (formally a portion of Lot 4 & Lot 3, Block 3 Oak View Estates) shall be zoned Community Commercial.
3. Lot 2 & Lot 3 of Willow Estates (formally a portion of Lot 3, Block 3 Oakview Estates) shall remain Residential (R-1).
4. The entire development of Natures Edge subdivision shall be rezoning from Agricultural (AG) to Single Family Residential (R-1). *Source: Ordinance 29, 2<sup>nd</sup> Series., Source: Ordinance 4, 2<sup>nd</sup> Series, Effective date: August 5, 1995 Source: Ordinance 8, 2<sup>nd</sup> series, Effective date: 11-5-95*
5. Outlot B of Pebble Creek West to be known as Pebble Creek West 3<sup>rd</sup> Addition shall be zoned to Single Family Residential District (R-1) from Limited Multiple Family Residential District (R-2). *Source: Ordinance 10, 2<sup>nd</sup> Series, Effective Date: 2-20-96*
6. River's Edge Second Addition Block 1 Lots 7, 8, and 9 shall be zoned to Single Family Residential District (R-1) from Limited Multiple Family Residential District (R-2).  
*Source: Ordinance 15, 2<sup>nd</sup> Series Effective Date: 5-18-96*
7. The half block area fronting along the south side of 2<sup>nd</sup> Street from Pine Street to Willow Street. *Source: Ordinance 34, 2<sup>nd</sup> Series Effective Date: 11-14-98*
8. The property located on the north side of 2<sup>nd</sup> Street at the corner of Sherburne Avenue.  
*Source: Ordinance 34, 2<sup>nd</sup> Series, Effective Date: 11-14-98*
9. The South ½ of the East ½ of Lot 1, Block 3, Evergreen Park shall be zoned Multi-Family Residential (R-2) from Single Family Residential  
*Source: Ordinance 59, 2<sup>nd</sup> Series Effective Date 08-11-01*
- 10) Lot 1, Block 1, DK Becker Addition and Lot 2, Block 3, Five D Addition shall be zoned Multi-Family Residential (R-3) from Community Commercial (C-COM).  
*Source: Ordinance 62, 2<sup>nd</sup> Series Effective Date 10/27/01*
- 10A) The entire development of the Autumn Ridge subdivision shall be rezoned from Agricultural (AG) to Single Family Residential (R-1). *Ordinance 69, 2<sup>nd</sup> Series Effective Date 5/11/02*
- 12) The West 660 feet of the East 990 Feet of the South 660 feet of the SE ¼ of the NE ¼ of Section 25, Twp 34, Range 29 shall be rezoned from Agricultural (AG) to Quasi-Public (Q-PUB). *Ordinance 71 - 2<sup>nd</sup> Series, Effective Date: Oct 22, 2002*

- 13) *Parcel A* – That part of the East 360.00 feet of the South 911.94 feet of the Southwest Quarter of the Northeast Quarter of Section 25, Township 34, Range 29, Sherburne County, Minnesota lying west of a line described as follows: Commencing at the southeast corner of said Southwest Quarter of the Northeast Quarter; thence on an assumed bearing of South 89 degrees 58 minutes 34 seconds West along the south line of said Southwest Quarter of the Northeast Quarter, a distance of 33.00 feet to the point of beginning of said line to be described; thence North 0 degrees 00 minutes 50 seconds

West, a distance of 412.48 feet; thence North 0 degrees 08 minutes 24 seconds East, a distance of 278.07 feet; thence North 0 degrees 07 minutes 12 seconds West, a distance of 147.44 feet; thence North 0 degrees 54 minutes 51 seconds East, a distance of 73.96 feet to the north line of said South 911.94 feet of the Southwest Quarter of the Northeast Quarter and said line there terminating. Rezoned from Ag to R-1. *Ordinance 74, 2<sup>nd</sup> Series, Effective April 8<sup>th</sup>, 2003*

- 14) All that part of the Northwest ¼ of Section 32, Township 34, Range 28, Sherburne County, Minnesota lying Easterly of the thread of the main channel of the Elk River, and lying Northwesterly of the centerline of old County Road Number 4, said centerline of old County Road Number 4 being further described as commencing at the Northeast corner of said Northwest ¼; thence South 0 degrees 55 minutes 02 seconds West, assumed bearing, along the East line of said Northwest ¼ for a distance of 1364.73 feet to the actual point of beginning of the old centerline to be hereby described; thence South 62 degrees 46 minutes 02 seconds West along said old centerline to intersect with and terminate at said thread of the main channel of the Elk River.

Excepting therefrom, all that part of said Northwest ¼ described as beginning at said point on the East line of the Northwest ¼ a distance of 1364.73 feet South of the Northeast corner thereof; thence South 62 degrees 46 minutes 02 seconds West along said old centerline of County Road No. 4 for a distance of 929.88 feet; thence North 27 degrees 13 minutes 58 seconds West a distance of 450.44 feet; thence North 62 degrees 46 minutes 02 seconds East parallel with said old centerline of County Road No. 4 and the Northeasterly extension thereof for a distance of 1170.90 feet, more or less, to intersect said East line of the Northwest ¼, thence South 0 degrees 55 minutes 02 seconds West along said East line of the Northwest ¼ a distance of 510.93 feet, more or less, to the point of beginning.

Also excepting therefrom the North 208.72 feet of the East 554.80 feet, as measured along the East and North lines respectively of said Northwest ¼.

Also excepting therefrom the South 208.72 feet of the North 417.44 feet of the East 521.80 feet, as measured along the East and North lines respectively, of said Northwest ¼. Shall be zoned Single Family Residential (R-1) from Agricultural (AG).

*Source: Ordinance 85, 2<sup>nd</sup> Series, Effective Date: 5-18-04*

15) That part of the Southwest Quarter of the Northeast Quarter of Section 25, Township 34, Range 29, Sherburne County, Minnesota lying north of the South 660.00 feet thereof, lying west of the East 360.00 feet thereof, lying southeasterly of the southeasterly line of Teal Lane of HIGHLAND POND according to the recorded plat thereof and lying southwesterly of a line described as follows: Commencing at the southwest corner of Lot 1, Block 2 of said HIGHLAND POND; thence on an assumed bearing of South 0 degrees 12 minutes 36 seconds West along the east line of said Teal Lane, a distance of 25.00 feet; thence southwesterly along a tangential curve concave to the northwest having a radius of 333.00 feet and a central angle of 46 degrees 27 minutes 59 seconds, a distance of 270.00 feet to the point of beginning of the line to be described; thence South 43 degrees 19 minutes 25 seconds East along a radial line of said curve, a distance of 206.70 feet to the northwest corner of the East 360.00 feet of the South 911.94 feet of said Southwest Quarter of the Northeast Quarter and said line there terminating. Shall be zoned Single Family Residential (R-1) from Agricultural (AG). *Source: Ordinance 86, 2<sup>nd</sup> Series, Effective Date: 06-08-04*

16) West ½ of the NE ¼ of Section 32, Township 34N, Range 28W;

AND

East ½ of the Northeast ¼, Section 32, Township 34N, Range 28W **except** all that part of the Northeast ¼ of the Northeast ¼ described as follows: beginning at a point on the West line of the Northeast ¼ of the Northeast ¼ and 297.55 feet South of the Northwest corner of the Northeast ¼ of the Northeast ¼; Thence South 88 degrees 10 minutes 45 seconds East, a distance of 521 feet; thence South and parallel with West line of the Northeast ¼ of the Northeast ¼ a distance of 412.16 feet; thence South 68 degrees 23 minutes 19 seconds West a distance of 560.11 feet, to West line of said Northeast ¼ of the Northeast ¼; thence North along said West line a distance of 635 feet to the point of beginning. Shall be zoned Single Family Residential (R-1) from Agricultural (AG). *Source: Ordinance 87, 2<sup>nd</sup> Series, Effective Date: 07-10-04*

17) Outlot A, River Oaks North , Shall be zoned Single Family Residential (R-1) from Agricultural (AG). *Source: Ordinance 88, 2<sup>nd</sup> Series, Effective Date: 07-10-04*

18) That part of the Southwest Quarter of the Southwest Quarter of Section 31, Township 34, Range 28, and the Northwest Quarter of the Northwest Quarter of Section 6, Township 33, Range 28, Sherburne County, Minnesota, described as follows:

Beginning at the Southwest corner of Lot 1, Block 1, of the record plat of Energy Park in said Sherburne County; thence on an assumed bearing of South 88 degrees 20 minutes 14 seconds West, along the Westerly extension of the South line of said Lot 1, a distance of 102.74 feet; thence North 01 degrees 39 minutes 37 seconds East, a distance of 1342.37 feet to the North line of said Southwest quarter of the Southwest Quarter of Section 31; thence North 88 degrees 13 minutes 31 seconds East along said North line, a distance of 251.10 feet to the Northwesterly extension of the common lot line between Lots 3 and 4, Block 1, of said Energy Park; thence South 48 degrees 14 minutes 39 seconds East along said Northwesterly extension, a distance of 334.18 feet to the West line of said Energy Park; thence South 41 degrees 45 minutes 21 seconds West, along said West line, a distance of 650.21 feet; thence South 00 degrees 21 minutes 01 seconds West, along said West line, a distance of 639.03 feet to the point of beginning. Shall be

zoned Industrial Park (I-PRK) from Agricultural (AG). *Source: Ordinance 90, 2<sup>nd</sup> Series, Effective Date: 07-10-04*

- 19) Shall be zoned Single Family Residential (R-1) from Agricultural (AG) The Northeast Quarter of the Southeast Quarter of Section 32, Township 34, Range 28, Sherburne County, Minnesota AND The West Half of the Southeast Quarter of the Southeast Quarter of Section 32, Township 34, Range 28, Sherburne County, Minnesota. *Source: Ordinance 97, 2<sup>nd</sup> Series, Effective Date 12-18-04*
- 20) Shall be zoned Single Family Residential (R-1) from Agricultural (AG). The East 297.05 feet of the North ½ of the Southeast ¼ and that part of the Southwest ¼ of the Northeast ¼ lying West and Northwesterly of the West and Northwesterly line of Teal Lane of Highland Pond. Section 25, Township 34 Range 29, Sherburne County. *Source: Ordinance 98, 2<sup>nd</sup> Series, Effective Date 2-05-05*
- 21) (TRACT 1)

That part of the Southeast Quarter of the Southwest Quarter of Section 29, Township 34, Range 28, Sherburne County, Minnesota, described as beginning at the Northeast corner of said Southeast Quarter of the Southwest Quarter; thence South 01 degrees 05 minutes 56 seconds East, assumed bearing, along the East line thereof, a distance of 500.79 feet; thence North 86 degrees 27 minutes 07 seconds West, a distance of 497.52 feet; thence North 30 degrees 33 minutes 01 seconds West, a distance of 132.05 feet; thence North 01 degrees 05 minutes 56 seconds West, parallel with said East line of said Southeast Quarter of the Southwest Quarter, a distance of 363.36 feet; more or less, to intersect the North line of said Southeast Quarter of the Southwest Quarter; thence South 89 degrees 22 minutes 47 seconds East, along said North line a distance of 561.06 feet to the point of beginning.

AND, (TRACT 2)

That part of Northeast Quarter of the Southwest Quarter of said Section 29 lying southerly and southeasterly of Line A to be herein described,

AND, (TRACT 3)

That part of Southwest Quarter of the Southwest Quarter of said Section 29 lying southeasterly of Line A, and lying northeasterly of Line B, both to be herein described,

AND, (TRACT 4)

That part of OUTLOT B, RIVER OAKS NORTH, according to the recorded plat thereof, said county, lying southeasterly of Line A, and lying northeasterly of Line B, both to be herein described,

Line A and Line B are described as follows:

Commencing at said Northeast corner of the Southeast Quarter of the Southwest Quarter of Section 29; thence North 01 degrees 05 minutes 56 seconds West, assumed bearing, along the East line of said Northeast Quarter of the Southwest Quarter, a distance of 444.98 feet to the Point of Beginning of Line A; thence North 89 degrees 22 minutes 47 seconds West, parallel with the South line of said Northeast Quarter of the Southwest Quarter, and 50.00 feet south of and at right angles to the South line of a tract of land described in Document No. 414307, a distance of



517.83 feet; thence westerly 27.45 feet along a tangential curve, concave to the south, having a radius of 1000.00 feet and a central angle of 01 degrees 34 minutes 22 seconds; thence South 89 degrees 02 minutes 51 seconds West, tangent to the last described curve, a distance of 288.55 feet; thence southwesterly 213.07 feet along a tangential curve, concave to the southeast, having a radius of 250.00 feet and a central angle of 48 degrees 49 minutes 55 seconds; thence South 40 degrees 12 minutes 56 seconds West, tangent to the last described curve, a distance of 247.24 feet; thence southwesterly 75.38 feet along a tangential curve, concave to the southeast, having a radius of 500.00 feet and a central angle of 08 degrees 38 minutes 15 seconds; thence South 31 degrees 34 minutes 41 seconds West, tangent to the last described curve, a distance of 265.61 feet; thence southwesterly 60.90 feet along a tangential curve, concave to the southeast, having a radius of 1000.00 feet and a central angle of 03 degrees 29 minutes 21 seconds; thence South 28 degrees 05 minutes 20 seconds West, tangent to the last described curve, a distance of 173.46 feet to the point of termination of said Line A and the Point of Beginning of said Line B; thence South 61 degrees 54 minutes 40 seconds East a distance of 226.02 feet; thence southeasterly of 180.27 feet along a tangential curve, concave to the southwest, having a radius of 400.00 feet and a central angle of 25 degrees 49 minutes 19 seconds; thence South 36 degrees 05 minutes 21 seconds East, tangent to the last described curve, a distance of 225.88 feet; thence southerly 165.75 feet along a tangential curve, concave to the west, having a radius of 200.00 feet and a central angle of 47 degrees 29 minutes 05 seconds; thence South 11 degrees 23 minutes 43 seconds West, tangent to the last described curve and being on the northerly extension of the centerline of 35th Avenue SE as dedicated in the recorded plat of RIVER OAKS VILLAS, said county, a distance of 123.77 feet, and said Line B there terminating at the north terminus of said 35th Avenue SE as shown on said plat of RIVER OAKS VILLAS.

Shall be zoned Two Family Residential (R-2) from Agricultural (AG). *Source: Ordinance 100 2<sup>nd</sup> Series; Effective Date: 04-23-05*

- 22) That part of the West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of Section 31, Township 34, Range 28, Described as follows: Beginning at a point on the West line of the said West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  208.708 Feet distant North of the One-Sixteenth Section line dividing the NW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of said Section 31 from the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  thereof; thence Easterly and Parallel with the North line of the said West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  a distance of 208.708 feet; thence South and parallel with the West line of the said West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  a distance of 417.416 feet; thence West and parallel with the North line of the said West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  to the West line thereof; thence North on and along the West line a distance of 417.416 feet, more or less, to the point of beginning; less and except that part thereof lying Southerly of a line running parallel with and 66 feet Northerly (as measured at right angles) of the following described line: commencing at the most Southerly corner of Lot 4, Block 3, of Oak View Estates, according to the plat and survey thereof on file and of record in the office of the Sherburne County Recorder, also being the Northeast corner of Lot 5, said Block 3; thence South 2 degrees 04 minutes 05 seconds West along the Easterly line of said Lot 5 a distance of 87.84 feet to the point of beginning of the line to be described. Thence from said point of beginning, North 46 degrees 38 minutes 17 seconds West to a point bearing South 43 degrees 21 minutes 43 seconds West from the most Northerly corner of Lot 9, said Block 3 and 66 feet distant therefrom; thence continue along said line being a tangential curve to the left, central angle 42 degrees 45 minutes 23 seconds, radius 176.99 feet, for a length of 132.08 feet; thence North 89 degrees 23 minutes 40 seconds West along said line and tangential to said curve for a distance of 43.83 to terminate said line at the intersection thereof with the West line of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ .

Shall be zoned Community Commercial (C-COM) from Single Family Residential (R-1). *Source: Ordinance 101 2<sup>nd</sup> Series, Effective Date: 07-09-05*

- 23) Lot 1, Block 1, Energy Park Second Addition shall be zoned Public (PUB) from Industrial Park (I-PRK) *Source: Ordinance 108 2<sup>nd</sup> Series, Effective Date: 11-05-05*
- 24) That part of the West 177.50 feet of the Northwest Quarter of the Northwest Quarter of Section 5, Township 33, Range 28, Sherburne County, Minnesota, lying southerly of the easterly extension of the North line of Lot 1, Block 3, FIVE D ADDITION, according to the recorded plat thereof, said county, and lying northerly of the southeasterly extension of the southerly line of said Lot 1, Block 3, FIVE D ADDITION. Shall be zoned Community Commercial (C-COM) from Agricultural (AG). *Source: Ordinance 111, 2<sup>nd</sup> Series, Effective Date 04-08-06*
- 25) Part of the Southwest Quarter of the Southwest Quarter (SW ¼ - SW ¼) of Section 31, Township 34, Range 28, EXCEPTING THEREFROM that part platted as Energy Park according to C.R. Document 217815 and also EXCEPTING THEREFROM that part platted as Becker Truss according to C.R. Document No. 575561.

AND

Part of the Northwest Quarter of the Northwest Quarter (NW ¼ - NW ¼) of Section 6, Township 33, Range 28, lying northerly of Industrial Boulevard. All in Sherburne County, Minnesota.

Shall be zoned Power Generation Industrial (I-PG) from Agricultural (AG). *Source: Ordinance 118 2<sup>nd</sup> Series; effective date March 17<sup>th</sup>, 2007*

- 26) The Northwest Quarter of the Northwest Quarter (NW ¼ of NW ¼) and Southwest Quarter of Northwest Quarter (SW ¼ of NW ¼) of Section Twenty-nine (29), the Southeast Quarter of the Northeast Quarter (SE ¼ of NE ¼) and North One-half of North One-half of Southeast Quarter (N ½ of N ½ of SE ¼) of Section Thirty (30), LESS AND EXCEPT all that part of the Southeast Quarter of the Northeast Quarter (SE ¼ of NE ¼) lying Westerly of the Elk River and all that part of the North One-half of the North One-half of the Southeast Quarter (N ½ of N ½ of SE ¼) lying Westerly of the Elk River, all in Township Thirty-four (34) North, of Range Twenty-eight (28) West, Sherburne County, Minnesota.

AND

The Southwest Quarter of said Section 29, EXCEPT those parts platted as RIVER OAKS NORTH, RIVER OAKS VILLAS, and RIVER BEND.

Shall be zoned Two Family Residential (R-2) from Agricultural (AG).  
*Source: Ordinance 121 2<sup>nd</sup> Series; Effective Date August 25, 2007*

- 27)** Lot 13 and Lot 14, Block 2, Evergreen Park, City of Becker, County of Sherburne, State of Minnesota

And

Lot 15, Block 2 Evergreen Park, City of Becker, County of Sherburne, State of Minnesota

Shall be zoned Highway Commercial (C-HWY) from Community Commercial (C-COM) *Source: Ordinance 144 2<sup>nd</sup> Series, Effective Date: March 29, 2010.*

- 27A)** NW ¼ of the SE ¼, of Section 6, Township 33N, Range 28W, City of Becker, County of Sherburne, State of Minnesota

Shall be zoned Industrial Park (I-PRK) from Agricultural (AG).  
*Source: Ordinance 162, 2<sup>nd</sup> Series, Effective Date: May 21, 2012.*

- 28)** SW ¼ of SW ¼ of Section 7, Township 33N, Range 28W, City of Becker, County of Sherburne, State of Minnesota

Shall be zoned Power Generation Industrial (I-PG) from Agricultural (AG).  
*Source: Ordinance 163, 2<sup>nd</sup> Series, Effective Date: December 10, 2012.*

- 29)** Lots 1 & 2 & Southeasterly lying 20 feet of Lots 11 & 12, Block 7, Town of Becker  
Lots 3 & 4, Block 7, Town of Becker

Shall be zoned Limited Multiple Family Residential (R-2) from Single Family Residential (R-1). *Source: Ordinance 172, 2<sup>nd</sup> Series, Effective Date: March, 10, 2014.*

**SEC. 11.13. STANDARDS FOR FINDINGS.** In considering all requests for variances, appeals, amendments, planned unit developments or any other planning requests the Planning Commission as itself or as the Board of Adjustment and the Council shall make a finding of fact. Its judgement shall be based upon but not limited to the following factors:

- 1) Relationship to the City's Comprehensive Plan;
- 2) The geographical area involved;
- 3) The character of the surrounding area;
- 4) The availability and design capacities of existing or proposed utilities;
- 5) Whether such a request will tend to or actually depreciate the surrounding area;
- 6) Whether the request will place an undue financial burden on the City;
- 7) Whether the request will impair an adequate supply of light and air to adjacent property;
- 8) Whether the request will unreasonably increase the congestion in the public right-of-way;
- 9) Whether the request will increase the danger of fire or endanger the public safety; or
- 10) Whether the request is consistent with the spirit and intent of this Chapter.

**SEC. 11.14. CONDITIONAL USE PERMITS, BUILDING PERMITS, MINING PERMITS.**

**Subd. 1. Purpose.** The purpose of this Section is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety. Whenever within one (1) year after granting the Conditional Use Permit, the work permitted has not been started, then such permit shall become null and void unless a petition for an extension has been approved by the Council, which extension shall in no event be in excess of one (1) year.

**Subd. 2. Application.** Applications for Conditional Use Permits shall be made to the Zoning Administrator together with required fees. The application shall be accompanied by a site plan showing such information as is appropriate and necessary to show compliance with this Ordinance, including but not limited to:

- A. Description of site (legal description);
- B. Site plan drawn at scale showing parcel and building dimensions;
- C. Location of all buildings and their square footage;
- D. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
- E. Landscaping and screening plans;
- F. Drainage plan;
- G. Sanitary sewer and water plan with estimated use per day;
- H. Soil type;
- I. Any additional written or graphic data reasonably required by the Zoning Administrator, City Administrator, Planning Commission, or the council
- J. The date the use will terminate (for Interim Uses only) Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009

**Subd. 3. Procedure.**

**A. Application.** Application for hearing by the Planning Commission must be made to the City Clerk or Zoning Administrator on forms provided by the City and shall include all information and data requested. On the date the application is received, the City has sixty (60) days to make a decision. Within the first ten (10) days the City must review the application to determine if all information required has been submitted. If the application is incomplete, a letter requesting additional information will be sent out within the ten (10) day period and the application restarts upon receipt of the requested information. The City may request additional information from the applicant once the ten day period passes, but may not restart the sixty (60) day limit. The application must be deemed complete and the proper fees paid prior to the City posting and publishing notice in the official newspaper for the required public hearing. *Ordinance 48 2<sup>nd</sup> Series, Sept. 9, 2000*

**B. Public Hearing.** Within thirty (30) days after filing of a request for a conditional use permit or interim use permit, the Planning Commission shall set a date for the official public hearing. Notice of such hearing shall be published in accordance with state law and notice shall be published at least once in the official paper of the City and mailed to individual properties within three hundred fifty (350) feet of the boundaries of the affected parcel included in the request not less than ten (10) days nor more than thirty (30) days prior to the date of said hearing. at least once in the official paper of the City and mailed to individual properties said hearing. Land separated by a public right-of-way shall be deemed to be adjacent for the purposes of this section. Failure of a property owner to receive said notice shall not invalidate any such proceedings. The public hearing may be continued from time to time to allow for full and fair consideration for the request provided that it does not affect timelines established for application review. *Source: Ordinance 139 2<sup>nd</sup> Series, Effective Date: August 10<sup>th</sup>, 2009.*

**C. City Council.** Upon receiving the report and recommendation from the Planning Commission, the City Council shall have the option of holding a public hearing if necessary and may impose any conditions deemed necessary. Approval of a conditional use or interim use shall require passage by no less than three (3) members of the City Council. If a public hearing is held, the notice and publication requirements set forth above must be followed. *Source: Ordinance 139 2<sup>nd</sup> Series, Effective Date: August 10<sup>th</sup>, 2009.*

**D. Response.** The City must make a final decision on an application within sixty (60) days from the date the application is deemed complete or 10 days after application is received, whichever is sooner. Absent a decision within sixty (60) days, the request is deemed approved.

1. If an Environmental Assessment Worksheet (EAW) is required, the deadline will be extended until sixty (60) days after the submittal of an EAW.

2. If an Environmental Impact Statement (EIS) is required, the deadline will be extended until sixty (60) days after the submittal of an EIS.
3. If prior approval from a state agency is necessary, the sixty (60) day period for city action does not begin until approval is granted from the state agency.
4. If prior approval from a federal agency is necessary, the sixty (60) day period for city action does not begin until approval is granted from a federal agency. *Source: Ordinance 18, 2<sup>nd</sup> Series, Effective Date: 03-4-97*

**E. Extensions.** The City can extend the initial 60 day period by giving written notice to the applicant, stating the reasons for the extension, and the anticipated length of the extension. The applicant can extend the initial 60 day period by giving written notice to the City, stating the reasons for the extension, and the anticipated length of the extension. In no case shall the extension exceed 60 days. An applicant must withdraw an application or have the request denied if an extension is needed that exceeds a period of 60 days.

**Subd. 4. Standards for Findings** The Planning Commission shall consider the application with regard to possible adverse affects of the proposed conditional use and interim use and what conditions may be necessary to reduce any adverse affects. The Planning Commission shall review each of the Standards of Findings and no Conditional Use Permit or Interim Use Permit shall be recommended by the Planning Commission unless said Commission shall find:

- A. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
- B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area;
- C. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided;
- D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result;
- F. That proper facilities are provided which would eliminate any traffic congestion or traffic hazard which may result from the proposed use;
- G. The demonstrated need for the proposed use;

- H.** The proposed use is in compliance with the Land Use Plan adopted by the Council.  
*Source: Ordinance 8, 2<sup>nd</sup> series Effective Date: 12-5-95*
- I.** The use does not result in adverse effects on the public health, safety and welfare nor does it create additional pollution potential for ground and surface waters; *Effective date: August 10<sup>th</sup>, 2009; Source: Ordinance 139 2<sup>nd</sup> Series.*
- J.** In the case of interim uses, the date or event that will terminate the use can be identified with certainty; *Effective Date: August 10<sup>th</sup>, 2009; Source: Ordinance 139 2<sup>nd</sup> Series.*
- K.** In the case of interim uses, permission of the use will not impose additional costs on the public if it is necessary for public to take the property in the future. *Effective Date: August 10<sup>th</sup>, 2009; Source: Ordinance 139 2<sup>nd</sup> Series.*

**Subd. 5. Recording.** A certified copy of any Conditional Use Permit or Interim Use Permit shall be filed with the County Recorder by the City Clerk. The Conditional Use Permit or Interim Use Permit shall include the legal description of the property involved. *Ordinance 48 2<sup>nd</sup> Series, Sept. 9, 2000 Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009*

**Subd. 6. Fees.** To defray administrative costs of processing requests for Conditional Use Permit or Interim Use Permit, a fee in an amount to be determined from time to time by the City Council, shall be paid by the applicant at the time the application is requested. The City shall also be reimbursed for any additional costs associated with review of the proposal by the City, including extraordinary legal and engineering fees. *Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009*

**Subd. 7. Compliance.** Any use permitted under the terms of any Conditional Use Permit or Interim Use Permit shall be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith. *Source: Ordinance No. 94-6, Effective Date: 9-26-94 Source: Ordinance 139 2<sup>nd</sup> Series, Effective Date: August 10<sup>th</sup>, 2009.*

(Sections 11.15 through 11.19, inclusive, reserved for future expansion.)



**SEC. 11.20. GENERAL REGULATIONS.**

**Subd. 1. Purpose.** To outline and detail those regulations which have general application to all zoning districts.

- A. Buildings on corner lots shall be set back from both streets, a distance equal to the established or required front yard setback for the use on both streets.
- B. Where forty (40%) percent or more of a block is developed, the required setback shall be equal to the average existing setback.
- C. When two zoning districts abut, the side and rear setbacks of the most restrictive district will apply to both.

**Subd. 2. Screening and Landscaping.**

- A. Screening shall consist of earth mounds, walls, fences, and plant materials. Such things as loading docks, parking areas, air conditioning units and outdoor storage shall be screened to a height and depth consistent with the size and extent of the exposure to residential areas and public streets.
- B. Parking areas that accommodate more than five (5) cars shall be landscaped, screened planted on the perimeter and throughout the lot to the extent of at least five (5%) percent of the actual surface area.
- C. Landscaping will be required for all new commercial and industrial developments.

**Subd. 3. Off-Street Parking.**

**A. Minimum Parking Requirements.**

<u>Use</u>	<u>No. of Spaces</u>
1) Single, Two Family, Townhouse	2 per unit
2) Multiple Family	2 free spaces per unit
3) Manufactured Homes	1.5 per home
4) Elderly Housing	1 per unit
5) Hospitals, rest homes, nursing homes, and boarding care homes	1 for every 3 beds
6) Hotels, Motels	1 per room plus 1 extra per five rooms for staff
7) Office, professional offices, banks	1 per 250 sq. ft.

<u>Use</u>	<u>No. of Spaces</u>
8) Private education institutions	1 space per classroom plus 1 space per 3 students of legal driving age based on the maximum number of students attending classes at any one time Source: <i>Ordinance 2<sup>nd</sup> Series 94, effective date: October 19<sup>th</sup>, 2004</i>
9) Retail	1 per 250 sq. ft.
10) Convenience stores	1 per 150 sq. ft.
11) Show room type sales	1 per 400 sq. ft.
12) Repair shops	1 per 400 sq. ft.
13) Arenas, theaters, assembly halls,	1 for every three permanent community centers seats or enough parking for 75% of capacity of building whichever applies most pertaining to the use
14) Restaurants and lounges and other food dispensing establishments	1 for every 2 seats
15) Fast food establishments	1 per 150 sq. ft.
16) Churches	1 for every 3 seats in largest room
17) Manufacturing	1 per 300 sq. ft.
18) Warehousing	1 per 1000 sq. ft.
19) Outdoor recreation facilities	enough parking to accommodate at least 75% of the capacity
20) Automotive car wash	2 per wash lane
21) Motor fuel stations	at least 4 spaces plus 3 for each service stall
22) Motor fuel and convenience stores	1 per 150 sq ft. plus 3 for each stall

**Subd. 4.** Design and Maintenance of Parking.

- A. Minimum parking setbacks from property lines and buildings shall be five (5) feet.
- B. All parking areas shall be surfaced with asphalt, concrete, or other improved surface materials as approved by the zoning administrator, and graded to dispose of surface water and shall be regularly cleaned and maintained. *Source: Ordinance 143 2<sup>nd</sup> Series, Effective Date: February 8<sup>th</sup>, 2010.*
- C. Off-street parking shall be on the same site as the structure it is intended to serve and shall not occupy the required front yard setback of any building.

- D. Parking lots shall be fifty-six (56) feet wide for fifty-six (56) degree parking, sixty (60) feet wide for sixty (60) degree parking, and sixty-five (65) feet wide for ninety (90) degree parking. Each stall is to be nine (9) feet wide and twenty (20) feet deep.
- E. Each space shall be designed to allow the exit of the car therein without first moving another car.
- F. City shall consider "proof of parking" in installation of parking requirements. The owner must develop a site to accommodate for future parking however the installation of lesser amount would be authorized. The owner must comply with any additional required developed parking, up to the required policy, when the Planning Commission deems it necessary at a future date.

**Subd. 5. Off-Street Loading Requirements.**

**A. Minimum Requirements.**

1. No loading facility, including docks, berths, maneuvering areas, or similar facilities, shall be located on a street frontage.
2. All loading facilities shall be located within the perimeter of the structure housing the principal or accessory use and shall be completely enclosed.
3. Loading facilities, parking bays and access drives shall be surfaced with asphalt, concrete, or other improved surface materials as approved by the zoning administrator and shall be so graded to dispose of surface water. *Source: Ordinance 143 2<sup>nd</sup> Series, Effective Date: February 8<sup>th</sup>, 2010.*
4. All loading facilities shall be screened from view of the property's street frontage by plant materials, walls, earth berms, or fences.

**SEC. 11.21. PERFORMANCE STANDARDS.**

**Subd. 1. Standards.**

- A. Performance standards apply to all districts. The current Minnesota Pollution Control Agency (MPCA) regulations and the current requirements of the Minnesota and Sherburne County Health Departments shall apply in those cases where they exceed the following standards.
- B. Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare, or wastes, shall not be permitted. These residual features shall be considered as "excessive" when

they either exceed or deviate from the limitations set forth in the following performance specifications.

**Subd. 2. Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, shrillness, or intensity. At the property line, the sound pressure level of noise radiated from a facility shall not exceed the values given in the Table 1 located herein. The sound pressure level shall be measured with a sound level meter and on an associated octave band analyzer, both of which are manufactured according to current specifications prescribed by the American National Standards Institute. Measurement shall be made using the flat network of the sound level meter.

**TABLE 1**

<u>Octave Band Frequency (cycles per second)</u>	<u>Decibel Level</u>
20-75	65
75-150	60
150-300	55
300-600	46
600-1200	40
1200-2400	34
2400-4800	31
over 4800	28

**Subd. 3. Vibration.** No activity or operation shall at any time cause earth vibrations perceptible beyond the limits of the immediate site on which the operation is located.

**Subd. 4. Dust and Dirt.** Solid or liquid particulates shall not be emitted at any point in concentrations or amounts exceeding limitations established in the latest revision of Minnesota Pollution Control Agency (MPCA) regulations listed below which are hereby incorporated by reference:

- A. APC-4 Emissions Limitations From Fuel-Burning Equipment Used For Indirect Heating.
- B. APC-5 Restriction of Emission of Particulate Matter from Industrial Processes.
- C. APC-7 Incinerators.

**Subd. 5. Smoke.** Smoke shall not be emitted from any source with opacity or frequency exceeding limitation in MPCA regulation APC-11, Restriction of Emission of Visible Air Contaminants, the latest revision of which is hereby incorporated by reference. All open burning is

prohibited or must be conducted in conformance with MPCA regulation APC-8, Open Burning Restrictions, the latest revision of which is hereby incorporated by reference.

**Subd. 6. Odor.** No activity or operation shall cause at any time the discharge of toxic, noxious, or odorous matter beyond the limits of the immediate site whether it is located in such concentrations as to be detrimental to or endanger the public health, welfare, comfort, or safety, or to cause injury to property persons, or business.

**Subd. 7. Glare.** Glare, whether direct or reflected, such as from spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the limits of the immediate site from which it originates.

**Subd. 8. Wastes.** All solid waste material, debris, refuse, or garbage shall be kept within a completely enclosed building or properly enclosed in a closed container designed for such purpose. All liquid wastes containing any organic or toxic matter shall be discharged either into a public sanitary sewer or treated in a manner prescribed by the State and County Health Department. The rate of liquid waste discharge into the City sanitary sewage system shall not exceed 200 gallons per site acre per hour between the hours of 9:00 A.M. and noon.

**Subd. 9. Testing.**

- A. The owner or operator of any permitted use shall be required to show compliance with the performance standards set forth above. In cases where compliance cannot be demonstrated to the satisfaction of the Council or where reasonable doubt exists, the Council may require the owner or operator to have investigations or tests made by an independent testing organization. Costs of such investigations or tests shall be paid by the owner or operator. In all cases the use must comply with requirements of State and County Health Departments and the Minnesota Pollution Control Agency.
- B. The procedure stated above shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

**Subd. 10. Outside Storage and Displays.**

- A. **Outside Storage in Residential Districts.** In residential districts, outdoor storage of materials, supplies, junk, and equipment shall not be permitted except for recreational vehicles, automobiles (complete, not missing any major parts) and trucks of not more than one-ton capacity. Up to one unlicensed or incomplete vehicle may be stored on property for up to 30 days. Long term storage is to be in an enclosed area. All such materials, supplies, junk, and equipment not so excepted shall be stored within a completely enclosed building. In the R-MH District, a specific area or areas shall be set aside for the storage of recreational vehicles. *Source: Ordinance 66 2<sup>nd</sup> Series, November 17<sup>th</sup>, 2001*  
*Source: Ord. 68 2<sup>nd</sup> Series, Effective Date: March 26, 2002*

**B. Outside Storage in C-COM Districts.** In C-COM Districts outside storage of trash, recycling, damaged merchandise, materials, supplies, recreational vehicles, junk and equipment shall not be permitted. Outside Storage is permitted only when within the confines of a completely enclosed 100% opaque fence subject to the following conditions. *Source: Ordinance 68, 2<sup>nd</sup> Series, Effective Date: March 23, 2002*

1. The fence shall be a minimum of five feet and a maximum of eight feet in height. The fence shall be high enough to completely screen all materials being stored outside (i.e. the height of the fence must be at least as high as the tallest item or stack of material being screened). *Source: Ordinance 66 2<sup>nd</sup> Series, November 17<sup>th</sup>, 2001. Source: Ordinance 68 2<sup>nd</sup> Series, March 23, 2002.*
2. The fence shall be located in the rear or side yard of the property whichever does not face a public street or residential property. There shall be no outside storage allowed in the front yard of a commercial property. *Source: Ordinance 68 2<sup>nd</sup> Series, March 23, 2002.*
3. The fence shall be in keeping with the architectural style and materials of the primary structure and surrounding buildings. *Source: Ordinance 68 2<sup>nd</sup> Series, March 23, 2002.*
4. The finished side of the fence shall be facing outward. *Source: Ordinance 68, 2<sup>nd</sup> Series, Effective Date: March 26, 2002*

**A. Outside Storage in C-HWY, I-PG, I-PRK and I-GEN Districts.** All materials, supplies, finished or semi-finished products and equipment shall be enclosed within the confines of fencing as required by Subd. 11, below, except that:

1. Trucks necessary to the operation of the principal use are not required to be contained within a fenced area. *Source: Ordinance 58, 2<sup>nd</sup> Series Date: June 16<sup>th</sup>, 2001*

**B. Displays.** Merchandise not on display for direct sale, rental, or lease shall be stored within a completely enclosed building in all districts. Merchandise which is offered for sale, rental, or lease as described above may be displayed beyond the confines of a building in any commercial district. No displays shall be permitted on public right-of-way.

**Subd. 11. Temporary Uses.**

1. **Purpose.** This section allows for the establishment of certain uses of limited duration and special events, provided that such uses comply with the standards in this subsection and

are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.

2. **Permit Required.** All temporary uses and structures within the Commercial Zoning districts or Commercial in nature shall require a permit. Temporary uses within residential zoning districts do not need a permit, but must comply with this and all other sections of the City Code.
  
3. **General Standards.** Temporary uses, structures, or events shall comply with the following:
  - a. Obtain the appropriate permits (as required);
  - b. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
  - c. Be compatible with the principal uses taking place on the property, and nearby property;
  - d. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
  - e. Not include permanent alterations to the site;
  - f. All signage not attached to temporary structure must meet the existing code for temporary signage (60 days per parcel, per year with permit);
  - g. Not violate the applicable conditions of the approval that apply to a site or use on the site;
  - h. Not interfere with the normal operations of any permanent use located on the property; and
  - i. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as, adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

**4. Table of allowed Temporary Uses and Structures.** The following table summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited, unless the applicant applies for a Conditional Use Permit.

Temporary Use and Structure Table

Type Requirements	Allowable Duration	Permit(s) Required	Add.
Recreational Vehicle	30 days per calendar year	No	See Below
Temporary Sign	60 days per year	Yes	See Below
Farmer’s Market	Continuous; up to 3 days per week, 6 months per year on a single site	No	See Below
Outdoor Sales (Commercial)	30 days per calendar year, per parcel	Yes	See Below
Garage/Yard Sale	4 days per event; 3 events total per calendar year	No	See Below

**Recreational Vehicle:**

- Defined as a vehicle that is designed to be self propelled or 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 ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.
- A recreational vehicle owned by a resident, non-resident, guest, or visitor may be parked or occupied by the owner, guest, or visitor on private property containing a permanent dwelling unit for a period to exceed thirty (30) days per calendar year.
- The recreational vehicle shall have self contained sanitary facilities.
- The parking location of a recreational vehicle shall adhere to the requirements of Chapter 9, Parking.

**Temporary Sign:**

- All temporary signs require a permit, and must comply with Section 11.70.



**Farmer’s Market:**

- A **farmer’s market** consists of a group of individual vendors, who set up booths, tables or stands, outdoors to sell produce, meat products, fruits and other misc items.
- Must provide adequate ingress, egress and off street parking areas.
- Not reduce minimum parking standards per City Code;
- Not be located with-in any right-of-way;
- Are subject to the sign standards in Section 11.70, Signs

**Outdoor Sales (Commercial):**

Outdoor Sales shall:

- Shall be limited to 30 calendar days per year, per parcel. To exceed 30 calendar days, a Condition use Permit is required.
- Must be compatible with the principal uses taking place on the property.
- Must Provide adequate ingress, egress and off street parking areas.
- Must not be located on any right-of-way;
- Must not reduce minimum parking standards per City Code;
- May be subject to background check, an approval from the Chief of Police, and/or Fire Chief.
- Are subject to the sign standards in Section 11.70, Signs.

**Garage/Yard Sales:**

Garage and Yard Sales Shall:

- Be limited to a maximum of three per dwelling unit per year;
- Not exceed a maximum duration of four (4) consecutive days per sale;
- Occur only between the hours of 7:00am and 7:00pm;
- Not place items for sale, or signs within the public right of way, or impede the passage of traffic on streets in the area of the sale;
- Not permit loud or boisterous conduct on the premises;
- Not allow unsold items or other sale-related materials to remain in public view following the conclusion of the sale.
- Remove all sale related signage immediately upon conclusion of the sale.

*Source: Ordinance 158, 2<sup>nd</sup> Series, Effective Date: February 13, 2012*

**Subd. 12. Fences.**

**A. Permit Required.** No person, firm or corporation except in a agricultural zone shall construct or cause to be constructed or erected within the City of Becker, any fence exceeding six (6) feet in height without first making an application for and securing a building permit.

- B. Construction and Maintenance.** Every fence shall be constructed in a substantial, workmanlike manner and of substantial material.
1. The finished side of the fence shall be considered the face.
  2. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, or constitute a nuisance, public or private. Any owner of a fence deemed in disrepair will be notified by the zoning administrator to correct the infraction.
- C. Link Fences.** Link fences, six (6) feet in height or under, wherever permitted, shall be constructed in such a manner that no spiked ends shall be at the top.
- D. Barbed, Razor and similar Wire Fences.** Barbed wire, razor wire, and similar security fences shall only be permitted in agricultural districts, on farms and for demonstrated security purposes in industrial districts. *Source: Ordinance 104 2<sup>nd</sup> Series, Effective Date: 09-10-05*
- E. Right of Way.** No fences shall be permitted on public right-of-way.
- F. Fences in Front Yard.** The required front yard of a corner lot shall not contain any fence which may cause danger to traffic on a street or public road, by obscuring the view. On corner lots in all districts no fence or planting shall be permitted within the intersection sight distance triangle.
- G. Tennis Courts.** All tennis courts not enclosed with a boundary line fence must be enclosed as follows: *Source: Ordinance 150 2<sup>nd</sup> Series, Effective Date: June 7<sup>th</sup>, 2010*
1. Within a rear yard, at a point no closer than five (5) feet from any property line, a wooden security fence up to six (6) feet in height may be erected and shall have adequate means of emergency access.
  2. Chain link fences (without slat screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten (10) feet in height and shall be located in a rear yard only.
- H. Boundary line fences** may be constructed provided:
1. A written agreement must be reached between adjacent property owners for the placement of a boundary line fence. The issue of an agreed line is to encourage a mutual understanding of the line and provide for fence maintenance without trespassing. If an agreement cannot be reached the fence be must located two (2) feet inside of the presumed boundary line. Where the property line is not clearly defined, a certificate of survey may be required by the Zoning Administrator to establish the property line.

2. If an agreement cannot be reached, the fence must be located two (2) feet inside of the presumed boundary line. If a fence is established two feet inside the presumed boundary line the finished side of the fence can face either direction.
3. Where the property line is not clearly defined, a certificate of survey may be required by the Zoning Administrator or Building Official to establish the property line.

**I. Residential District Fences.** In all residential districts no boundary line fence shall be erected or maintained more than six (6) feet in height. Except that:

1. No fence shall be erected in any required front yard to a height in excess of four (4) feet.
2. Privacy type fences shall be defined typically as wood construction providing one-hundred percent (100%) opacity.
3. In those instances where a fence exists, as an enclosure, which restricts access from the front to the rear yard, a gate, or other means of recognizable ingress shall be required and a shall be a minimum of (3) feet in width.

**J. Commercial and Industrial District Fences.** Fences in Commercial Districts shall not exceed eight (8) feet in height and in Industrial Districts shall not exceed twelve (12) feet in height. Fence construction shall be of post frame construction with steel cover and steel trims, chain link, or wood.

Fencing is required whenever a commercial or industrial use abuts a residential use.

1. Fencing erected when a commercial use abuts a residential use shall meet a standard of no less than eighty percent (80%) opacity, a minimum height of six (6) feet, and a maximum height of eight (8) feet along the property line unless there is written agreement between property owners on a lower height, and shall be double faced so the finished side of the fence faces both the commercial property and the abutting property. *Source: Ordinance 104 2<sup>nd</sup> Series, Effective Date: 09-10-05*
2. Fences erected when an industrial use abuts a residential use shall meet a standard of no less than eighty percent (80%) opacity, a minimum height of six (6) feet and a maximum height of eight (8) feet along the property line, and shall have the finished side of the fence facing the abutting property.  
Except that:

1. Fences on which barbed wire, razor wire, or other security fencing may be placed, and are erected primarily to secure a

particular given area, may have arms at a minimum of twelve (12) inches and not to exceed twenty-four (24) inches in length located a minimum of eight (8) and a maximum of ten (10) feet above the ground surface. *Source: Ordinance 104 2<sup>nd</sup> Series, Effective Date: 09-10-05*

2. Fences shall not be erected within the required front yard of a commercial zone.
3. Fences erected within the required front yard of an industrial zone shall not be over four (4) feet in height and shall be of a chain link construction permitting maximum visibility.

Except that:

- (a) Fences erected for the purpose of storage in an industrial zone and encroaching on the required front yard area may be erected to a maximum of eight (8) feet in height and be built within one-half (1/2) of the required setback. The remaining front setback area, from the fence to the roadway, shall be landscaped as required by Section 11.20 Subd. 2. *Source: Ordinance 56, 2<sup>nd</sup> series, Effective Date: 05-01-01*

3. In those instances where a fence exists, as an enclosure, which restricts access from the front to the rear yard, a gate, or other means of recognizable ingress shall be required and shall be a minimum of three (3) feet in width. . *Source: Ordinance No. 6, 2<sup>nd</sup> Series, Effective Date: 10-8-95*

#### **Subd. 12 B. Pools Performance Standards**

- A. Definition:** In Ground Swimming Pool – An artificially enclosed body of water intended for recreational use that is established below the ground.
- B. Requirements:** All in ground pools require a building permit and shall be enclosed with a fence that is a minimum 5 feet high and must include working lockable gates. Fence spacing between the bottom of the fence and the ground shall not exceed 2 inches. And the spacing between the pickets shall not exceed four (4) inches. Chain link fences shall be permitted, if the mesh for the fence does not exceed a 2. 25 inch square. The fence shall be installed prior to filling the pool. *Source: Ordinance 150 2<sup>nd</sup> Series, Effective Date: June 7<sup>th</sup>, 2010*

(Sections 11.22 through 11.29, inclusive, reserved for future expansion.)

**SEC. 11.30. ESTABLISHMENT OF DISTRICTS.**

**Subd. 1. Districts.** For the purpose of this Chapter, the City is divided into the following districts:

<b>AG</b>	<b>Agricultural District</b>
<b>R-1</b>	<b>Single Family District</b>
<b>R-2</b>	<b>Limited Multiple Family District</b>
<b>R-3</b>	<b>Multiple-Family District</b>
<b>R-MH</b>	<b>Residential Mobile Home</b>
<b>R-LL</b>	<b>Single Family-Large Lot District</b>
<b>R-3/O</b>	<b>Multiple-Family/Office</b>
<b>C-COM</b>	<b>Community Commercial District</b>
<b>C-HWY</b>	<b>Highway Service Commercial</b>
<b>I-PG</b>	<b>Power Generation District</b>
<b>I-PRK</b>	<b>Industrial Park District</b>
<b>I-GEN</b>	<b>General Industrial District</b>
<b>PUB</b>	<b>Public District</b>
<b>Q-PUB</b>	<b>Quasi-Public District</b>
<b>WSR</b>	<b>Wild and Scenic River Overlay District</b>
<b>SM</b>	<b>Shoreland Management Overlay District</b>

*Source: Ordinance No. 33, 2<sup>nd</sup> Series, Effective Date: 11-8-98*

**Subd. 2. Zoning Districts Map.** The boundaries of these districts are hereby defined and established as shown on a map entitled "Zoning Map, City of Becker, Minnesota," which map and all explanatory matter thereon is hereby made a part of this Chapter. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be inscribed on the Official Zoning Map promptly after the amendment has been approved by the Council together with an entry on the Official Zoning Map reflecting the number and date of enactment of the amending ordinance or resolution which effected the change.

*Source: Ordinance No. 94-6, Effective Date: 9-26-94*

**Subd. 3. Uses Not Provided for Within Zoning Districts.** Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the Council, the Planning Commission, or a property owner may request a study by the City to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Council and/or Planning Commission upon receipt of the staff study may, if appropriate, initiate an amendment to the Zoning Chapter to provide for the particular use under consideration or may find that the use is not compatible for development within the City.

**Subd. 4. Scope of Regulations.**

- A. No building or structure, or part thereof, shall hereafter be erected, moved, constructed, or altered, and no new use, or change in use shall be made unless it is in conformity with the provisions of this Chapter and with the specifications outlined for the district in which it is located.
- B. A lot or parcel of land for which a deed has been recorded upon or prior to the effective date of this Chapter, November 7, 1993, shall be deemed a buildable lot, provided it has frontage on a public right-of-way and the space requirements for the district in which it is located can be maintained or adjusted to conform as follows: a lot or parcel of land of record upon the effective date of this Chapter, November 7, 1993, which is in a residential District and which does not meet the requirements of this Chapter as to area, width, or other open space, may be utilized for single family, detached dwelling purposes provided the measurements of such area, width, and yard space are all within sixty (60%) percent of the requirements of this Chapter and it can be demonstrated that a proper and adequate sewage disposal system can be installed.
- C. If in a group of contiguous platted lots under a single ownership, any individual lot does not meet the minimum requirements of this Chapter, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land, each meeting the full minimum requirements of this Chapter.

**Subd. 5. Annexation.**

- 1. Any land annexed to the City of Becker in the future shall be placed in the AG District until placed in another district by action of the City Council after recommendation of the City Planning Commission.

- 2. Exception:

Land which is annexed and is intended for public use as described in Section 11.55 of the ordinance shall be placed in the PUB or Q-PUB District.

*Source: Ordinance 25, 2<sup>nd</sup> series Effective Date: 8-9-97*

**SECTION 11.31. AGRICULTURAL DISTRICT. (AG)**

**Subd. 1. Purpose.** The AG-Agricultural district is included in the zoning provisions to achieve the following purposes:

- A. To prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities, and community facilities and until the demand exists for such development.
- B. To permit the conduct and perpetuation of certain agricultural pursuits on suitable land in the City.
- C. To ensure adequate light, air and access for various land uses and to provide adequate separation between dwellings and facilities for housing animals.

**Subd. 2. Permitted Uses.**

- A. Agriculture, accessory, and related uses.
- B. The raising or keeping of livestock and fowl (poultry, sheep, hogs, cattle, etc.) and dairy farming on ten (10) or more acres.
- B. Stands for the sale of agricultural products provided said products are at least in part raised on the premises.
- C. Public and quasi public facilities and services required by the resident or working population (including parks, recreation, open space uses, and golf courses).
- D. Single-family dwellings and accessory structures on parcels of not less than ten (10) acre, such dwellings being not less than twenty-four (24) feet in width and thirty (30) feet in length, and being placed on a permanent foundation according to the State Building Code.
- E. A state licensed residential facility serving from seven (7) through sixteen (16) persons, a licensed day care facility serving twelve (12) or fewer persons, and a group family day care facility licensed under Minnesota Rules, Parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.

**Subd. 3. Conditional Uses.** All applications for a Conditional Use Permit shall comply with the regulations and procedures prescribed.

- A. Relocated structures meeting requirements as stated in the Conditional Use Permit provisions of this Chapter.
- B. Churches, cemeteries, and/or memorial gardens.

- C. Veterinary and animal clinics and the facilities for the care and/or breeding of animals including kennels.
- D. Antique and refurnishing businesses.
- E. Riding academies and commercial stables.
- F. Private-commercial landing fields and associated facilities.
- G. Organized group camps.
- H. Commercial outdoor recreation areas and accessory buildings.
- I. Commercial greenhouses and tree nurseries.
- J. Home occupations which meet the criteria stated herein.
- K. Mining subject to the securing of a mining permit from the Council.
- L. Ready Mix Plant. *Source: Ordinance No. 93-8 Effective Date: 11-7-93*  
*Source: Ordinance No. 94-6 Effective Date: 9-26-94*

**Subd. 4. Accessory Uses.** All accessory uses incidental to agricultural purposes are permitted as well as those permitted in the R-1 District. No building permits are necessary for these structures used for agricultural purposes unless they are a relocated structure as stated in the Conditional Use Permit provisions of this Chapter. If said accessory structure is not used for agricultural purposes a building permit is necessary and required.

**Subd. 5. Lot, Yard, and Height Requirements.**

**A. Agricultural:**

Minimum lot area: 10 acres

Minimum lot size:

width: 400 ft

depth: 400 ft

Minimum Setbacks:

front: 50 ft

side: 25 ft

rear: 40 ft

Maximum height: 35 ft



**B. Accessory Buildings:**

Maximum Height	50 ft
Maximum area	400 sq. ft

Minimum Setbacks:

front:	30 ft
side:	25 ft
rear:	40 ft

**Subd. 6. Required Conditions.** All uses shall comply with the regulations prescribed in the General Regulations and Performance Standards provisions of this Chapter.

**SEC. 11.32. SINGLE FAMILY RESIDENTIAL DISTRICT (R-1).**

**Subd. 1. Purpose.** In addition to the objectives prescribed herein, the objectives for R-1 are included to achieve the following purposes:

- A.** To reserve appropriately located areas for single-family living at reasonable population densities consistent with sound standards of public peace, health, safety, and general welfare.
- B.** To ensure adequate light, air, privacy, and open space for each dwelling.
- C.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.
- D.** To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.
- E.** All structures in R-1 that are not hooked up to public sewer and water are required to have a minimum lot size of 2 1/2 acres and structures must be located on a side of the lot that is to be determined by the property owner and approved by the City so as to promote orderly growth. This is to be done in conformance with other lots within the subdivision so that further development and installation of public sewer and water will not be hindered due to the location of the structure on the property. This will allow for the subdivision of the larger lots that are required in areas that do not have public facilities at the time of hookup.

**Subd. 2. Permitted Uses.**

- A. Single-family residential dwellings and accessory structures, such dwellings being not less than twenty-four (24) feet in width and thirty (30) feet in length, and placed on permanent foundation in accordance to the State Building Code.
- B. Public and quasi-public facilities and services required by the resident population.
- C. A state licensed residential facility serving six (6) or fewer persons, a licensed day care facility serving twelve (12) or fewer persons, and a group family day care facility licensed under Minnesota Rules, Parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children. *Source: Ordinance No. 93-8 Effective Date: 11-7-93*
- D. A licensed day care facility serving twelve (12) or fewer persons *Source: Ordinance No. 78 2<sup>nd</sup> Series Effective Date: 5-27-03*

**Subd. 3. Conditional Uses.**

- A. Relocated structures meeting required conditions as stated in the Conditional Use Permit provisions of this Chapter.
- B. Planned Unit developments as regulated in the Planned Unit Development provisions of this Chapter.
- C. Home occupations which are subordinate to the main purpose of the facility, fall within the definition of "home occupation" and will not cause traffic congestion or adversely impact the surrounding areas. *Source: Ordinance No. 93-8 Effective Date: 11-7-93*  
*Source: Ordinance No. 94-6 Effective Date: 9-26-94*
- D. Private educational institutions limited to preschool through junior high schools serving 20 or fewer children at one time provided that:
  1. The lot shall be a minimum of 12,000 square feet
  2. There shall be 50 square feet of indoor classroom space per child and 150 square feet of outdoor play space per child.
  3. Side yards shall be double that required for the district, but no greater than thirty (30) feet.
  4. Adequate screening from abutting residential uses and landscaping is provided.
  5. Adequate off street parking and access is provided on the site or on a lot directly abutting, directly across a public street or alley and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
  6. Adequate off-street loading and service entrances are considered and satisfactorily met. These loading and service entrances shall be screened from neighboring residential properties with fencing and/or landscaping that is a minimum of six feet high. *Source: Ordinance 94, 2<sup>nd</sup> Series effective Date: October 16<sup>th</sup>, 2004*

**Subd. 4. Permitted Accessory Uses.**

- A. Private garages, parking spaces, and carports.
- B. In Ground Swimming Pools when in compliance with Section 11.21, Subd. 12, tennis courts, and other recreational facilities for the use of the residents and their guests. *Source: Ordinance 150 2<sup>nd</sup> Series; Effective date: June 7<sup>th</sup>, 2010.*
- C. Tool sheds or similar buildings.
- D. Non-commercial greenhouses and conservatories.
- E. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

<b>A.</b>	Public Sanitary Sewer Available	
	Minimum Lot Size	12,000 sq. ft.
	Width	100 ft.
	Depth	120 ft.
	Minimum Yard	
	Front*	30 ft.
	Side*	10 ft
	Rear*	30 ft

\*Corner lots have two front yard setback requirements, one for each side facing the street, and shall also have two side yards of 10 feet for the remaining two sides.

	Maximum Height	30 ft.
	Maximum Lot Coverage	75%

<b>B.</b>	Without Public Sanitary Sewer	
	Minimum Lot Size	2.5 acres
	Width	150 ft.
	Depth	150 ft.
	Minimum Yard	
	Side	20 ft.
	Rear	40 ft.

**C. Accessory Structures**

Max. height	17 ft.
Max. area	10 % (percent) of Lot Area (Including Attached Garage)
Max. Number	3 Accessory Structures Per Lot (no More than 2 of them being detached)
Front setback	30 ft.
Side setback	10 ft.
Rear setback	10 ft.

*Source: Ordinance 17, 2<sup>nd</sup> Series Effective Date: 10-5-96*  
*Source: Ordinance 65 2<sup>nd</sup> Series, Effective March 23, 2002*  
*Source: Ordinance 72, 2<sup>nd</sup> Series, Effective 2-15-03*

**D. Driveway Setback: 4 Feet from side property lines**

*Source: Ordinance 72 2<sup>nd</sup> Series, Effective Date: Feb 18<sup>th</sup>, 2005*

**Subd 6. Required Conditions.**

- A.** All uses shall comply with the regulations prescribed in the General Regulations and Performance Standards provisions of this Chapter. Uses in R-1 zoning do require off-street parking, screening, landscaping, and performance standards.
- B.** All single family dwellings must have a minimum of a four hundred (400) square foot garage with a minimum of a twenty (20) foot width.

**SEC. 11.33. LIMITED MULTIPLE FAMILY RESIDENTIAL DISTRICT (R-2).**

**Subd. 1. Purpose.** In addition to the objectives prescribed in this Chapter, objectives for R-2, or limited multiple family residential, is included in Section 11.32 to achieve the following purposes:

- A.** To reserve appropriately located areas for limited multiple family living at reasonable population densities consistent with sound standards of public peace, health, safety, and general welfare.
- B.** To ensure adequate light, air, privacy, and open space for each dwelling.
- C.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.
- D.** To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.
- E.** All housing in the R-2 district must be hooked up to public sewer and water.

**Subd. 2. Permitted Uses.**

- A.** Single-family cluster, attached and detached residences, such single-family cluster dwellings being not less than twenty-four (24) feet in width and thirty (30) feet in length per unit and being placed on a permanent foundation in accordance with the State Building Code. Each unit must have a garage with a minimum square footage of four hundred (400) feet and a minimum width of twenty (20) feet. Such single family cluster, attached and detached residences may not be more than four (4) units in number.
- B.** Public and quasi-public facilities and services required by the resident population.
- C.** All other types of Multiple family dwellings of not more than four (4) units per lot and meeting the minimum size requirement of twenty four (24) by thirty (30) feet.
- D.** A State licensed residential facility serving sixteen (16) or fewer persons, a licensed day care facility serving sixteen (16) or fewer persons, and a group family day care facility licensed under Minnesota Rules, Parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.

**Subd. 3. Conditional Uses.**

- A. Relocated structures meeting required conditions as stated in the Conditional Use Permit provisions of this Chapter.
- B. Planned Unit developments as regulated herein.
- C. Single family attached units and cluster developments of not more than six (6) units.
- D. All other Multiple family dwellings of not more than six (6) units.
- E. Home occupations in single family attached and detached and units which are subordinate to the main purpose of the facility and will not cause traffic congestion or adversely impact the surrounding areas or residents.
- F. Private educational institutions limited to preschool through junior high schools serving 20 or fewer students provided that:
  - 1. The lot the school is located on shall be a minimum of 12,000 square feet.
  - 2. There shall be 50 square feet of indoor classroom space per child and 150 square feet of outdoor play space per child.
  - 3. Side yards shall be double that required for the district, but no greater than thirty (30) feet.
  - 4. Adequate screening from abutting residential uses and landscaping is provided.
  - 5. Adequate off street parking and access is provided on the site or on a lot directly abutting, directly across a public street or alley and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
  - 6. Adequate off-street loading and service entrances are considered and satisfactorily met. These loading and service entrances shall be screened from neighboring residential properties with fencing and/or landscaping that is a minimum of six feet high. *Source: Ordinance 94 2<sup>nd</sup> Series, Effective Date: October 19<sup>th</sup>, 2004*

**Subd. 4. Permitted Accessory Uses.**

- A. Garages, parking spaces, and storage lockers.
- B. In Ground swimming pools when in compliance with Section 11.21 Subd. 12, tennis courts, and other recreational facilities for the use of the residents and their guests. *Source: Ordinance 150 2<sup>nd</sup> Series, Effective Date: June 7<sup>th</sup>, 2010*
- C. Tool sheds or similar buildings.
- D. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

Minimum Lot Size	15,400 sq. ft.
Width	110 ft.
Depth	140 ft.
Minimum Yard	
Front*	30 ft.
Side *	15 ft.
Rear *	30 ft.

\*Corner lots have two front yard setback requirements, one for each side facing the street, and shall also have two side yards of 15 feet for the remaining two sides.

Maximum Height 35 ft.

Accessory Structures

Max. height	15 ft.
Max area	864 sq. ft.
Front setback	30 ft.
Side setback	10 ft.
Rear setback	10 ft.

Maximum Height 35 ft.  
Maximum Lot Coverage 75%

*Source: Ordinance 17, 2<sup>nd</sup> Series Effective Date: 10-5-96*

**Subd. 6. Site and Building Requirements for Townhome and Patio Home Developments.**

**A.** Minimum Site size: two (2) acres

**B.** Maximum Density: six (6) U.P Acre

**C.** Maximum Height: two (2) stories

**D.** Minimum open space required: 3000 ft per unit

**E.** MUST BE SERVED BY PUBLIC SEWER AND WATER



**Subd. 7. Required Conditions.** All uses shall comply with the regulations prescribed in the General Regulations and Performance Standards provisions of this Chapter. Uses in R-2 zoning do require off-street parking, screening, landscaping, and performance standards. All limited multiple family dwellings must have a minimum of a four hundred (400) square foot garage with a minimum of a twenty (20) foot width per unit. All limited multiple family units are required to use public sewer and water.

**SEC. 11.34. MULTI-FAMILY RESIDENTIAL DISTRICT (R-3).**

**Subd. 1. Purpose.** In addition to the objectives prescribed herein, the objectives for R-3 multi-family residential district are included to achieve the following purposes:

- A. To reserve appropriately located areas for family living in a variety of types of dwellings at a reasonable range of population densities consistent with sound standards of public peace, health, safety, and general welfare.
- B. To encourage as many as possible of the desirable characteristics of the limited multiple-family residential district while permitting higher population densities.
- C. To ensure adequate light, air, privacy, and open space for each dwelling unit.
- D. To provide space for semi-public facilities needed to complete urban residential district while permitting higher population densities.
- E. To minimize traffic congestion and to avoid the overloading of utilities by preventing construction of buildings of excessive size in relation to the land around them.
- F. To provide necessary space for off-street parking of automobiles.
- G. To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

**Subd. 2. Permitted Uses.**

- A. Attached dwelling units of more than four (4) units but no more than twelve (12) units.
- B. All other multiple family dwellings with no less than four (4) units and no more than sixteen (16) units meeting requirements.
- C. Public or quasi-public facilities required by the resident or working population.

- D. A state licensed residential facility serving sixteen (16) or fewer persons, a licensed day care facility serving sixteen (16) or fewer persons, and a group family day care facility licensed under Minnesota Rules, Parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.

**Subd. 3. Conditional Uses.**

- A. Attached dwelling units of more than twelve (12) units.
- B. Nursing and boarding care homes.
- C. A single-family or multi-family residential use of property for a state licensed residential facility serving individuals.
- D. A licensed day care.
- E. Apartment buildings with seventeen (17) or more units.
- F. Planned Unit Developments as regulated herein.
- G. Private educational institutions limited to preschool through junior high schools serving 30 or fewer students provided that:
  - 4. The lot the school is located on shall be a minimum of 18,000 square feet.
  - 5. There shall be 50 square feet of indoor classroom space per child and 150 square feet of outdoor play space per child.
  - 6. Side yards shall be double that required for the district, but no greater than thirty (30) Feet.
  - 7. Adequate screening from abutting residential uses and landscaping is provided.
  - 8. Adequate off street parking and access is provided on the site or on a lot directly abutting, directly across a public street or alley and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
  - 9. Adequate off-street loading and service entrances are considered and satisfactorily met. These loading and service entrances shall be screened from neighboring residential properties with fencing and/or landscaping that is a minimum of six feet high. *Source Ordinance 94 2<sup>nd</sup> Series, Effective Date: October 16<sup>th</sup>, 2004*

**Subd. 4. Accessory Uses.**

- A. All permitted accessory uses in the R-2 District.

**Subd. 5. Lot, Yard, Area and Height Requirements.**

Minimum Lot Size	18,000 ft.
width	120 ft.
depth	150 ft.

Minimum Yard	
front **	30 ft
side	30 ft.
rear	30 ft.

Maximum Lot Coverage	75%
Maximum Height	35 ft.

Accessory Structures \*\*\*

Max. Height	15 ft.
Max. Area	200 sq.ft./unit
front setback	30 ft.
side setback	10 ft.
rear setback	10 ft.

\*\* Corner lots have two front yard set back requirements. One for each side facing a street.

\*\*\* Accessory structures shall be built for the benefit of the tenants only.

**Subd. 6. Site and Building Requirements for Townhome and Patio Home Developments.**

- A. Minimum Site size: two (2) acres
- B. Maximum Density: ten (10) U.P acre
- C. Maximum Height: two (2) stories
- D. Minimum open space required: 2500 ft per unit
- E. Must be served by public sewer and water

**Subd. 7. Site and Building Requirements for Apartments.**

- A. Maximum Density: fourteen (14) U.P. acre
- B. Maximum Height: three (3)stories

C. Minimum open space required: 25%

D. Must be served by public sewer and water

**Subd. 8. Required Conditions.** Off street parking, screening, landscaping, and performance standards are applicable as stated in the General Regulations and Performance Standards provisions of this Chapter. All structures in R-3 zoning are required to hookup to public sewer and water.

*Source: Ordinance No. 93-8 Effective Date: 11-7-93*

**SEC. 11.35. SINGLE FAMILY RESIDENTIAL – LARGE LOT DISTRICT.**

**Subd. 1. Purpose.** The purpose of the R-LL district is to provide for large lot, low density, single-family detached residential dwelling units and directly related, complementary uses in areas of the City containing highly unique natural features and amenities. In addition to the objectives prescribed herein, the objectives of R-LL are included to achieve the following purposes:

- A. To reserve appropriately located areas for single-family living at low population densities consistent with sound standards of public peace, health, safety, and general welfare.
- B. To ensure adequate light, air, privacy, and open space for each dwelling.
- C. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.
- D. To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

**Subd. 2. Permitted Uses**

- A. Single-family, detached dwelling units.
- B. Public and quasi-public facilities and services required by the residential population.
- C. Public parks and playgrounds.
- D. A state licensed residential facility serving six (6) or fewer persons, a licensed day care facility serving twelve (12) or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
- E. A business conducted in the dwelling or a home occupation provided that the following criteria are met; if a business cannot meet these criteria this permitted use becomes a conditional use requiring a conditional use permit.
  - 1. The business or home occupation is conducted by a resident occupant of the dwelling.
  - 2. The activity is incidental and secondary to the residential use of the premises.
  - 3. There is no external activity nor external alteration of the dwelling.

4. There is no exterior storage, display or signing.
5. No on-street parking is generated.

**Subd. 3. Conditional Uses.** The following conditional uses may be permitted but only after securing a conditional use permit in accordance with Section 11.14 of Becker City Code:

- A. Public or semi-public recreational buildings and neighborhood or community centers; public and private institutions limited to elementary, junior high and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that:
  1. Side yards shall be double that required for the district, but no greater than thirty (30) feet.
  2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Section 11.20.
  3. Adequate off-street parking and access is provided on the site or on lots abutting directly across a public street or alley to the principal use and that such parking is adequately screened and landscaped from surrounding and abutting residential uses in compliance with Section 11.20.
  4. Adequate off-street loading and service entrances are provided and regulated where applicable by Section 11.20.
- B. Residential planned unit developments are regulated in Section 21.
- C. Golf courses and country clubs, and directly related accessory and complimentary uses.
- D. Cemetery
- E. Fire stations, water supply buildings, reservoirs, elevated tanks and similar essential public utility and service structures. *Source: Ordinance 149 2<sup>nd</sup> Series, Effective Date: June 28<sup>th</sup>, 2010*

**Subd. 4 Permitted Accessory Uses**

- A. Attached or detached private garages, parking spaces, and carports provided said structures are constructed in the same architectural style as the main building or structure.
- B. Private recreational facilities such as tennis courts, swimming pools, that are in compliance with Section 11.21 Subd. 12, etc., which are operated for the

enjoyment and conveniences of the residents of the principal use and their guests.  
*Source: Ordinance 150 2<sup>nd</sup> Series, Effective Date: June 7<sup>th</sup>, 2010.*

- C. Buildings and uses accessory to the principal use, small toll houses, sheds for storage of domestic supplies and non-commercial recreation equipment provided said structures are constructed in the same architectural style as the main or structure, but accessory dwelling units shall not be permitted.
- D. Non-commercial gardening, greenhouses and conservatories.

**Subd. 5 Lot, Yard, Area and Height Requirements**

Minimum Lot Size	20,400 sq. ft.
Width	120 ft
Depth	170 ft
Minimum Yard	
Front*	40 ft
Side*	15 ft.
Rear*	40 ft
Maximum Height	30 ft
Maximum lot coverage	40%
Accessory Structures	
Max. height	15 ft
Max area	864 sq. ft.
Front setback	40 ft
Side setback	20 ft
Rear setback	30 ft

\* Corner lots have two front yard setback requirements, one for each side facing the street, and shall also have two side yards of 15 feet for the remaining two sides. *Source: Ordinance 17, 2<sup>nd</sup> series Effective Date: 10-5-96*

**Subd. 6 Required Conditions**

- A. All swelling structures must be a minimum of twelve hundred (1,200) square feet of livable space.
- B. All Single-family dwellings must have a minimum of a two car attached garage with a minimum of 576 square feet having minimum of a twenty-four (24) foot width.
- C. Driveways shall be constructed from a hard, impervious surface such as tar or concrete. Said surface shall be of such character as is suitable and in harmony with

similar improvements in the surrounding area. Types of pavement shall be determined by the zoning administrator and or/ planning commission and shall be completed with in the same time frame as that of the building permit.

- D.** All lawns shall be seeded or sodded from the roadside edge of the unpaved right-of-way back to a distance of at least twenty-five feet behind the principle residence on the lot. Shall be completed within the same time frame as that of the building permit as weather permits or within the first two (2) months of the Spring seeding.
- E.** The developer of any dwelling unit shall plant shade trees. Such trees shall to be planted no closer than ten feet of the right-of-way of the road. One tree shall be planted for every fifty feet of frontage along each road unless the planning commission shall grant a waiver. Such waiver shall be granted only if there are trees growing along such right-of-way or on the abutting property which in the opinion or the planning commission complies with these regulations.

*Source: Ordinance 11, 2<sup>nd</sup> Series Effective Date: 2-20-96*

(Section 11.36 reserved for future expansion.)



**SEC. 11.37. MANUFACTURED HOME PARK DISTRICT (R-MH).**

**Subd 1. Manufactured Home Parks.** Manufactured homes and manufactured home parks have special characteristics which require full consideration of their locational needs, their site layout and design, their demand upon community services and their relationship to and effect upon the surrounding uses of land. Because of these characteristics, manufactured homes are permitted only in manufactured home park districts in accordance with the following design and locational standards in addition to the requirements of the Minnesota State Health Department.

**Subd. 2. Permitted Uses.** Manufactured homes and uses necessarily incidental to a manufactured home park but excluding the sale of manufactured homes. Permitted accessory uses are the same as those permitted in the R-2 District.

**Subd. 3. Site Location.** The proposed site shall have at least one property line abutting upon a major street as defined by the Comprehensive Guide Plan.

**Subd 4. Site Yard Dimensions.** All buildings and manufactured homes within the manufactured home park shall be set back a minimum of fifty (50) feet from all exterior property lines. Such setback shall be provided with a dense combination of plant materials, earth mounds and/or fencing to form a buffer to adjoining property. Plans for screening, fencing or landscaping shall be approved by the Planning Commission.

**Subd. 5. Sewer and Water Systems.** All manufactured home parks shall be serviced by a public sewer and water system. All utilities shall be installed underground.

**Subd. 6. Design Requirements.**

**A. Maximum Density of Development.** Five (5) units per gross acre (gross acres being the total number of acres in the parcel including all interior streets and open space).

**B. Off-street Parking.** A minimum of one and one-half (1 1/2) spaces per manufactured home shall be provided exclusive of on-street parking.

**C. Setbacks.** Front and backyard setback of 15 feet; side yards need a minimum of five (5) feet; from all lot and street right-of-way.

**D. Park Streets.** Each home shall have direct access to a park street which shall be paved to a minimum width of thirty (30) feet where on-street parking is permitted on one side only.

Where no on-street parking is permitted and where "no parking" signs are posted, a minimum street width of twenty-four (24) feet shall be permitted.

**E. Sidewalks.** A thirty (30) inch paved walk shall be provided from the entrance of each home to all required service facilities in the park.

- F. Building Height.** No building shall exceed thirty-five (35) feet in height.
- G. Parks, Recreation and Open Spaces.** All manufactured home parks shall provide private recreation and open space areas within the park of not less than fifteen (15%) percent of the total gross acreage therein.
- H. Storage.** All boats, trailers, and vehicles other than automobiles shall be parked in areas specifically approved and adequately screened for that purpose. All other storage shall occur within a building or within a container designed specifically for the purpose.
- I. Anchorage**
1. All manufactured homes occupied or stored in a manufactured home park shall comply with the requirements of the Manufactured Home Building Code, Minnesota Statutes, Sections 327.31 through 327.35, as amended.
  2. Any manufactured home placed in a manufactured home park shall have a support system and ground anchoring system which complies with the rules and regulations promulgated by the State Commissioner of Administration.
  3. All manufactured homes placed in a manufactured home park, which have been manufactured after July 1, 1972, shall bear a seal from the Commissioner of Administration, in accordance with Minnesota Statutes 1978, Section 327.32.  
*Source: Ordinance 6, 2<sup>nd</sup> series Effective Date: 8-8-95*

**Subd. 7. Required Conditions.** All uses must comply with the regulations prescribed in the General Regulations and Performance Standards provisions of this Chapter.

*Source: Ordinance No. 93-8, Effective Date: 11-7-93*

**SEC. 11.38. MULTIPLE-FAMILY/OFFICE DISTRICT (R-3/O)**

**Subd. 1. Purpose.** In addition to the objectives prescribed herein, the objectives for the R-3/O district are included to achieve the following purposes:

- A.** To provide for a complementary transition zone between commercial and single family residential uses.
- B.** To allow uses similar to the neighboring T-Town while allowing for businesses and residential units with larger space needs through larger lot sizes.
- C.** To allow for smaller (i.e. two and four unit) multi-family housing units designed with single-family residential design elements to fit within the neighborhood character.
- D.** To establish building designs which closely resemble typical residential housing to maintain the neighborhood character of Second Street.
- E.** To ensure adequate light, air, privacy, and open space for each dwelling unit.
- F.** To provide necessary space for off-street parking for office and residential units.
- G.** To minimize traffic congestion and to avoid the overloading of utilities by preventing construction of buildings of excessive size in relation to the land around them.
- H.** To protect residential and office properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

**Subd. 2. Permitted Uses.**

- A.** Single-family cluster, attached and detached residences, such single-family cluster dwellings being not less than twenty-four (24) feet in width and thirty (30) feet in length per unit and being placed on a permanent foundation in accordance with the State Building Code. Such single-family cluster, attached and detached residences may not be more than four (4) units in number.
- B.** Public and quasi-public facilities and services required by the residential and office population.
- C.** Multiple family dwellings of not more than four (4) units per lot and meeting the minimum size requirements of twenty-four (24) by thirty (30) feet.
- D.** A State licensed residential facility serving sixteen (16) or fewer persons, a licensed day care facility serving sixteen (16) or fewer persons, and a group family day care

facility licensed under Minnesota Rules, Parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.

- E. Administrative, executive and financial offices.
- F. Medical and dental offices.
- G. Professional, editorial, real estate, insurance and other offices.

**Subd. 3. Conditional Uses.**

- A. Planned Unit Developments as regulated herein.
- B. Single family attached units and cluster developments of not more than six (6) units.
- C. All other Multiple family dwellings of not more than six (6) units.
- D. Home occupations in single family attached and detached units which are subordinate to the main purpose of the facility and will not cause traffic congestion or adversely impact the surrounding areas or residents.
- E. Restaurants, cafes and other food service establishments.
- F. Private educational institutions limited to preschool through junior high schools serving 20 or fewer students provided that:
  - 1. The lot the school is located on shall be a minimum of 12,000 square feet.
  - 2. There shall be 50 square feet of indoor classroom space per child and 150 square feet of outdoor play space per child.
  - 3. Side yards shall be double that required for the district, but no greater than thirty (30) feet.
  - 4. Adequate screening from abutting residential uses and landscaping is provided.
  - 5. Adequate off street parking and access is provided on the site or on a lot directly abutting, directly across a public street or alley and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
  - 6. Adequate off-street loading and service entrances are considered and satisfactorily met. These loading and service entrances shall be screened from neighboring residential properties with fencing and/or landscaping that is a minimum of six feet high. *Source: Ordinance 94 2<sup>nd</sup> Series, Effective Date: October 19<sup>th</sup>, 2004*

**Subd. 4. Permitted Accessory Uses.**

- A. Garages, parking spaces, and storage lockers for use by residents only.
- B. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

**Subd. 5. Use Determination.** A Conditional Use Permit may be required when any other use or service establishment determined by the Planning Commission to be of the same general character as the foregoing uses and which will not impair the present or potential use of adjacent properties may be permitted.

**Subd. 6. Lot, Yard, Area and Height Requirements.**

Minimum Lot Size	15,000 sq. ft.
width	100 ft.
depth	150 ft.
Minimum Yard Setbacks	
front*	30 ft.
side*	10 ft.
back*	30 ft.

\*Corner lots have two front yard setback requirements, one for each side facing the street, and shall also have two side yards of ten (10) feet for the remaining two sides.

Maximum Height	35 ft.
Maximum Lot Coverage	75%

**Subd. 7. Required Conditions.** All uses shall comply with the regulations prescribed in the General Regulations and Performance Standards provisions of this Chapter. Uses in R-3/O zoning require off-street parking, screening, landscaping, and performance standards. Uses in R-3/O must also be reviewed by the Zoning Administrator for design standards to assure compatibility with surrounding building design standards. These standards include: building design, parking, driveway location, signage and outside storage. *Source: Ordinance 33, 2<sup>nd</sup> Series Effective Date: 11-8-98*

(Sections 11.39 reserved for future expansion.)

**SEC. 11.40. COMMUNITY COMMERCIAL DISTRICT (C-COM).**

**Subd. 1. Purpose.** In addition to the other objectives prescribed herein, the objectives in the commercial district are included to achieve the following purposes:

- A.** To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas.
- B.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.
- C.** To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, traffic, fire, explosion, noxious fumes, and other hazards.
- D.** To provide retail and service uses that serve the whole community and cater to the whole range of goods and services by the resident population.
- E.** To permit development of a town center of size and in the appropriate location shown on the Land Use Plan.

**Subd. 2. Permitted Uses.** All retail sales directly to users of goods and services conducted within structures, except highway service uses as herein defined. Permitted uses are as follows:

- A.** Business services including banks, insurance, sales, real estate, offices, and postal stations; commercial (leased) and professional offices.
- B.** Clothing services including dry cleaning and laundry services, laundromats, dressmaking, millinery, tailor shops, and shoe shops.
- C.** Equipment services including radio and television shops, electrical appliance stores, locksmiths, paint and wallpaper sales, show room of a plumber, decorator, or similar trade.
- D.** Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessen, candy shops, and bakeries whose products are sold only at retail on the premises excluding convenience stores and fast food outlets.
- E.** Personal services including drug stores, hardware stores, stationary and book stores, news shops, apparel shops, show rooms for articles to be sold at retail, bicycle sales and repair, flower shops, and commercial greenhouses.
- F.** Personal services including barber and beauty shops, reducing salons, photographic shops, and funeral homes.

**G.** Public and Quasi-public facilities and services required by the resident working and shopping population. *Source: Ordinance 41, 2<sup>nd</sup> Series Effective Date: April 24, 1999*

**H.** Other government and public utility buildings and structures.

*Source: Ordinance 41, 2<sup>nd</sup> Series , Effective Date: April 24, 1999*

**I.** Recreation services including theaters, bowling lanes, clubs, bars and lodges.

**J.** Clinics and other medical buildings for the treatment of human beings and domesticated pets.

**Subd. 3. Accessory Uses.**

**A.** Commercial or business buildings for a use accessory to the principal use.

**B.** Signs as regulated herein.

**C.** Open outdoor sales, services or rental up to 14 consecutive calendar days provided:

1. No more than 10% of the total parking lot is used for outdoor sales.
2. The area is screened from abutting residential properties.
3. The sales area is adequately segregated from the remaining parking area with barricades, fencing or other materials.
4. Sales areas are surfaced to control dust.
5. At the Zoning Administrator's discretion the outdoor sales shall be revised or discontinued if:
  - a. the outdoor sales impedes the normal use of the property including but not limited to parking and site drainage.
  - b. the outdoor sales impedes the traffic flows or causes safety issues on adjacent roadways; or
  - c. causes detrimental effects to neighboring property.

*Source: Ordinance 79, 2<sup>nd</sup> Series, Effective Date: December 13, 2003*

**Subd. 4. Conditional Uses.** The following uses shall require a conditional use permit based on the procedures set forth herein.

**A.** Open outdoor sales, services or rental exceeding 30 calendar days per calendar year as an accessory use provided: *Source: Ordinance 158, 2<sup>nd</sup> Series, Effective Date: February 13, 2012*

1. No more than 10% of the total parking lot is used for outdoor sales.
2. The area is screened from abutting residential properties.
3. The sales area is adequately segregated from the remaining parking area with barricades, fencing or other materials.

4. Sales areas are surfaced to control dust.
5. At the Zoning Administrator's discretion the outdoor sales shall be revised or discontinued if:
  - a. The outdoor sales impedes the normal use of the property including but not limited to parking and site drainage.
  - b. The outdoor sales impedes the traffic flows or causes safety issues on adjacent roadways; or
  - c. Causes detrimental effects to neighboring property.

*Source: Ordinance 79, 2<sup>nd</sup> Series, Effective Date: December 13, 2003*

- B. Commercial Planned Unit Developments as regulated herein.
- C. Kennels or other animal care or shelter facilities excluding livestock feeding yards, slaughtering of animals or stock yards.
- D. Residential units above ground level and not occupying more than fifty (50%) percent of the total gross floor area of the principal building.
- E. Automobile car wash establishments, gasoline stations, convenience stores, drive-in restaurants, diners, restaurants, motels, hotels, and uses similar and accessory thereto.
- F. Other businesses of the same general character as listed in Subd.2, above.
- G. Strip malls and shopping centers.

*Source: Ordinance 41, 2<sup>nd</sup> series Effective Date: 4-24-99*

- H. Licensed day-care facilities provided that:
  1. No overnight facilities are provided for the children served.
  2. An outdoor recreational facility shall be appropriately separated from the parking lot and driving areas by a wood fence not less than 4 feet in height, or City approved substitute, and shall be located continuous to the day-care facility, and shall not be located in any yard abutting a major thoroughfare, and shall not have an impervious surface for more than one-half of the playground area, or shall be bound on not more than two sides by parking and driving areas. A minimum size of the outside recreational facility shall be 2,000 square feet, or 75 square feet per child at licensed capacity, whichever is the greater figure.
  4. The regulations and conditions of Minn. Rules Parts 9503.0005 through 9503.0175, as amended, are satisfactorily met. No facility shall begin operation without a State license.
  5. All applicable provisions of the Minnesota State Building Code and Fire Code have



been met. The City Building Official and Fire Chief shall inspect the property prior to the issuance of the occupancy permit to determine if this Subsection has been complied with. *Source: Ordinance 109, 2<sup>nd</sup> series Effective Date: 12-24-05*

**Subd. 5. Lot, Yard, Area, and Height Requirements.**

Minimum Lot	20,000 sq. ft.
width	150 ft.
depth	130 ft.
Minimum Yard	
front	30 ft. (applies to new centers)
side	20 ft. (30 if borders resident)
rear	20 ft. (30 if borders resident)
Maximum lot coverage	75%
Maximum height	40 ft.
Accessory Structures	
max height	40 ft.
front setback	30 ft.
side setback	30 ft.
rear setback	30 ft.

**Subd. 6. Required Conditions.** Off street parking, loading, screening and landscaping, and performance standards stated in the General Regulations and Performance Standards provisions of this Chapter apply to C-COM district.

- A. All uses shall comply with the regulations prescribed in the General Regulations provisions of this Chapter.
- B. Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.
- C. A zoning request will be considered only on the basis of a planned unit development except where the rezoning is contiguous to an existing commercial district.

**Subd .7 Building Design Requirements** Building design standards are hereby established to ensure commercial buildings meet acceptable aesthetic standards.

**1.** Applicability. The design standards in this section shall apply to the following:

- (a) All facades of new principal buildings;
- (b) All Facades of new accessory buildings;
- (c) Remodeling of existing buildings that result in “refacing” more than one side of an existing building or refacing of the wall oriented towards the nearest public road.
- (d) Additions to buildings that increase the gross floor area by more than 25%. Additions not exceeding this threshold may be constructed using exterior materials that match or are compatible with the existing building materials.

**2.** Design Standards.

(a) Allowed materials for principal buildings. Principal commercial buildings in the commercial zoning district shall use the following materials on their exterior facades:

- (1) Brick;
- (2) Natural Stone or Stone Veneers;
- (3) Decorative concrete block (color impregnated with a split faced, robbed or textured surface);
- (4) Glass curtain wall panels;
- (5) Stucco or synthetic stucco;
- (6) Exterior insulation and finish systems (EIFS);
- (7) Steel or vinyl lap Siding;
- (8) Similar materials – The City recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, an application to amend the zoning code text must be submitted per the requirements of the City Code. In reviewing such an application to consider including a new material to the list of allowed materials in subdivision 2(b), the City will consider the following:

- a. Is the proposed material of sufficient quality to ensure on-going maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
- b. Will the style, color, and appearance of the proposed product integrate with adjacent commercial properties and other materials currently allowed within the commercial zoning district;
- c. Will the style, color and appearance of the proposed product be acceptable in cases when visible from residential units on adjacent properties.

**(b)** All exterior vertical surfaces, facing/abutting a residential property or right-of-way, must be treated as a façade and have an equally attractive or same fascia.

Mechanical protrusions. All necessary mechanical protrusions visible to the exterior must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right of way. Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. All mechanical protrusions must be highlighted on the site plan. *Source: Ordinance 143 2<sup>nd</sup> Series, Effective Date: February 8<sup>th</sup>, 2010.*

**SECTION 11.41. HIGHWAY COMMERCIAL DISTRICT (C-HWY)**

**Subd. 1. Purpose.** In addition to other objectives prescribed herein, the objectives in the Highway Commercial District are included to achieve the following purposes:

- A. To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas.
- B. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them
- C. To protect commercial properties from noise, odor, dust, dirt smoke, vibration, head, glare, traffic, fire, explosion, noxious fumes, and other hazards.
- D. To provide retail and service uses that serve the whole community and cater to the whole range of goods and services required by the resident population as well as those passing through.
- E. To service the needs of the highway user and the automobile, and in so doing to establish appropriate locations along major streets and highway and automobile related retail and service establishments in locations which will not cause undue traffic congestion.
- F. To permit development of highway service centers in the appropriate locations shown on the Land Use Plan.

**Subd. 2. Permitted Uses.**

- A. Building materials, lumberyards.
- B. Taverns, saloons, liquor stores, dance clubs.
- C. Variety stores.
- D. Auto Accessory retail stores, commercial recreational uses.
- E. Motor vehicle and recreational equipment sales and service
- F. Printing facilities provided it is in conjunction with a related retail store. The retail store shall be at least fifteen (15) percent of the total square footage of the building.  
*Source: Ordinance 175, 2<sup>nd</sup> Series, Effective date: December 8<sup>th</sup>, 2014*
- G. All permitted uses in C-COM. *Source: Ordinance 41, 2<sup>nd</sup> Series, Effective Date: April 24, 1999, Source Ordinance 78, 2<sup>nd</sup> Series, Effective Date: May 27, 2003*

**Subd. 3 Conditional Uses.**

- A. Automobile car wash establishments, gasoline stations, convenience stores, drive-in restaurants, diners, restaurants, motels, hotels, and uses similar and accessory thereto.
- B. Mini-storage facilities with strict architectural controls as an accessory use to the primary commercial facility.
- C. Strip malls and shopping centers.
- D. Residential units above ground level Strip malls and shopping centers.
- E. Manufactured home sales.
- F. Commercial Landscape Supply Facilities and Greenhouses.
- G. All conditional uses in C-COM. *Source: Ordinance 41, 2<sup>nd</sup> Series, Effective Date: April 24, 1999, Source: Ordinance 78, 2<sup>nd</sup> Series, Effective Date: May 27, 2003, Source: Ordinance 175, 2<sup>nd</sup> Series, Effective Date: December 8<sup>th</sup>, 2014*

**Subd. 4 Accessory Uses.** The following uses shall be permitted as accessory uses within the C-HWY district.

- A. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3, above.

**Subd 5. Lot, Yard, Area, and Height Requirements.**

Minimum Lot	20,000 sq. ft.
width	150 ft
depth	130 ft
Minimum Yard	
front	30 ft.
side	20 ft. (30 if borders residential use)
rear	20 ft. (30 if borders residential use)
Maximum lot coverage	75%
Maximum Height	30 ft.
Accessory Structures	
max. height	30 ft
front setback	35 ft.

side setback	20 ft.
rear setback	10 ft.

**Subd. 6 Requirement Conditions.** Off street parking, loading, screening and landscaping, and performance standards stated in the General Regulations and Performance Standards provisions of this Chapter apply to C-COM District.

- A.** All users shall comply with the regulations prescribed in the General Regulations provisions of this chapter.
- B.** Public sewer and water must be provided to and utilized by all structures and uses.
- C.** A zoning request will be considered only on the basis of a planned unit development except where the rezoning is contiguous to an existing commercial district.  
*Source: Ordinance 92-8, Effective Date: November 7, 1993*

**Subd 7. Building Design Requirements.** Building design standards are hereby established to ensure commercial buildings meet acceptable aesthetic standards.

- 1. Applicability. The design standards in this section shall apply to the following:
  - (a) All facades of new principal buildings;
  - (b) All facades of new accessory buildings;
  - (c) Remodeling of existing buildings that result in “refacing” more than one side of an existing building or refacing of the wall oriented towards the nearest public road.
  - (d) Additions to buildings that increase the gross floor area by more than 25%. Additions not exceeding this threshold may be constructed using exterior materials that match or are compatible with the existing building materials.
- 2. Design Standards.
  - (a) Allowed materials for principal buildings. Principal commercial buildings in the commercial zoning district shall use the following materials on their exterior facades:
    - (1) Brick;
    - (2) Natural Stone or Stone Veneers;
    - (3) Decorative concrete block (color impregnated with a split faced, robbed or textured surface

- (4) Glass curtain wall panels;
  - (5) Stucco or synthetic stucco;
  - (6) Exterior insulation and finish systems (EIFS);
  - (7) Steel or vinyl lap Siding;
  - (8) Corrugated Steel panels that are coated with a non-reflective glare free finish is permitted if it does not constitute more than fifty percent (50%) of the total exterior wall area that is visible from the road right of way.
  - (9) Similar materials - The City recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, an application to amend the zoning code text must be submitted per the requirements of the City Code. In reviewing such an application to consider including a new material to the list of allowed materials in subdivision 2(b), the City will consider the following:
    - a. Is the proposed material of sufficient quality to ensure on-going maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
    - b. Will the style, color, and appearance of the proposed product integrate with adjacent commercial properties and other materials currently allowed within the commercial zoning district;
    - c. Will the style, color and appearance of the proposed product be acceptable in cases when visible from residential units on adjacent properties.
- (b) All exterior vertical surfaces, facing/abutting a residential property or right-of-way, must be treated as a facade and have an equally attractive or same fascia.

Mechanical protrusions. All necessary mechanical protrusions visible to the exterior must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right of way. Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. All mechanical protrusions must be highlighted on the site plan.

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**SECTION 11.42. T-TOWN - THE BECKER HISTORICAL DISTRICT**

**Subd. 1. Purpose.** This district is designed to reflect the historic center of Becker and to provide for retail, office and commercial uses.

**Subd. 2. Permitted Uses.** The following are permitted uses:

- a) Administrative, executive and financial offices.
- b) Medical and dental offices
- c) Professional, editorial, real estate, insurance and other offices.
- d) Stores, shops, general retail and offices supplying commodities and performing services for city residents and surrounding communities, such as, but not limited to; specialty and antique shops, business offices, and personal service enterprises such as barber and beauty shops.

**Subd. 3 Permitted Special Use with Conditional Use Permit.** The following uses are permitted by Conditional Use Permit:

- a) Restaurants, cafes and other food service establishments.
- b) Commercial recreational entertainment.
- c) Residences on the second floor of a two story structure limited to 50% the total interior square footage of the structure.
- d) Printing and publishing of lithographic shops.
- e) Outside eating establishments.
- f) Outside entertainment. Commercial \*
- g) Outside sales or special events. \*

\* These uses may be approved directly by the City Council if the event is a one time, special event not occurring on a regular basis.

**Subd. 4 Use Determination.** A Conditional Use Permit may be required when any other use or service establishment determined by the Planning Commission to be of the same general character as the foregoing uses and which will not impair the present or potential use of adjacent properties may be permitted.

- a) Height of Buildings:  
Maximum 2 stories 25 feet  
Minimum 14 - 16 feet
- b) Maximum building footprint:  
  
7000 square feet @ Hancock and the Frontage Road  
3000 square feet @ Central and Willow
- c) Minimum lot width: 25 feet
- d) The main entrance to all buildings shall face the street.

#### **Subd. 6. Front, Side and Rear Yard Setbacks**

##### **Hancock Street Development**

- a) Front Yard: The setback from the front yard shall be 0 feet
- b) Side Yard: There shall be no street side yard setback or interior side yard setback. Except the side yard setback shall be 10 feet when adjacent to a street.
- c) Rear Yard: The setback from the rear yard shall be 0 feet.

##### **Remaining T-Town Area**

- d) Front Yard: There shall be a minimum 10 foot front yard setback with a maximum setback of 15 feet
- e) Side Yard: There shall be a minimum 10 foot side yard setback. There shall be a minimum interior side yard setback of 5 feet, provided that the structure contains a solid, fireproof wall. If the structure contains windows and/or doors on the interior building side yard, a setback equal to one-half (1/2) the height of the structure shall be required
- f) Rear Yard: There shall be a minimum 10 foot front yard setback with a maximum setback of 15 feet.

**Subd. 7. Required Conditions.** The following are required conditions of this district:

- a) All new development or remodels in the T-Town area are subject to a design review. Criteria for design and the design review process are contained in the Becker Historical District Design Guidelines.
- b) Loading, screening, landscaping, and performance standards stated in Sections 4 and 5 apply to the T-Town district.
- c) All uses shall comply with the regulations prescribed in Section 4 General Regulations.
- d) Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.

**Subd. 8. Parking.** Parking areas will be located to the rear of buildings, screening views of parking areas from streets. On street parking will also be allowed in front of "T-Town" uses. 1 space per 250 gross square feet for all uses, with street parking directly in front of the proposed development and on the same side of the street included in the calculation. *Source: Ordinance 2, 2<sup>nd</sup> Series, Effective Date 7-5-95*

**Subd.9. Building Design Requirements.** Building design standards are hereby established to ensure commercial buildings meet acceptable aesthetic standards.

1. Applicability. The design standards in this section shall apply to the following:
  - (a) All facades of new principal buildings;
  - (b) All facades of new accessory buildings;
  - (c) Remodeling of existing buildings that result in “refacing” more than one side of an existing building or refacing of the wall oriented towards the nearest public road.
  - (d) Additions to buildings that increase the gross floor area by more than 25%. Additions not exceeding this threshold may be constructed using exterior materials that match or are compatible with the existing building materials.

**2. Design Standards.**

- (a) Allowed materials for principal buildings. Principal commercial buildings in the commercial zoning district shall use the following materials on their exterior facades:
  - (1) Brick
  - (2) Natural stone or Stone Veneers;
  - (3) Decorative concrete block (color impregnated with a split faced, robbed or textured surface;
  - (4) Glass curtain wall panels;
  - (5) Stucco or synthetic stucco;
  - (6) Exterior insulation and finish systems (EIFS);
  - (7) Steel or vinyl lap Siding
  - (8) Similar materials – The City recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, an application to amend the zoning code text must be submitted per the requirements of the City Code. In reviewing such an application to consider including a new material to the list of allowed materials in subdivision 2(b), the City will consider the following:
    - a. Is the proposed material of sufficient quality to ensure ongoing maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
    - b. Will the style, color, and appearance of the proposed product integrate with adjacent commercial properties and other materials currently allowed within the commercial zoning district;
    - c. Will the style, color and appearance of the proposed product be acceptable in cases when visible from residential units on adjacent properties.
- (b) All exterior walls facing the road right of way must include architectural detail similar to, but not limited to cornice, display windows, piers, bulkheads, etc.
- (c) All exterior vertical surfaces, facing/abutting a residential property or right-of-way, must be treated as a façade and have an equally attractive or same fascia.

**(d) Mechanical protrusions.** All necessary mechanical protrusions visible to the exterior must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right of way. Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. All mechanical protrusions must be highlighted on the site plan. *Source: Ordinance 143 2<sup>nd</sup> Series, Effective Date: February 8<sup>th</sup>, 2010*

(Sections 11.43 through 11.49, inclusive, reserved for future expansion.)

**SEC. 11.50. POWER GENERATION INDUSTRIAL (I-PG).**

**Subd. 1. Purpose.** In addition to the other objectives prescribed herein, the objectives in the Power Generation Industrial District are as follows:

- A.** The provisions of this section shall be administered and enforced in a manner to clearly support objectives of the City, community organizations, and civic groups to locate industrial development in the City.
- B.** To reserve appropriately located areas for industrial and related activities.
- C.** To protect areas appropriate for industrial uses from intrusion by inharmonious uses.
- C.** To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck, and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses.
- D.** To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationships to each other.
- E.** To provide adequate space to meet the needs of modern industrial development, including off-street parking and truck loading areas and landscaping.
- F.** To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants and nearby uses.
- G.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.
- H.** To provide locations for plants and transmission corridors for development and support of the power generation industry within the City, so that the industry can operate with minimum restrictions and conflicts.

**Subd. 2. Permitted Uses.**

- A. Bottling establishments.
- B. Building material sales and storage establishments.
- C. Broadcasting antennae, television and radio.
- D. Camera and photographic manufacturing establishments.
- E. Cartage and express facilities.
- F. Cartography and bookbinding establishments.
- G. Dry cleaning and dyeing establishments.
- H. Electric light or power generating stations.
- I. Automobile manufacturing establishments.
- J. Public utility structures.
- K. Asphalt, tar or cement plants.

**Subd. 3. Conditional Uses.**

- A. Scientific research, investigation, testing, or experimentation.
- B. Extraction, processing, storage of sand, gravel, stone, or other raw material.
- C. Grain elevators and storage.
- D. Ash Landfills      *Source: Ordinance 102 2<sup>nd</sup> Series, Published 06-07-05*
- E. Wireless Telecommunications Facilities.      *Source: Ordinance 115 2<sup>nd</sup> Series Date: 7-15-06*
- F. Sexually Oriented Businesses.      *Source: Ordinance 136 2<sup>nd</sup> Series; Published 12-20-08.*

**Subd. 4. Interim Uses.**

- A. Landfilling of ash from tires and/or wood burned off-site for the purpose of generating electricity. *Source: Ordinance 139 2<sup>nd</sup> Series; effective date: August 10<sup>th</sup>, 2009.*

**Subd. 5. Recording.** A certified copy of any Conditional Use Permit or Interim Use Permit shall be filed with the County Recorder by the City Clerk. The Conditional Use Permit or Interim Use Permit shall include the legal description of the property involved. *Ordinance 48 2<sup>nd</sup> Series, Sept. 9, 2000 Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009*

**Subd. 6. Fees.** To defray administrative costs of processing requests for Conditional Use Permit or Interim Use Permit, a fee in an amount to be determined from time to time by the City Council, shall be paid by the applicant at the time the application is requested. The City shall also be reimbursed for any additional costs associated with review of the proposal by the City, including extraordinary legal and engineering fees. *Ordinance 139 2<sup>nd</sup> Series, effective August 10, 2009*

**Subd. 7. Compliance.** Any use permitted under the terms of any Conditional Use Permit or Interim Use Permit shall be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith. *Source: Ordinance No. 94-6, Effective Date: 9-26-94 Source: Ordinance 139 2<sup>nd</sup> Series, Effective Date: August 10<sup>th</sup>, 2009.*

**Subd. 8. Lot, Yard, Area and Height Requirements.**

Minimum Lot Size:	35 acres
Width:	1,200 ft
Depth:	1,200 ft

Minimum Yards (Setbacks):

Front:	75 ft
Side:	50 ft
Rear:	50 ft

Maximum Lot Coverage 75%

Maximum Height: 50 ft

Accessory Structures:

Max Height:	50 ft
Front setback:	75 ft
Side Setback:	50 ft
Rear Setback:	50 ft

*Source: Ordinance: 136 2<sup>nd</sup> Series, Effective Date: 12-20-08*



**Subd. 9. Required Conditions.**

- A.** All uses shall comply with the regulations prescribed in the General Regulations provisions of this Chapter.
- B.** All uses must comply with the Performance Standards provisions of this Chapter.
- C.** Acceptable, approved sanitary service must be provided to accommodate structures.
- D.** Zoning requests will be considered only on the basis of a comprehensive development plan for the entire area to be zoned and schematic plans for initial structures and site development.
- E.** Rezoning requests will only be considered on the basis of a planned unit development except where the rezoning is contiguous to other industrial land.

**SEC. 11.51. INDUSTRIAL PARK DISTRICT. (I-PRK).**

**Subd. 1. Purpose.** In addition to the other objectives prescribed herein, the objectives in the Industrial Park District are as follows:

- A.** The provisions of this section shall be administered and enforced in a manner to clearly support objectives of the City, community organizations, and civic groups to locate industrial development in the City.
- B.** To reserve appropriately located areas for industrial and related activities.
- C.** To protect areas appropriate for industrial uses from intrusion by inharmonious uses.
- D.** To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck, and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses.
- E.** To provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationships to each other.
- F.** To provide adequate space to meet the needs of modern industrial development, including off-street parking and truck loading areas and landscaping. To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants and nearby uses.
- G.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.
- H.** To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries, research and development establishments.
- I.** To provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.

**Subd. 2. Permitted Uses.**

- A.** Technologically innovative industries.
- B.** Manufacturing/industrial operations.

- C. Industrial services or supplies.
- D. Wood products.
- E. Construction establishments.
- F. Transportation.
- G. Warehouses.
- H. Assembly, manufacturing, packaging and wholesaling businesses.
- I. Mini-storage facilities.

**Subd. 3. Conditional Uses.**

- A. Coal and building material storage.
- B. Other uses similar to those stated in Subd. 2, above, as deemed appropriate by the Board of Adjustment. *Source: Ordinance No. 93-8, Effective Date: 11-7-93*
- C. Large L.P. tanks *Source: Ordinance No. 94-6, Effective Date: 9-26-94*

**Subd. 4. Interim Uses.**

- A. Equipment Testing Towers *Source: Ordinance 141 2<sup>nd</sup> Series; Effective Date November 9<sup>th</sup>, 2009*

**Subd. 5. Log, Yard, Area and Height Requirements**

Minimum Lot Size	30,000 ft.
width	150 ft.
depth	200 ft.

Minimum Yards

front	40 ft.
side	25 ft.
rear	25 ft.

Maximum Lot Coverage	75%
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**Subd. 6. Building Design Requirements.** Building design standards are hereby established to ensure industrial buildings meet acceptable aesthetic standards.

**1) Applicability.** The design standards in this section shall apply to the following:

- (a)** All facades of new principal buildings;
- (b)** All facades of new accessory buildings;
- (c)** Remodeling of existing buildings that result in “refacing” more than one side of an existing building, or refacing of the wall oriented toward the nearest public road.
- (d)** Additions to buildings that increase the gross floor area by more than 25%. Additions not exceeding this threshold may be constructed using exterior materials that match or are compatible with the existing building materials

**2) Design Standards**

- a.** Height. The maximum height of all buildings must not exceed 50 feet.
- b.** Structure. The support structure must be at a minimum, constructed of steel. Wood supported structures will not be accepted.
- c.** Allowed materials for principal buildings. All exterior vertical surfaces facing public right-of-way must be treated as a front and have an equally attractive or same fascia constructed from a façade from the following 1-7.
  - (i)** Brick
  - (ii)** Natural Stone or Stone Veneers;
  - (iii)** Concrete tip-up panels or concrete block;
  - (iv)** Decorative concrete block (color impregnated with a split faced, robbed or textured surface);
  - (v)** Glass Curtain Wall Panels;
  - (vi)** Stucco or synthetic stucco;
  - (vii)** Exterior insulation and finish systems (EIFS);
- d.** Mechanical protrusions. All necessary mechanical protrusions visible from the public right-of-way must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right of way.

Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. The zoning administrator may determine that the equipment may be painted a neutral earth tone color, or color deemed similar by the zoning administrator or must be designed to be compatible with the architectural treatment of the principal building, which will satisfy the screening requirement. All mechanical protrusions must be highlighted on the site plan.

- e. New materials. The City recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, they must first receive approval from the City Council. In reviewing a request to consider a new material, the City will consider the following:
  - i. Is the proposed material of sufficient quality to ensure on-going maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
  - ii Will the style, color, and appearance of the proposed product integrate with adjacent commercial properties and other materials currently allowed within the commercial zoning district;
  - iii Will the style, color and appearance of the proposed product be acceptable in cases with visible from residential units on adjacent properties.

**Subd. 7. Landscape Standards**

- 1. Landscaping will be required for all new industrial developments.
- 2. All Industrial uses must be screened from adjacent residential properties with berms, fencing, hedges, or other landscape materials. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to provide an effective visual barrier during all seasons. Height of plantings shall be measured at the time of installation. Screening shall consist of earth mounds, walls, fences, and/or planted materials.
- 3. All storage, display, service, repair or processing must be conducted wholly within an enclosed building or behind an opaque fence or wall, berm or dense landscape material not less than six feet high, provided that materials stored shall not exceed the height of the fence, wall, berm or landscape materials. Outdoor storage is permitted only in conjunction with a principal building on the same property.

4. When an industrial development is located adjacent to any residential zoned parcel, an eight foot high opaque fence or wall, in addition to plantings must be erected to provide screening of the industrial use.

If an industrial development occurs prior to an adjacent residential development, it shall be the responsibility of the residential development to provide screening using a combination of fencing, plantings, and/or berming. Screening plans shall be reviewed and approved as part of the platting process.

**Subd 8. Storage and Display.**

All storage, display, service, repair or processing must be conducted wholly within an enclosed building or behind an opaque fence or wall not less than six feet high, provided that materials stored shall not exceed the height of the fence. Outdoor storage is permitted only in conjunction with a principal building on the same property.

**Subd 9. Required Conditions.**

- A. All uses shall comply with the regulations prescribed in the General Regulations provisions of this Chapter.
- B. All uses must comply with the Performance Standards provisions of this Chapter.
- C. Acceptable, approved sanitary service must be provided to accommodate structures.
- D. Zoning requests will be considered only on the basis of a comprehensive development plan for the entire area to be zoned and schematic plans for initial structures and site development.
- E. Rezoning requests will be considered only on the basis of a planned unit development except where the rezoning is contiguous to an existing commercial district. *Source: Ordinance 143 2<sup>nd</sup> Series, Effective date: February 8<sup>th</sup>, 2010.*

**SEC. 11.52. GENERAL INDUSTRIAL DISTRICT (I-GEN).**

**Subd. 1. Purpose.** In addition to the other objectives prescribed herein, the objectives in the General Industrial District are as follows:

- A.** The provisions of this Section shall be administered and enforced in a manner to clearly support objectives of the City, community organizations, and civic groups to locate industrial development in the City.
- B.** To reserve appropriately located areas for industrial and related activities.
- C.** To protect areas appropriate for industrial uses from intrusion by inharmonious uses.
- D.** To protect residential and commercial properties and to protect nuisance-free, nonhazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck, and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses.
- E.** To provide opportunities for certain types of industrial businesses to concentrate in mutually beneficial relationships to each other.
- F.** To provide adequate space to meet the needs of modern industrial development, including off-street parking and truck loading areas and landscaping.
- G.** To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants and nearby uses.
- H.** To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them.
- I.** To provide locations where industries that desire larger sites and outside storage can operate with minimum restriction and without adverse effects on other uses.

**Subd. 2. Permitted Uses.**

- A.** Any use permitted in I-PRK or I-PG Districts.

**Subd. 3. Conditional Uses.**

- A. Lime, gypsum or plaster of paris manufacturing.
- B. Distillation operations.
- C. Fertilizer manufacture.
- D. Any other use which is objectionable by reason of emission of odor, dust, dirt, smoke, gas, vibration or noise, or because of subjection of life, health or property to hazard.
- E. Junk yards, salvage yards, dumping grounds.

*Source: Ordinance No. 93-8, Effective Date: 11-7-93*

- F. Large L.P. tanks.

- G. Wireless Telecommunications Facilities *Source: Ordinance 115 2<sup>nd</sup> Series, Effective Date: 7-15-06*

*Source: Ordinance No. 94-6 Effective Date: 9-26-94*

**Subd. 4. Lot, Yard, Area and Height Requirements.**

Minimum Lot Size	5 Acres
width	300 ft.
depth	300 ft.
Minimum Yards	
front	75 ft.
side	50 ft.
rear	50 ft.
Maximum Lot Coverage	75%
Maximum Height	50 ft.
Accessory Structures	
Max. Height	40 ft.
front setback	75 ft.
side setback	50 ft.
rear setback	50 ft.



**Subd. 5. Required Conditions.**

- A.** All uses shall comply with the regulations prescribed in the General regulations provisions of this Chapter.
- B.** All uses must comply with the Performance Standards provisions of this Chapter.
- C.** Acceptable, approved sanitary service must be provided to accommodate structures.
- D.** Zoning requests will be considered only on the basis of a comprehensive development plan for the entire area to be zoned and schematic plans for initial structures and site development.
- E.** Rezoning requests will be considered only on the basis of a planned unit development except where the rezoning is contiguous to an existing commercial district.

*Source: Ordinance No. 93-8      Effective Date: 11-7-93*

(Sections 11.53 and 11.54 reserved for future expansion.)

**SEC. 11.55. PUBLIC AND QUASI-PUBLIC DISTRICTS (PUB) and (Q-PUB).**

**Subd. 1. Purpose.** In addition to the other objectives prescribed herein, the objectives for the Public and Quasi-Public Districts are included to provide a procedure for the orderly establishment of public facilities, quasi public institutional uses, and expansion of their operations.

**Subd. 2. Permitted Uses.**

- A. All public buildings for county and state government.
- B. All public buildings for municipal government, such as City Hall, water works, sewage plant, police, fire, etc.
- C. Cemeteries.
- D. Parks and recreational facilities, golf courses and club houses.
- E. Community gardens.
- F. Farmers Markets.
- G. Religious institutions, including churches, synagogues, chapels and temples including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site.
- H. Rest homes and nursing homes.
- I. Existing single family detached dwellings.

**Subd. 3. Conditional Uses.** Conditional uses include:

- A. Public and Private educational institutions provided that:
  - 1. Side yards shall be a minimum of thirty (30) feet.
  - 2. Adequate screening from abutting residential uses and landscaping is provided.
  - 3. Adequate off street parking and access is provided on the site or on a lot directly abutting, directly across a public street or alley and that such parking is adequately screened and landscaped from surrounding and abutting residential uses.
  - 4. Adequate off-street loading and service entrances are considered and satisfactorily met. These loading and service entrances shall be screened from neighboring

residential properties with fencing and/or landscaping that is a minimum of six feet high. *Source: Ordinance 94 2<sup>nd</sup> Series, Effective Date: October 19<sup>th</sup>, 2004*

**B. Wireless Telecommunication Facilities** *Source: Ordinance 115 2<sup>nd</sup> Series, Effective Date: 7-15-06*

**Subd. 4. Required Conditions.** All uses shall comply with the regulations prescribed in the General Regulations provisions of this Chapter. *Source: Ordinance No. 93-8, Effective Date: 11-7-93*

**Subd. 5. Permitted Accessory Uses.** All permitted accessory uses within an R-1 District as regulated in the District.

**Subd. 6. Lot, Yard and Height Requirements.** Lot, Yard and Height Requirements, except that any single family residential use shall meet the requirements of the R-1 District.

**A. Minimum Lot Size:** 20,400 square feet

**B. Minimum Lot Width:** 100 feet

**C. Setbacks:**

Front Yard – 30 feet

Side Yard – 10 feet, except that the side yard setback shall be 50 feet when adjacent to a residential use.

Side Yard Corner – 15 feet

Rear Yard – 30 feet, except that the rear yard setback shall be 50 feet when adjacent to a residential use.

**D. Height:** No structure or building shall exceed forty feet (40') in height.

**E. Maximum impervious surface coverage of all buildings, parking areas, sidewalks and other covered surfaces:** sixty-five (65) percent.

**Subd . 7. Building Design Requirements.** Buildings shall meet the Building Design Requirements of C-COM District.

*Source: Ordinance 174 2<sup>nd</sup> Series, Effective Date: 11-10-14*

(Sections 11.56 through 11.59, inclusive, reserved for future expansion.)

**SEC. 11.60. WILD AND SCENIC RIVERS OVERLAY DISTRICT (WSR).**

**Subd. 1. Purpose.** In addition to the objectives prescribed herein, the objectives for the Wild and Scenic River District are included in order to meet the requirements of Minnesota Statutes, Sections 104.31-104.39, 105.485. 104.01-104.08, and 462; and the minimum state standards established by Minnesota Regulations NR 78-90 and 2400. These standards shall apply where applicable within this district except where superseded by more restrictive requirements of this Chapter.

**Subd. 2. Permitted Uses.** All uses permitted in AG-Agricultural Districts, except that when such uses conflict with those required by Minnesota Regulations NR 79 (for Recreational Rivers), the latter shall take precedence.

**Subd. 3. Required Conditions.**

- A.** All uses shall comply with the regulations prescribed in the Agricultural District- required conditions or Minnesota Regulations NR 78-80 (Wild, Scenic, and Recreational River System) and subsequent rules, whichever is the most restrictive.
- B.** No land shall be subdivided which is determined by the City or the Commissioner of Natural Resources to be unsuitable by reason of flooding, inadequate drainage, soil of rock formations, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the City.
- C.** The provisions otherwise set forth in this and other provisions of the City Code shall apply to all plats located in this district.
- D.** Certain local actions including, but not limited to, rezoning, variances, inconsistent platting, mining permits and PUD requests within or partially within this district may require written approval from the Department of Natural Resources before certification of local actions may become effective. It is suggested that the proponent of any such action contact the Brainerd Regional Office of the DNR to determine specifically whether DNR certification is required.

**Subd. 4. Flood Plain Requirements.**

- A.** The lowest floor of any structure shall not be placed lower than one (1) foot above the 100 year flood elevation as determined by the best available data.

- B.** Placement of any fill for the purpose of meeting the above listed elevation requirements for placement of structures shall be considered an amendment of this Chapter. Such amendments shall also require the written approval of the Department of Natural Resources before they may become effective.
- C.** Any existing structure located at any elevation lower than those required in Subparagraph A, above, shall be considered to be a nonconforming use.
- D.** No variance to the standards of this Subdivision or those in Minnesota Regulations NR 85-93 (State Flood Plain Management Standards) shall be allowed if the variance allows a lesser degree of flood protection than stated in those standards.

**Subd. 5. Sanitary Requirements and Performance Standards.**

- A.** Installation of any on-site sewage treatment system shall require a permit from the City. No permit shall be granted for an on-site sewage system if public water and sewer is available and their use is feasible. *Source: Ordinance 149 2<sup>nd</sup> Series; Effective Date: June 28<sup>th</sup>, 2010*
- B.** No portion of any on-site sewage treatment system shall be placed closer than seventy-five (75) feet to the ordinary high water mark of any public water within the City.
- C.** All applicable standards and codes of the Minnesota Department of Health (MDH) and the Minnesota Pollution Control Agency (MPCA) shall be strictly complied with. Such standards and codes shall be kept on file with the City Clerk.
- D.** All sanitary facilities inconsistent with the performance standards of the MPCA and MDH shall be brought into conformity or discontinued.  
*Source: Ordinance No. 93-8, Effective Date: 11-7-93*

(Sections 11.61 through 11.64, inclusive, reserved for future expansion.)

**SEC. 11.65. SHORELAND MANAGEMENT OVERLAY DISTRICT (SM).**

**Subd. 1 Statutory Authorization and Policy**

**A. Statutory Authorization**

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

**B. Policy**

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

**Subd. 2. General Provisions and Definitions**

**A. Jurisdiction**

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 4.0 of this ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900, no lake, pond, or flowage less than 10 acres in size need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

**B. Compliance**

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

**C. Enforcement**

The Zoning Administrator is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 3.1 of this ordinance.

**D. Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

**E. Severability**

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

**F. Abrogation and Greater Restrictions**

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

**G. Definitions**

**Accessory structure or facility.** “Accessory structure” or facility” means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

**Bluff.** “Bluff,” means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 19 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- Part or all of the feature is located in a shoreland area;
- The slope rises at least 25 feet above the ordinary high water level of the water body
- The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and The slope must drain toward the water body.

**Bluff Impact Zone** “Bluff impact zone” means a bluff and land located within 20 feet from the top of a bluff.

**Boathouse.** “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.

**Building line.** “Building line,” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**Commercial planned unit developments.** “Commercial planned unit developments” are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

**Commercial use.** “Commercial use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**Commissioner.** “Commissioner” means the commissioner of the Department of Natural Resources.

**Conditional use.** “Conditional use” means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

**Deck.** “Deck” means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

**Duplex, triplex and quad.** “Duplex,” “triplex,” and “quad” means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

**Dwelling site.** “Dwelling site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.



**Dwelling unit.** “Dwelling unit” means any structure or portion of a structure, or other shelter designed as short-or long-term living quarters for one or more persons, including rental or timeshare accommodations such as a motel, hotel, and resort rooms and cabins.

**Extractive use.** “Extractive use” means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

**Forest land conversion.** “Forest land conversion” means the clear cutting of forested lands to prepare for a new land use other than re-established of a subsequent forest stand.

**Guest cottage.** “Guest cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**Hardship.** “Hardship” means the same as that term is defined in Minnesota Statutes, Chapter 462.

**Height of building.** “Height of building” means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat room or average height of the highest gable of a pitched or hipped roof.

**Industrial use.** “Industrial use” means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**Intensive vegetation clearing.** “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**Lot.** “Lot” means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**Lot width.** “Lot Width” means the shortest distance between lot lines measured at the midpoint of the building line.

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

**Ordinary high water level.** “Ordinary high water level” means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.

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

**Public waters.** “Public waters” means any waters as defined in Minnesota Statutes, section 103G.005, subdivisions 15.

**Residential planned unit development.** “Residential planned unit development” means a use where the nature of residency is non-transient and the majority or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

**Semipublic use.** “Semipublic use” means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Sensitive resource management.** “Sensitive resource management” means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in the need of special protection.

**Setback** “Setback” means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

**Sewage treatment system.** “Sewage treatment system” means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.

**Sewer system** “Sewer system” means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**Shore impact zone.** “Shore impact zone” means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

**Shoreland.** “Shoreland” means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

**Steep slope.** “Steep slope” means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site’s soil characteristics, as mapped and described in available country soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

**Structure.** “Structure” means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**Subdivision.** “Subdivision” means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

**Surface water-oriented commercial use.** “Surface water-oriented commercial use” means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**Toe of the bluff.** “toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

**Top of the bluff.** “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

**Variance.** “Variance” means the same as that term is defined or described in Minnesota Statutes, -Chapter 462.

**Water-oriented accessory structure or facility.** “Water-oriented accessory structure or facility” means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

**Wetland.** “Wetland” means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

### **Subd. 3. Administration**

#### **A. Permits Required.**

- 1.** A permit is required for the construction of buildings or building additions and those grading and filling activities not exempted by Section 5.3 of this ordinance. Application for a permit shall be made to the Building Official on the forms provided. The application shall include the necessary information so that the Building Official can determine the site’s suitability for the intended use.
- 2.** A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by Section 5.8, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

## **B. Certificate of Zoning Compliance**

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.1 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.3 of this ordinance.

## **C. Variances**

1. Variances may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustments must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations and the characteristics off development on adjacent properties.
2. The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 3.4.2 below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
3. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for this intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

## **D. Notification to the Department of Natural Resources.**

1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner’s designated representatives and postmarked within ten days of final action.

**Subd. 4. Shoreland Classification System and Land Use Districts**

**A. Shoreland Classification System**

The public waters of the City of Becker have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Sherburne County, Minnesota

1. The shoreland area for the water bodies listed in Sections 4.1.2 and 4.1.3 shall be as defined in Section 2.7 and as shown on the Official Zoning Map.

2. Lakes

Natural Environmental Lakes	Protected Waters Inventory #ID
Clitty Lake	71-116-W

3. Rivers and Streams

Agricultural Rivers	Legal Description
Elk River	That portion adjacent to and Extending from the northern City Limits to the southern City limits.

**B. Land Use District Descriptions**

Criteria for Designation. The land use districts in Section 4.2.2, and the delineation of a land use district’s boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations and objectives:

1. General Considerations and Criteria for All Land Uses:

- Preservation of natural areas
- Present ownership and development of shoreland areas
- Shoreland soil types and their engineering capabilities;
- Topographic characteristics;
- Vegetative cover
- In-water physical characteristics, values, and constraints;
- Recreational use of the surface water
- Road and service center accessibility;

- Socioeconomic development needs and plans as they involve water and related land resources;
- The land requirements of industry which, by its nature, requires location in shoreland areas; and
- The necessity to preserve and resort certain areas having significant historical or ecological value.

**2. Factors and Criteria for Planned Unit Developments:**

- Existing recreational use of the surface water and likely increases in use associated with planned unit developments;
- Physical and aesthetic impacts of increased density;
- Suitability of lands for the planned unit development approach;
- Level of current development in the area; and
- Amounts and types of ownership of undeveloped lands within the shoreland area, land use districts and allowable land uses therein shall be as identified in Sections 11.75 through 11.55 of the Zoning Ordinance.

**Subd. 5 Zoning and Water Supply/Sanitary Provisions**

**A. Lot Area and Width Standards.**

The lot area (in square feet) and lot width standards (in feet) for single, duplex, tripled and quad residential lots created after the date of enactment of this ordinance for the lake and river-classifications are the following:

Natural Environment

	Riparian Lots		Non-riparian Lots	
	Area (sq.ft.)	Width (ft)	Area (Sq.ft.)	Width (ft.)
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

**B. River Lot Width Standards.**

There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

Agricultural Sewer

Single	150
Duplex	225
Triplex	300
Quad	375

1. Additional Special Provisions.

Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections 5.1 and 5.2 can only be allowed if designated and approved as residential planned unit developments under Section 8.0 of this ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

2. Subdivisions of duplexes, triplexes, and quads on Natural Environmental Lakes must also meet the following standards:

- Each building must be set back at least 200 feet from the ordinary high water level;
- Water craft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- No more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.

3. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 5.11-5.13, provided the following standards are met:

- For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
- A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
- A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.



**C. Placement, Design, and Height of Structures.**

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

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

Structures	Sewage Treatment System	Lakes Natural Environment
175	150	

\* One water-oriented accessory structure designed in accordance with Section 5.2.2 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

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

Setback from:	Setback (in feet)
Unplatted cemetery	50
right-of-way line of federal, state, or county highway;	50
right-of-way line of town road, public street or other roads or streets not classified.	30

*Source: Ordinance 55, 2<sup>nd</sup> series, Effective Date: 2-12-01*

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

**D. Design Criteria for Structures**

1. **High Water Elevations.** Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- For lakes, by placing the lowest floor at a level at least three feet above the highest known water level. Or three feet above the ordinary high water level, whichever is higher;
- For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data area available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and food flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts of 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
- Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

2. **Water-oriented Accessory Structures.** Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 5.2.2 of this ordinance if this water-oriented accessory structure complies with the following provisions:

- The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

- The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
3. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down steep slopes to shore areas. Stairways and lifts must meet the following design requirements;
- Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for, public open-space recreational properties, and planned unit developments;
  - Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for, public open-space recreational properties, and planned unit developments;
  - Canopies or roofs are not allowed on stairways, lifts or lands;
  - Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
4. Significant Historic Sites. No structure may be placed on significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
5. Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

#### **E. Height of Structures**

All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

**F. Shoreland Alterations**

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

**G. Vegetation Alterations**

1. Vegetation alteration necessary for the construction of structures and the construction of roads and parking areas regulated by Section 5.9 of this ordinance are exempt from the vegetation alteration standards that follow.
2. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 5.11 and 5.12, respectfully, is allowed subject to the following standards:
  - Intensive vegetation clearing within the shore impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located
  - In shore impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and water craft access areas, and permitted water-oriented accessory structures or facilities, provided that:
    - a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
    - b) Along rivers, existing shading of water surfaces is preserved; and
    - c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

**H. Topographic Alterations/Grading and Filling**

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

2. Public roads and parking areas are regulated by Section 5.9 of this ordinance.
3. Notwithstanding Items 5.8.1 and 5.8.2 above a grading and filing permit will be required for:
  - The movement of more than ten (10) cubic yards of material on steep slopes or within shore impact zones; and
  - The movement of more than 50 cubic yards of material outside of steep slopes and shore impact zones.
4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
  - Grading or filling in any type 2,3,4,5,6,7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of wetland\*:
    - a) Sediment and pollutant trapping and retention;
    - b) Storage of surface runoff to prevent or reduce flood damage;
    - c) Fish and wildlife habitat;
    - d) Recreational use;
    - e) Shoreline or bank stabilization; and
    - f) Note worthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others

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

  - Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
  - Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

- Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
  - Fill or excavated material must not be placed in a manner that creates an unstable slope;
    - Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
    - Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, 103G.245;
    - Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
    - Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
5. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

#### I. Placement and Design of Roads, Driveways, and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water for conservation district, or other applicable technical materials.
2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within-shore impact zones, when other reasonable and feasible

placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize and adverse impacts.

3. Public and private water craft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 5.8 of this ordinance must be met.

## J. Storm Water Management

The following general and specific standards shall apply

### 1. General Standards:

- When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
- Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- When development density, topographic features and soil and vegetation conditions are no sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

### 2. Specific Standards

- Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- New constructed storm water out falls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**K. Special Provisions for, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

**1. Standards for Public, and Semipublic Uses**

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

**2. Agriculture Use Standards**

- General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore-impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- Animal feedlots must meet the following standards:
  - a) new feed lots must not be located in the shoreland of watercourses and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
  - b) modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level are allowed if they do not further encroach into the existing ordinary high water level setback.

**L. Forest Management Standards.**

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



**1. Extractive Use Standards**

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

**M. Mining of Metallic Minerals and Peat**

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

**N. Conditional Uses**

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

- 1. Evaluation criteria.** A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
  - The visibility of structures and other facilities as viewed from public waters is limited;
  - The types, uses and numbers of water craft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these water craft.
- 2. Conditions attached to conditional use permits.** The Becker City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- Increased setbacks from the ordinary high water level;
- Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- Special provisions for the location, design, and use of, water craft launching and docking areas, and vehicle parking areas.

**Subd. 6 Non-Conformities**

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

**A. Construction on non-conforming lots of record.**

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

**B. Additions/expansions to non-conforming structures**

1. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other

requirements of Section 5.0 of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 3.3.

2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

- The structure existed on the date the structure setbacks were established;
- A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure'

The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

- The deck is constructed primarily of wood, and is not roofed or screened.

**C. Non-Conforming sewage treatment systems.**

- a)** A sewage treatment system not meeting the requirements of Section 5.3.1 of this ordinance must be upgraded, at a minimum at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- b)** The governing body of the City of Becker has by formal resolution notified the commissioner of its program to identify non-conforming sewage treatment systems. The City of Becker will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed 2- years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485 [now 103F.201-.221] in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 080 for design of on-site sewage treatment systems, shall be considered non-conforming.

**Subd. 7 Subdivision/Platting Provisions****A. Land Suitability**

Each lot created through subdivision, including planned unit developments authorized under Section 8.0 of this ordinance, must be suitable in its natural state for the purpose use with minimal alteration. Suitability analysis by the local unit for the of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for the development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any important fish and wildlife habitat, presence of significant historic sites or other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

**B. Consistency with other controls.**

Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in office controls would be needed to use the lots for their intended purpose.

**C. Information requirement.**

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
2. the surface water features required in Minnesota Statutes Section 505.02, Subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
3. Adequate soils information to determine suitability for building every lot from the most current existing sources or from field investigations such as soil borings, or other methods;
4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

- a. location of 100-year flood plain areas and floodway districts from existing adopted maps or data.

**D. Dedications.**

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

**E. Platting**

All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision

**F. Controlled Access or Recreational Lots.**

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 5.14 of this ordinance.

**Subd. 8. Planned Unit Developments (PUD's)**

**A. Types of PUD's Permissible**

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

**B. Processing of Residential PUD's**

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

**C. Application for a Residential PUD**

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

- A property owners association agreement (for residential PUD’s) with mandatory membership, and all in accordance with the requirements of Section 8.6 of this ordinance.
- Deed restrictions, covenants, permanent easements or other instruments that:
  1. Properly address future vegetative and topographic alterations, construction of additional buildings, beaching or watercraft; and
  2. ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8.6 of this ordinance.
- Those additional documents as requested by the Zoning Administrator that are necessary to explain how the residential PUD will be designed and will function.

**D. Site “Suitable Area” Evaluation**

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

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

Shoreland Tier Dimensions	
Sewered	
Natural environment lakes	320
All river Classes	300

2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, or land below the ordinary high water level of public waters.

**E. Residential PUD Density Evaluation**

The procedures for determining the “base” density of a residential PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

**1. Residential PUD “Base” Density Evaluation:**

- The suitable area within each tier is divided by the single residential lot size standard for lakes or for rivers, the single residential lot width standard times the tier depth, Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria in Section 8.6.

**2. Density Increase Multipliers:**

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

Density evaluation tiers	Maximum density increase
Within each tier (percent)	
First	50
Second	100
Third	200
Fourth	200
Fifth	200

**F. Maintenance and Design Criteria**

**1. Maintenance and Administration Requirements**

- Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
  - a.** Commercial uses prohibited (for residential PUD's)
  - b.** Vegetation and topographic alterations other than routine maintenance prohibited;
  - c.** Construction of additional buildings or storage of vehicles and other materials prohibited; and
  - d.** Uncontrolled beaching of water craft prohibited
- Development organization and functioning. Unless and equally effective alternative community framework is established, when applicable, all

residential planned unit developments must use an owners association with the following features;

- membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
- each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
- assessments must be adjustable to accommodate changing conditions; and
- the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

## 2. Open Space Requirements

Residential Planned unit developments must contain open space meeting all of the following criteria:

- At least 50 percent of the total projected area must be preserved as open space
- Dwelling units or sites, road right-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities are developed areas and shall not be included in the computation of minimum open space;
- Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- Open spaces may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public
- Open space may contain water-oriented accessory structures or facilities;
- The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state.



### 3. Erosion Control and Storm water Management.

Erosion control and storm water management plans must be developed and the residential PUD must:

- Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
- Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area.

### 4. Centralization and Design of Facilities

Centralization and design of facilities and structures must be done according to the following standards:

- Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 8.53 of this ordinance for developments with density increases;
- Shore recreation facilities, including but not limited to swimming areas, docks, and water craft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of water craft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
- Structures, parking areas, and other facilities must be treated to rescue visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

- Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
- Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 5.2 of this ordinance and are centralized.

*Source: Ordinance 26A, 2<sup>nd</sup> Series, Effective Date: 2-17-98*

**SECTION 11.66 DISTRICT FLOOD PLAIN MANAGEMENT ORDINANCE  
TWO DISTRICT – ONE-MAP FORMAT**

**Subd. 1.0 Statutory Authorization, Findings of Fact and Purpose**

**1.1 Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Becker, Minnesota does ordain as follows:

**1.2 Findings of Fact:**

**1.21** The flood hazard areas of the City of Becker, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**1.22** Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

**1.23** National Flood Insurance Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

**1.3 Statement of Purpose:** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

**Subd. 2.0 General Provisions**

**2.1 Lands to Which Ordinance Applies:** This ordinance shall apply to all lands within the jurisdiction of the City of Becker, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway and Flood Fringe Districts.

**2.2 Establishment of Official Zoning Map:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study, Sherburne County, Minnesota And Incorporated Areas and the Flood Insurance Rate Map panels therein numbered 27141C0220, 27141C0240, 27141C0310, and 27141C0330, all of these documents being dated November 16, 2011 and prepared by the Federal Emergency

Management Agency. The official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.

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

**2.4 Interpretation:**

**2.41** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

**2.42** The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community 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.

**2.5 Abrogation and Greater Restrictions:** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

**2.6 Warning and Disclaimer of Liability:** This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Becker, Minnesota or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**2.7 Severability:** If any Subdivision, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**2.8 Definitions:** Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

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

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

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

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

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

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

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

**2.817 Flood Fringe** - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Sherburne County, Minnesota And Incorporated Areas.

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

- 2.819 Flood-Proofing** - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.820 Floodway** - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- 2.821 Lowest Floor** – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor.
- 2.822 Manufactured Home** – a structure, transportable in one or more Subdivisions, 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”.
- 2.823 Obstruction** - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.824 Principal Use or Structure** - means all uses or structures that are not accessory uses or structures.
- 2.825 Reach** – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.826 Recreational Vehicle** - a Vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for the use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purpose of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

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

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

**2.829 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 Subdivision 9.31 of this Ordinance and other similar items.

**2.830 Substantial Damage** – means 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.

**2.831 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 that 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.

(b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be defined in 44 Code of Federal Regulations, Part 59.1.

**2.832 Variance** – means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical

difficulty or unique circumstances as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

**2.9 Annexations:** The Flood Insurance Rate Map panels adopted by reference into Subdivision 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Becker at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Becker, Minnesota after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Becker, Minnesota.

**Subd. 3.0 Establishment of Zoning Districts**

**3.1 Districts:**

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

**3.12 Flood Fringe District.** The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in Subdivision 2.2 as being within Zone AE but being located outside of the floodway.

**3.2 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 Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Subdivisions 4.0, 5.0 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

**3.21** New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Subdivision 9.0.

**3.22** 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 Ordinance and specifically Subdivision 11.0.

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



**Subd. 4.0 Floodway District (FW)**

**4.1 Permitted Uses:**

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

**4.12** Industrial-commercial loading areas, parking areas, and airport landing strips.

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

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

**4.2 Standards for Floodway Permitted Uses:**

**4.21** The use shall have a low flood damage potential.

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

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

**4.3 Conditional Uses:**

**4.31** Structures accessory to the uses listed in 4.1 above and the uses listed in 4.32-4.38 below.

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

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

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

**4.35** Storage yards for equipment, machinery, or materials.

**4.36** Placement of fill or construction of fences.

**4.37** Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subdivision of Section 9.3 of this Ordinance.

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

**4.4 Standards for Floodway Conditional Uses:**

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

**4.42** All floodway conditional uses shall be subject to the procedures and standards contained in Section 10.4 of this Ordinance.

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

**4.44** Fill:

- (a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
- (b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
- (c) As an alternative, and consistent with 4.44 (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

**4.45** Accessory Structures:

- (a) Accessory structures shall not be designed for human habitation.
- (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

- (1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
- (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
  - (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
  - (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

**4.46 Storage of Materials and Equipment:**

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

**4.47 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota**

Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

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

### **Subd. 5.0 Flood Fringe District (FF)**

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

### **5.2 Standards for Flood Fringe Permitted Uses:**

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

**5.22** As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Subdivision 4.45 (c).

**5.23** The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Subdivision 5.21 of this ordinance.

**5.24** The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

**5.25** The provisions of Subdivision 5.5 of this Ordinance shall apply.

**5.3 Conditional Uses:** Any structure that is not elevated on fill or flood proofed in accordance with Subdivision 5.21-5.22 or any use of land that does not comply with the standards in Subdivision 5.23-5.24 shall only be allowable as a conditional use. An application for a

conditional use shall be subject to the standards and criteria and evaluation procedures specified in Subdivision 5.4-5.5 and 10.4 of this Ordinance.

#### **5.4 Standards for Flood Fringe Conditional Uses:**

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

- (a) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
- (b) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - (1) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
  - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

**5.42** Basements, as defined by Section 2.812 of this Ordinance, shall be subject to the following:

- (a) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
- (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Subdivision 5.43 of this Ordinance.

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

**5.44** When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

**5.45** Storage of Materials and Equipment:

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

**5.46** The provisions of Subdivision 5.5 of this Ordinance shall also apply.

## **5.5 Standards for All Flood Fringe Uses:**

**5.51** All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after

determining that adequate flood warning time and local flood emergency response procedures exist.

**5.52 Commercial Uses** - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

**5.53 Manufacturing and Industrial Uses** - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Subdivision 5.52 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

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

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

**5.56 Standards for recreational vehicles** are contained in Section 9.3.

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

**Subd. 6.0 Reserved for Future Use.**

**Subd. 7.0 Subdivisions**

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

**Subd. 8.0 Public Utilities, Railroads, Roads, and Bridges**

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



**Subd. 9.0 Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles.**

- 9.1** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subdivision 7.0 of this Ordinance.
- 9.2** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subdivision 5.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subdivision 5.51, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
- 9.21** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- 9.3** Recreational vehicles that do not meet the exemption criteria specified in Section 9.31 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Subdivision 9.33-9.34 below.
- 9.31** Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 9.32 below and further they meet the following criteria:
- (a) Have current licenses required for highway use.
  - (b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
  - (c) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- 9.32** Areas Exempted For Placement of Travel/Recreational Vehicles:
- (a) Individual lots or parcels of record.
  - (b) Existing commercial recreational vehicle parks or campgrounds.
  - (c) Existing condominium type associations.
- 9.33** Recreational vehicles exempted in Section 9.31 lose this exemption when development occurs on the parcel exceeding \$500 dollars for a structural addition to the recreational vehicle or exceeding \$500 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/flood proofing requirements and the use of land restrictions specified in Subdivision 4.0 and 5.0 of this Ordinance. 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.

**9.34** New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

- (a) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts 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 in accordance with Subdivision 5.51 of this Ordinance. No fill placed in the floodway to meet the requirements of this Subdivision 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 as a conditional use if in accordance with the following provisions and the provisions of 10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Subdivision 9.31 (a) and (b) of this Ordinance 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 Subdivision 8.3 of this Ordinance.

## **SUBDIVISION 10.0 Administration**

**10.1 Zoning Administrator:** A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subdivision 12.0 of the Ordinance.

### **10.2 Permit Requirements:**

**10.21 Permit Required.** A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, 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 flood plain.

- 10.22** Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- 10.23** State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
- 10.24** Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- 10.25** Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Subdivision 12.0 of this Ordinance.
- 10.26** Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- 10.27** Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

**10.28** Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community 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 Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

**10.29** Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Evaluation. As soon as is practicable, but not later than six (6) 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.

### **10.3 Board of Adjustment:**

**10.31** Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

**10.32** Administrative Review. The Board 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 Ordinance.

**10.33** Variances. The Board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, 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 the Federal Emergency Management Agency must be satisfied:

- (a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) 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.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

**10.34 Hearings.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustments shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustments shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**10.35 Decisions.** The Board of Adjustment shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Board of Adjustments may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustments may prescribe appropriate conditions and safeguards such as those specified in Subdivision 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Subdivision 12.0. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**10.36 Appeals.** Appeals from any decision of the Board of Adjustments may be made, and as specified in this community's official controls and also by Minnesota Statutes.

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

**10.4 Conditional Uses:** The Becker City Council shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Becker Planning Commission for consideration.

**10.41 Hearings.** Upon filing with the Becker Planning Commission an application for a conditional use permit, the Becker Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**10.42 Decisions.** The Becker City Council shall arrive at a decision on a conditional use within sixty (60) days. In granting a conditional use permit the Becker City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Subdivision 10.46, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Ordinance punishable under Subdivision 12.0. A copy of all decisions granting conditional use permits shall be forwarded by mail to Subdivision the Commissioner of Natural Resources within ten (10) days of such action.

**10.43 Procedures to be followed by the Becker City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.**

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission or City Council for determining the suitability of the particular site for the proposed use:

- (1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel; and
- (2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

- (b) Transmit one copy of the information described in 10.43(a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (c) Based upon the technical evaluation of the designated engineer or expert, the Becker City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

**10.44 Factors Upon Which the Decision of the Becker City Council Shall Be Based.**

In passing upon conditional use applications, the Becker City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

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

**10.45 Time for Acting on Application.** The Becker City Council shall act on an application in the manner described above within sixty (60) days from receiving the application except that where additional information is required pursuant to 10.43 of this Ordinance. The Becker City Council shall render a written decision within sixty (60) days from the receipt of such additional information.

**10.46 Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above and the purpose of this Ordinance, the Becker City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill

the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

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

**Subd. 11.0 Nonconforming Uses**

**11.1** A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Subdivision 2.831(b) of this Ordinance, shall be subject to the provisions of Subdivision 11.11 – 11.15 of this Ordinance.

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

**11.12** Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in 11.13 and 11.16 below.

**11.13** 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 Subdivision are satisfied. The cost of all structural alterations and additions must include all costs such as construction material 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 meet the standards of Subdivision 4.0 or 5.0 of this Ordinance for new



structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

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

**11.15.** If any nonconforming use or structure is substantially damaged, as defined in Subdivision 2.830 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Subdivision 4.0 and 5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

**11.16.** If a substantial improvement occurs, as defined in Subdivision 2.831 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Subdivision 4.0 or 5.0 of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

**Subd. 12.0 Penalties for Violation**

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

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

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

**12.22** When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As

soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

**12.23** The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either: (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

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

**Subd. 13.0 Amendments**

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

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

*Source: Ordinance 155, 2<sup>nd</sup> Series, Effective Date: September 26, 2011.*

(Sections 11.67 through 11.69, inclusive, reserved for future expansion.)

**SEC. 11.70. SIGNS.**

**Subd. 1. Findings.** The City Council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of messages.
3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
4. The city's zoning regulations include the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

**Subd. 2. Purpose and Intent.** It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this article is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.

**Subd. 3. Effect.** A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, is to:

1. Allow a wide variety of sign types in commercial and industrial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.
2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.
3. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
4. Provide for the enforcement of the provisions of this sign ordinance.

**Subd. 4. Severability.** If any section, subsection, sentence, clause, or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**Subd. 5. Definitions.** The following words and terms, when used in this Sign Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

**Abandoned Sign** – Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

**Awning** – A roof-like cover, often of fabric, plastic, metal or glass designated and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

**Awning Sign** – A building sign or graphic printed on or in some fashion attached directly to the awning material.

**Balloon Sign** – A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

**Building** – Any structure used or intended for supporting or sheltering any use or occupancy.

**Building Sign** – Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

**Cabinet Sign** – Any wall sign that is not of a channel or individually mounted letter construction.

**Canopy** – A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

**Canopy Sign** – Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

**Changeable Copy Sign** – A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

**Commercial Speech** – Speech advertising a business, profession, commodity, service or entertainment.

**Elevation** – The view of the side, front, or rear of a given structure(s).

**Elevation Area** – The area of all walls that face any lot line.

**Erect** – Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing, or any other way of bringing into being of establishment.

**Flag** – Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

**Flashing Sign** – A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of

intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

**Freestanding Sign** – Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

**Frontage** – The line of contact of a property with the public right-of-way.

**Grade** – Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

**Ground Sign** – Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

**Height of Sign** – The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

**Hotel, Motel, Motor Hotel** – Any building or combination of buildings containing six or more rooms used for sleeping purposes by guests on a transient basis.

**Illumination Sign** – Any sign which contains an element designed to emanate artificial light internally or externally.

**Interior Sign** – A sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

**Issuing Authority** – The City of Becker Zoning Administrator and/or Building Inspector.

**Legally Established Nonconforming Sign** – Any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

**Marquee** – Any permanent roof-like structure projecting beyond a theater building or extending along an projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

**Marquee Sign** – Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

**Monument Sign** – Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

**Multiple Tenant Site** – Any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.

**Non-Commercial Speech** – Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**Off-Premise Sign** – A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

**On-Premise Messages** – Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

**Parapet (Wall)** – That portion of building wall that rises above the roof level.

**Pole Sign** – See Pylon Sign.

**Portable Sign** – Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

**Porte Cochere** – A roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

**Principal Building** – The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principle buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

**Projecting Sign** – Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.

**Property Owner** – Legal owner of property as officially recorded by Sherburne County.

**Public Notices** – Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

**Public Street Right-of-Way** – The planned right-of-way for a public street.

**Pylon Sign** – Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

**Residential District** – Any district zoned for residential uses.

**Roof** – The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the International Building Code.

**Roof Line** – The upper-most edge of the roof or in the case of an extended façade or parapet, the upper-most height of said façade.

**Roof Sign** – Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**Roof Sign, Integral** – Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

**Rotating Sign** – A sign or portion of a sign which turns about on an axis.

**Setback, Front** – The minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than one (1) street, front setbacks are required on all street frontages.

**Setback, Rear** – The minimum horizontal distance permitted between the property line opposite the principal street frontage and a structure on the premises.

**Setback, Side** – The minimum horizontal distance permitted between the side lot line and a structure on the premises.

**Shimmering Sign** – A sign which reflects an oscillating sometimes distorted visual image.

**Sign** – Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.



**Sign Face** – The surface of the sign upon, against, or through which the message of the sign is exhibited.

**Sign Structure** – Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

**Site** – A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

**Stringer** – A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

**Suspended Sign** – Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

**Temporary Sign.** “Temporary Sign” shall mean any sign, banner, pennant or other display constructed of cloth, canvas, light fabric, cardboard, wall board, or other light material, with or without frames, including portable signs, intended to be displayed for a limited period of time.

**Total Site Signage** – The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

**Visible** – Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

**Wall** – Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

**Wall Sign** – Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

**Window Sign** – Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**Subd. 6. Permit Required.** No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information.

- a. Names and addresses of the owners of the display structure and property;
- b. The address at which any signs are to be erected;
- c. The lot, block and addition at which the signs are to be erected and the street on which they are to front;
- d. A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
- e. For all freestanding or pylon signs over 50 square feet a registered certificate of survey certified by a Minnesota Registered Land Surveyor clearly showing at a minimum: dimensions of all lot lines and all easements of record, location of all public utilities, names of abutting streets, location of all structures, parking and drive areas on the site, proposed sign location, and grade elevations ten (10) feet on each side of the proposed sign location. Stakes showing property lines and sign location shall be established by the surveyor with submission of the certificate of survey. Maintenance of the stakes throughout the sign permit process is required and is the responsibility of the applicant;
- f. The cost of the sign;
- g. Type of sign (i.e. wall sign, monument sign, etc.); and
- h. Certification by the applicant indicating the application complies with all requirements of the sign ordinance.

The issuing authority shall approve or deny the sign permit in an expedited manner no more than 60 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 60 days shall be deemed approved unless written notice of extension is provided to the applicant prior to the 60 day deadline. If the permit is denied, the issuing authority shall prepare a written notice within 10 days of its decision, describing the applicant's appeal rights.

**Subd. 7. Exemptions.** The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating same.

- a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on the building.
- b. Signs twelve (12) square feet or less in size.

**Subd. 8. Fees.** Sign permit fees are established by Resolution of the City Council and updated on a regular basis.

**Subd. 9. Repairs.** Any sign located in the city which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of property notice so to do, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued by the issuing authority.

**Subd. 10. Removal.** In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the grounds on which the sign is located, to remove or repair said sign within 60 days after the use is terminated, a notice shall be given pursuant to subsection 11.99 and the sign may be removed by the city at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

**Subd. 11. Violations.** Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

**Subd. 12. General Standards.**

- A.** Except as hereinafter provided, no signs shall be erected or maintained at any angle to a building or structure which sign extends or projects over the sidewalk, street, highway, or right-of-way.
- B.** Multi-faced signs shall not exceed two (2) times the allowed square footage of single faced signs.
- C.** No sign that exceeds two hundred (200) square feet in area or 25 feet in height shall be erected if:
  - 1.** It would prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street from a distance of five hundred (500) feet.
  - 2.** It would be closer than five hundred (500) feet to a national, state or local park structure, historic site, picnic or rest area, church or school.
  - 3.** It would be closer than one hundred-fifty (150) feet to any residential structure.

**Subd. 13. Electrical Signs.** Electrical signs must be installed in accordance with the current electrical code and a separate permit from the State Electrical Inspector must be obtained prior to placement.

**Subd. 14. Temporary Sign.** Temporary signs are subject to the following regulations.

- A.** Temporary signs in residential zoning districts shall not exceed a total of eight (8) square feet in area. There is no limit to the amount of time a temporary sign is allowed to be displayed.
- B.** Temporary signs in commercial and industrial zoning districts shall not exceed thirty two (32) square feet in area.
  - 1.** The advertisement contained on any temporary sign shall only identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.
  - 2.** One on-premises temporary or portable sign is allowed per business, as allowed by the City Zoning Administrator or their designee subject to the following:
    - a.** Signs may not be displayed for more than sixty (60) calendar days per calendar year.
    - b.** Signs may not be displayed without a permit. Up to four permits per year may be issued to a business, not to exceed the number of days allowed in subsection 2a of this section. Each permit must indicate the number of days the sign is to be displayed. A fee and deposit at a level established by Resolution of the Becker City Council is required. The deposit is refundable if the sign meets all requirements and is removed on time.

**Subd. 15. Unauthorized Signs.** The following signs are unauthorized signs:

- A.** Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.

**B.** All off-premise signs.

**C.** Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, meter posts, bridges, towers, traffic posts, stakes or similar structures in any street right-of-way.

**Subd. 16. Area.** The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage.

**Subd. 17. Canopies, Marquees, and Fixed Awnings.** Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Commercial and Industrial Districts if they meet the following requirements and the applicable square footage requirements.

1. An awning, canopy or marquee may not project into the public right-of-way;
2. Awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than seven feet;
3. The architectural style of the awning, canopy or marquee must be consistent with the building being served; and
4. Awnings, canopies, or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision.

**Subd. 18. Illumination.** External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.

**Subd. 19. Retroactive Affect.** This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

**Subd. 20. Non-Commercial Speech.** Notwithstanding any other provisions of this sign ordinance, all signs of any size containing political campaign Non-Commercial Speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election. All other Non-Commercial signs shall not be regulated by these timeframes but must adhere to all other provisions of this Ordinance.

**Subd. 21. Permitted Signs by District.**

**A. Residential Districts**

1. Within residential zoning districts signs are permitted as follows:

<u>District</u>	<u>Maximum Sign Area of Single Sign</u>	<u>Total Area of All Signs</u>
R-1, R-2	8 square feet per surface	16 square feet
R-3	8 square feet per surface	16 square feet

2. Maximum Height: No sign shall exceed eight (8) feet above grade.
3. Setback: Any sign over two (2) square feet shall be located at least ten (10) feet from any property line.
4. The following types of signs are not permitted in residential zoning districts:  
 Awning signs;  
 Balloon signs;  
 Canopy signs;  
 Flashing signs;  
 Marquee signs;  
 Pole signs;  
 Pylon signs; and  
 Shimmering signs.

**B. Commercial, Public and Quasi-Public Districts**

1. Within commercial, public and quasi-public zoning districts signs are permitted as follows:
  - a. Except as provided herein, the total square footage of sign area for each lot shall not exceed one and one-half square feet of sign area for each lineal foot of lot frontage. However, where a location is a corner lot, the amount may be increased by one (1) square foot of sign per front foot of public right-of-way along said lot line.
  - b. Area: No sign, or combination of signs on one lot, shall exceed the maximum allowed area as set forth in Table 1.

- c. Height: No sign shall exceed the height of the primary structure on the lot said sign is located. In no event shall the maximum height exceed that set forth in Table 1.
- d. Setback: Any sign over six (6) square feet shall be placed at least ten (10) feet from any front, side and rear property line. In no event shall any part of a sign be closer than two (2) feet to a vertical line drawn at the property line. All signs over one hundred (100) square feet shall be placed at least one hundred fifty (150) feet from any residential or agricultural district.

**Table 1.**

<i>Traffic Speed Allowed</i>	<i>Maximum Allowed Sign Area</i>	<i>Maximum Allowed Height</i>
20 mph & under	50 sq ft	20 ft
25 - 30 mph	75 sq ft	25 ft
35 - 45 mph	150 sq ft	30 ft
50 + mph	200 sq ft	35 ft

**C. Industrial Districts**

Within the Industrial Park, Power Generation Industrial, and General Industrial zoning districts signs are permitted as follows:

- a. Except as provided herein, the total square footage of sign area for each lot shall not exceed two (2) square feet of sign area for each lineal foot of lot frontage. However, where a location is a corner lot, the amount may be increased by one (1) square foot of sign per front foot of public right-of-way along said lot line.
- b. Area: No sign, or combination of signs on one lot, shall exceed four hundred (400) square feet in area.
- c. Height: No sign shall exceed the height of the primary structure on the lot said sign is located or forty-five (45) feet in height above grade, whichever is less.
- d. Setback: Any sign over ten (10) square feet shall be placed at least ten (10) feet from any property line. In no event shall any part of a sign be closer than two (2) feet to a vertical line drawn at the property line. All signs over one hundred (100) square feet shall be placed at least one hundred fifty (150) feet from any residential or agricultural district.

**Subd. 22. Non-conforming Signs: Compliance.** It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

- a. No sign shall be enlarged or altered in a way which increases its nonconformity.
- b. Should such sign or sign structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- c. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- d. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located.
- e. When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

**Subd. 23. Noncommercial Speech Substitution Clause.** The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.



## SEC. 11.71. WIRELESS TELECOMMUNICATIONS FACILITIES.

**Subd. 1. Purpose.** The purpose of this ordinance is to allow for and regulate the design, location, placement, construction, maintenance, and removal of telecommunications towers and antennas and to provide safety/emergency service through use of telecommunications facilities; provide broader forms of communication in a more reliable way; ensure such facilities are unobtrusively located; strictly control the location and design of telecommunications facilities so that allowed facilities will not be obtrusive or visually unpleasant; provide clear standards governing all aspects of such facilities; minimize the number of new towers and to require co-locating; allow new facilities only when a documented demonstration of need satisfactory to the City can be shown; protect residential property and neighborhoods; promote shared use of telecommunications towers; protect property values and the image of the City.

**Subd. 2. Definitions.** For the purpose of this article, the following terms used shall have the stated meaning:

1. **“Accessory facility”**- An accessory facility serving or being used in conjunction with a wireless telecommunication facilities, and located on the same property or lot as the wireless telecommunication facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **“Antenna”**- Any structure or device used for the purpose of collecting or transmitting electromagnetic waves or radio frequency signals, including but not limited to directional antennas, radio, television, cellular, paging, or microwave telecommunications.
3. **“Applicant”**- Any person, partnership, or corporation that is submitting an application to the city for a conditional use permit for a wireless telecommunications facility.
4. **“Application”**- The form that is filed by the applicant and all required materials that are reviewed by the Planning Commission and recommended to the City Council, for approval of a conditional use permit for the wireless telecommunications facility.
5. **“City”**- The City of Becker.
6. **“Co-Location”**- The placement of a wireless telecommunication antenna by two or more service providers on a tower, building, or structure.
7. **“Guyed Tower”**- A tower that is supported, in part or in whole, by wires and ground anchors.
8. **“Height”**- The distance between the ground level at the base of the structure and the highest point on the structure, excluding any attachment thereon.
9. **“Tower”**- Any structure, pole or any combination thereof, including support lines, cables, wires, and antenna mounts used in the provision of services described in the definition of “wireless telecommunication facilities”.
10. **“Wireless telecommunication facilities”** or **“telecommunication tower”** or **“telecommunication site”** or **“personal wireless facility”**- A structure, facility, or location designed to be used as, or used to support antennas or any equipment used to transmit or receive signals. This includes without limit, freestanding towers, guyed towers, monopoles, and similar structures that employ camouflage technology, including, but not limited to multi story buildings, water towers, or any other structure intended to

mitigate the visual impact of an antenna. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, microwave telecommunications, excluding those used exclusively for fire, police, and other city-owned services.

**Subd. 3. Demonstration of Need.** The applicant shall provide an analysis prepared by a radio or electrical engineer demonstrating that the proposed location of the antenna is necessary to meet the coverage and capacity needs of its system and that there is no existing antenna support structure that could adequately serve the area if antennas were placed on it.

**Subd. 4. Required Permits.** Building and Conditional Use permits are required and must adhere to Section 11.14 of the Becker City Code of Regulations.

**Subd. 5. Application Process.** The application process for the required permits must be in accordance with Sections 4.01 and 11.14 of the Becker City Code of Regulations.

**Subd. 6. Permit Fees.** Permit fees associated with the required permits must be adhered to in accordance with the adopted City of Becker fee schedule.

**Subd. 7. Zoning District.** A wireless telecommunication facility will be considered for a conditional use permit in the following zoning districts: Power Generation Industrial (I-PG), General Industrial District (I-GEN), and Public and Quasi-Public Districts (PUB & Q-PUB).

**Subd. 8. Area, Set-back, and Height Requirements.**

1. **Area:** The minimum lot area required is determined by the zoning district in which the tower development site is located.
2. **Setbacks:** The minimum setback from all property lines and public right of ways for wireless telecommunication facilities, must be equal to or greater than the total height of the tower, excluding attachments.
3. **Height:** The maximum height for a wireless telecommunications facility is determined by the zoning district, excluding any attached antennas.

**Subd. 9. Construction & Design Requirements.** The construction of all wireless telecommunication facilities must comply with this ordinance, the FCC and the Federal Code of Regulations. The design must abide by the following requirements:

1. No part of any antenna or tower nor any lines, cable, equipment, wires, or braces, shall extend across or over any part of the public right-of-way, public street, highway, sidewalk, or property line.
2. Wireless communication facilities shall be designed to blend into the surrounding environment through the use of color and architectural design.
3. Every tower affixed to the ground shall be protected by a security fence meeting zoning and fencing requirements.

4. The facility locations must provide the maximum amount of screening possible, in accordance with zoning regulations, for off-site views of the facility.

**Subd. 10. Co-Location Requirements.** Shared use of existing wireless telecommunications facilities shall be preferred by the city, as opposed to the proposed construction of new wireless telecommunication facilities. Where such shared use is unavailable, the location of antennas on other pre-existing structures shall be considered. If no alternative is suitable for the location of a new antenna, and upon proof of a qualified engineer, the City shall entertain the option for the construction of a new wireless communication facility.

**Subd. 11. Right-of-Way Regulations.** There shall be no part of any wireless communication facility, antennae or tower nor any lines, cable, equipment, wires, or braces that shall extend across, into or over any part of the public right-of-way.

**Subd. 12. Mounted Antennas Regulations.** The placement of wireless telecommunication facility antennas on pre-existing structures must be approved by the Planning Commission and the City Council after the submittal of the following:

1. A site and building plan;
2. A report prepared by a qualified and licensed engineer indicating the existing structure's suitability to accept the antenna, and the proposed method for affixing the antenna to the structure.
3. Documentation of the area to be served by the tower including a narrative describing why the site was chosen.
4. The results of an environmental review.
5. A copy of an agreement between the applicant and the property owner, stating that the wireless telecommunication facility will be designed for not less than three (3) users.
6. A report from a qualified and licensed engineer which includes:
  - a. Description of tower height and design
  - b. Documents of height and mounting positions for co-location antennas
  - c. The engineer's stamp and registration number
  - d. Proof that the tower complies with FAA regulations

**Subd. 13. Security.** All wireless telecommunication facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically as follows:

1. All antennas, towers, and other supporting structures, including guyed wires, shall be made inaccessible to individuals and shielded in such a manner that they cannot be climbed or run into.
2. Transmitters and telecommunications control points must be installed such that they are readily accessible to authorized personnel.

**Subd. 14. Lights & Signage.**

1. No wireless telecommunication facilities shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or any other illumination device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC).
2. Wireless telecommunication facilities shall contain a sign that contains the name(s) of the owner(s) and operator(s) of the antenna(s) as well as an emergency phone number(s). The size of the sign shall be in accordance with Section 11.70 of the Becker City Code of Regulations. The sign shall be located so it is visible from the access point of the site. No other signage, including advertising, shall be permitted.

**Subd. 15. Maintenance Requirements.** The following maintenance requirements are needed in order to adhere by the design requirements:

1. The yard in front of the fences and walls shall be trimmed and maintained.
2. Repairs to damaged areas of walls or fences shall be made within thirty (30) days of sustaining said damage.
3. Diseased, dying or dead vegetative screening elements must be removed and then replaced with healthy vegetation of the same size when first planted.

**Subd. 16. Unused or Abandoned Facilities.** Abandoned or unused wireless telecommunications facilities and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by both the Planning Commission and the City Council. If the facility is not removed within the time period, the City may remove the facility at the owners' expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.

**Subd. 17. Existing Towers/Facilities.** Wireless telecommunication facilities and associated infrastructure in existence as of July 31, 2006 that do not conform to or comply with this ordinance are subject to the following provisions:

1. They may continue for the purpose now used and as now existing, but may not be replaced or structurally altered without complying in all respects with the provisions contained herein and without obtaining the necessary permits.
2. If the wireless communication facility is hereafter damaged or destroyed due to any reason or cause, the tower may be repaired and restored to its former use, in the same location.

**Subd. 18. Penalties.** Any person, partnership, corporation, or other entity that owns or controls any building or property that violates this ordinance shall be punished by a misdemeanor as stated in Section 11.99 of the City Code of Regulations.

**Subd. 19. Conflict with Other Laws and Ordinances.** Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall apply as deemed by the Becker City Council. *Source: Ordinance 115 2<sup>nd</sup> Series, Effective Date: 7-15-06*

(Sections 11.72 through 11.74, inclusive, reserved for future expansion.)

**SEC. 11.75. PLANNED UNIT DEVELOPMENT.**

**Subd. 1. Intent.** The purpose of this Section is to provide for the grouping of land parcels for development as an integrated, coordinated unit, as opposed to traditional parcel to parcel, piecemeal, sporadic, and unplanned approach to site design and architecture for the conservation of land and open space through clustering of buildings and activities. It is further intended that Planned Unit Developments are to be characterized by central management, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses; these regulations are not intended as subdivision regulations and should not be confused as such.

**Subd. 2. Procedures and Requirements for Establishment of a Planned Unit Development.**

- A. Application.** Application for hearing by the Planning Commission must be made to the City Clerk or Zoning Administrator on forms provided by the City and shall include all information and data requested. The application must be reviewed by staff within a 10 day time frame to be assured of completion. If the application is incomplete a letter requesting additional information will be sent out prior to the ten day deadline. The staff shall review the concept plan for the proposed PUD and shall make recommendations to forward to the Planning Commission. *Source: Ordinance 48, 2<sup>nd</sup> Series, Effective Date: September 9, 2000*
- B. Public Hearing.** The Planning Commission shall set a date for the official public hearing. Notice of such hearing shall be published in accordance with State law and notice shall be published in accordance with state law and notice shall be published at least once in the official paper of the City and mailed to individual properties within three hundred fifty (350) feet of the boundaries of the affected parcel included in the request not less than ten (10) days nor more than thirty (30) days prior to the date of said hearing. Land separated by a public right-of-way shall be deemed to be adjacent for the purposes of this Section. Failure of a property owner to receive said notice shall not invalidate any such proceedings. The public hearing may be continued from time to time to allow for full and fair consideration of the request.

The Planning Commission shall consider possible adverse affects of the PUD as a conditional use and what additional requirements may be necessary to reduce any adverse affects, and shall make a recommendation to the City Council.

- C. City Council. Upon receiving the report and recommendation from the Planning Commission, the City Council may impose any conditions deemed necessary. Approval of the Planned Unit Development as a conditional use shall require passage by no less than three (3) members of the City Council. If a public hearing is held, the notice and publication requirements set forth above must be followed.
- D. Response. The City must make a final decision on an application within 60 days from the date the application is deemed complete or 10 days after application is received, whichever is sooner. Absent a decision within 60 days, the request is deemed approved.
- E. Extensions. The City can extend the initial 60 day period by giving written notice to the applicant, stating the reasons for the extension, and the anticipated length of the extension. The applicant can extend the initial 60 day period by giving written notice to the City, stating the reasons for the extension, and the anticipated length of the extension. In no case shall the extension exceed 60 days. An applicant must withdraw an application or have the request denied if an extension is needed that exceeds a period of 60 days.

*Source: Ordinance 8, 2<sup>nd</sup> Series, Effective Date: 12-5-95*

**Subd. 3. Development Plan.** The Conditional Use Permit application shall be accompanied by a development plan, drawn to scale of one hundred (100) feet per inch, showing the following:

- A. The entire outline, overall dimensions, and area of the tract described in the application.
- B. The use, zoning, and ownership of all adjacent properties within one hundred (100) feet of the tract boundaries including the location of all structures thereon and the right-of-way width and traveled width of all adjacent public roadways
- C. The existing and proposed topography of the tract with contour intervals not greater than five (5) feet.
- D. The location, general exterior dimensions, and approximate gross floor areas of all proposed buildings.
- E. The type of each use proposed to occupy each building and the approximate amount of building floor area devoted to each separate use.
- F. The proposed location, arrangement, and number of automobile parking stalls.
- G. The proposed location, arrangement, and general dimensions of all truck loading facilities.

- H.** The location and dimensions of all vehicular entrances, exits, and driveways and their relationship to all existing or proposed public streets.
- I.** The locations and dimensions of pedestrian entrances, exits, and walkways.
- J.** The general drainage system.
- K.** The location and dimensions of all walls, fences and plantings designed to screen the proposed district from adjacent uses.
- L.** The types of all ground covers.
- M.** Standards for exterior finish, exterior lighting, location and type of exterior signs, architectural style, and any other variables which will be controlled in the design of buildings in the development area.
- N.** A Proposed Schedule of Development. If the construction of the proposed Planned Unit Development is to be in stages, then the components contained in each stage must be clearly shown. The development schedule shall indicate the starting date and the completion date of the complete development plan.

**Subd. 4. Property Control.** In order that the purposes of this Section may be achieved, the property shall be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Chapter.

- A.** Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions, and restrictions or an equivalent document or a document such as specified by the Uniform Condominium Act shall be filed with the City; said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of Sherburne County, Minnesota.
- B.** Approval of the Planning Commission shall be secured as to the documents described in Subparagraph A, above.
- C.** The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting the buildings, units, parcels, tracts, townhouses or apartments shall subject said properties to the terms of said declaration.



- D. The declaration of covenants, conditions, and restrictions shall provide that an owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property value of the individual owner through establishing effective private control.
- E. The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and in the event the City incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made and; in addition, each such assessment, together with interest and costs of collection, shall also be a personal obligation of the person who was the owner of such property at the time when the assessment became payable.
- F. It is the intent of this Section to require subdivision of property simultaneously with application for condition use. The subdivision and/or platting of land as planned unit development shall be subject to the requirements for approval and recording with the Sherburne County Recorder.

**Subd. 5. General Development Provisions.** The following provisions are intended to enhance and preserve the integrity of the proposed action.

- A. Yard restrictions at the periphery of the Planned Unit Development site shall be the same as imposed in the respective districts. No building shall be located no less than ten (10) feet from the back curb line along those roadways which are part of the internal street pattern.
- B. Private roadways within the project shall have an improved surface to twenty-four (24) feet or more in width and shall be so designed as to permit the City's fire trucks to provide protection to each building. No portion of the twenty-four (24) foot road system may be used in calculating off-street parking space.
- C. The proposed project shall be served by a public sewer and water system and fire hydrants shall be installed at such locations as necessary to provide fire protection.

- D.** In addition to the conventional types of construction and arrangements of building, structures uses, and property as allowed by this Chapter, it shall be permissible to cluster, adjoin, and attach structures in a row house, townhouse, patio home, or similar style of development within the Planned Unit Development as long as the zoning district provides for this type of housing.
- E.** It shall be permissible within a Planned Unit Development to subdivide properties into lesser size parcels for individual ownership and create common open space areas in undivided proportions under joint ownerships. Such ownership arrangements are commonly defined as condominium and/or cooperative developments. The joint area of the project must, however, conform to the minimum area requirements established for the respective district classification which jointly applies to said property.
- F.** Proposed residential Planned Unit Developments must contain an area of no less than two (2) acres.
- G.** Proposed Commercial/Industrial Planned Unit Developments must contain an area of not less than four (4) acres.
- H.** An increase in residential density may be allowed under the following standards:

  - 1.** For increased percentages of undeveloped open space, a maximum increase of three (3%) percent;
  - 2.** For improved common open space, a maximum increase of five (5%) percent;
  - 3.** For distinctiveness and excellence in siting, design, and landscaping, a maximum of five (5%) percent.
- I.** In the cases of subdividing properties into lesser size properties, the created amount of open space must be no less than 30% of the entire Planned Unit Development area.
- J.** Maximum density requirements shall be regulated as to the zoning of the lot to be developed.

**Subd. 6. Review and Evaluation.** The review and evaluation of a proposed Planned Unit Development and supporting materials and plans shall include but not be limited to the following criteria:

- A.** Adequate property control is established and provided to protect the individual owner's rights and property values and to define legal responsibilities for maintenance and upkeep.

- B.** The interior circulation plan plus access from and onto public right-of-ways does not create congestion and is adequate for the safety of the residents and public.
- C.** A sufficient amount of usable open space is provided.
- D.** The arrangement of building, structures and accessory uses does not unreasonably disturb the privacy or property values of the surrounding area.
- E.** The architectural design of the project is compatible with the surrounding area.
- F.** The drainage and utility system plans are submitted to the City Engineer and are subject to approval.
- G.** The development schedule insures a development of the site which will protect the public interest and conserve land.
- H.** Principal and accessory uses and requirements are in compliance with the district provisions in which the development is intended.
- I.** The Planning Commission has the right to turn away any developer (or other) if they find that the design of the PUD or the structures themselves will be detrimental to the City in any way.
- J.** The Planning Commission may deny a Planned Unit Development if the housing designs do not conform to the standard of those found within the City as long as they are not discriminating against different price values of the homes.
- K.** The Planning Commission may deny a Planned Unit Development if the structures within the development are too uniform or alike.
- L.** Findings of fact are to be used for approval or denial of planned unit developments.

*Source: Ordinance No. 93-8 Effective Date: 11-7-93*

(Sections 11.76 through 11.98, inclusive, reserved for future expansion.)

**SEC. 11.99. VIOLATION A MISDEMEANOR.** Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

*Source: Ordinance No. 93-8      Effective Date: 11-7-93*