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## SECTION 500.   SUBDIVISION REGULATIONS

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500.01.   Purpose and interpretation.

The city council being aware of the responsibility it has for the adoption of ordinances, rules and regulations designed for the protection of health, safety and general welfare of the city, deems it necessary to provide regulations for dividing and subdividing of property within the city so that new divisions and subdivisions will be integrated with the general plan of the city and contribute to an attractive, stable and wholesome community environment, adequate municipal services and safe streets. The city council, while recognizing that there are presently no public sewer or water facilities available within the city, nevertheless deems it necessary in this section to regulate divisions and subdivisions within the city in order that construction of such facilities in the future may be adequately planned. These regulations are the minimum requirements adopted for the protection of the public health, safety and general welfare.

500.03.   Definitions.

Subd. 1.  For the purpose of this section, the following terms, phrases, words and their derivations have the meanings given in this subsection:

Subd. 2.  "Boulevard" means the portion of the right-of-way between the improved purpose of the street or road and the property line.

Subd. 3.  "Cul-de-sac" means a permanent, terminal, minor street with only one outlet and having a terminus with a right-of-way diameter of 125 feet.

Subd. 4.  "Division, large lot," means the division of a lot of record into two or more lots, each consisting of five acres, or more, including right-of-way, and each having 300 feet of frontage on a road or having access to a private street as defined herein.

Subd. 5.  "Division, simple lot," means the division of a lot of record into no more than two lots, or a rural view lot subdivision regardless of the number of lots created, with each lot meeting or exceeding the minimum lot size, density, and road frontage or private street requirements.

(Amended, Ord. No. 2005-01)

Subd. 6.  "Division and rearrangement" means the division of one or more lots of record for the purpose of combining a portion or portions thereof to other lots of record, without creating additional lots.

Subd. 7.  "Double frontage lots" mean those which have a front line abutting on one street and a rear line abutting on another street.

Subd. 8.  "Easement" means a grant by an owner of land for a specific use of said land by the grantee.

Subd. 9.  "Final plat" means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the city council for approval and which, if approved, will be filed with the county recorder.

Subd. 10.  "Frontage" means the distance between the side lot lines of a lot measured along the boundary of the right-of-way designated to serve the lot by the city council.

Subd. 11.  "Lot" means a parcel of land separated from other parcels by legal description and meeting the physical standards of this section.

Subd. 12.  "Lot area" means the horizontal plane bounded by the lot lines.

Subd. 13.  "Lot corner" means a lot bounded by the intersecting boundaries of two or more streets or roads.

Subd. 14.  "Lot depth" means the average horizontal distance between the front lot line and the rear lot line.

Subd. 15.  "Lot line" means a line defining the horizontal plane of a lot.

Subd. 16.  "Lot line, front," means the line connecting the side lot line of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 17.  "Lot line, rear," means that lot line which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line.

Subd. 18.  "Lot line, side," means any lot line which is not a front lot line or a rear lot line.

Subd. 19.  "Lot width" means the maximum horizontal distance between the side lot lines measured parallel to and 50 feet from the front lot line.

Subd. 20.  "Minimum subdivision design standards" mean the guides, principles and specifications for the preparation of a subdivision plan indicating among other things, the minimum dimensions of the various elements set forth in the preliminary plat.

Subd. 21.  "Outlot" means a parcel of land in a subdivision separated from the other parcels by a legal description which does not meet the physical standards of this section and which is unbuildable until such physical standards are met.

Subd. 22.  "Owner" means any person having an interest in the land sought to be subdivided.

Subd. 23.  "Pedestrian way" means the right-of-way across or within a block, for use by pedestrian traffic.

Subd. 24.  "Preliminary plat" means the preliminary map, drawing or chart indicating the proposed plan of the subdivision to be submitted to the planning commission and city council for their consideration.

Subd. 25.  "Property line" means the legal boundary of a lot.

Subd. 26.  "Reserve strip" means a narrow strip of privately owned land which prevents access to a public street.

Subd. 27.  "Right-of-way" means land designated by the city council for public vehicular and pedestrian traffic by easement, dedication, statutory user, common law dedication, or other instrument or legal right.

Subd. 28.  "Road" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel.

(Revised, 1992, § 1)

Subd. 29.  "Street" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel.

(Revised, 1992, § 1)

Subd. 30.  "Street, collector," means a street which carries traffic from minor streets to through streets.

Subd. 31.  "Street, minor," means a street of limited continuity used primarily for access to the abutting properties.

Subd. 32.  "Street, private," means a street serving as vehicular access for more than one parcel of land in which the right-of-way underlying the street is not dedicated to the public, but is owned by one or more private parties. The construction and maintenance provisions of said private street shall be set forth in writing by the city council and recorded in the office of the Hennepin county recorder.

Subd. 33.  "Street-width" means the shortest distance between the lines delineating the right-of-way of a street.

Subd. 34.  "Subdivider" means any owner commencing proceedings under this section to effect a subdivision of land hereunder.

Subd. 35.  "Subdivision" means the process of dividing a parcel of land and the land divided, and includes the following:

(Amended, Ord. No. 2005-01)

(a)  The division of a parcel of land into two or more lots or parcels;

(Amended, Ord. No. 2005-01)

(b)  The replat of platted land.

(Amended, Ord. No. 2005-01)

Subd. 36.  "Subdivision, rural view lot," means the division of a parcel of land in the Agriculture zoning district into one or more lots or parcels primarily for residential use. The resulting residential lots shall be referred to as "rural view lots."

(Added, Ord. No. 2005-01)

500.05.   Enforcement.

Subd. 1.  *Approval required.* It is unlawful and punishable as provided herein to record any subdivision or division in the office of the county recorder unless said subdivision or division has received approval as provided herein.

Subd. 2.  *Permits not issued.* The building inspector may not issue building permits for any structure on a lot or parcel in any unapproved subdivision or division.

Subd. 3.  *Improvements prohibited.* The city council will not permit any public improvements or services to be installed or performed in any subdivision or division unless said subdivision or division is approved as provided herein.

Subd. 4.  *Unapproved conveyances.* It is unlawful to make, file or record any conveyance of land to which this section is applicable if the land is described in the conveyance by an unapproved U.S.G.S. description or by reference to an unapproved registered land survey or to an unapproved plat. This provision does not apply to any conveyance if the land described therein:

(a)  Was a separate parcel of record as of March 31, 1980; or

(b)  Was the subject of a written, verified and recordable contract for deed entered into prior to March 31, 1980; or

(c)  Is a division approved by the city council as hereinafter provided.

Subd. 5.  *Sales prohibited.* It is unlawful to sell or offer for sale any parcel of land within the city until the requirements of this section have been met.

500.07.   Divisions.

Divisions, as defined herein, are governed by this section except as hereinafter modified by the provisions of subsections 500.09 through 500.31.

500.09.   Approval procedure of simple lot divisions and division and rearrangement.

Subd. 1.  *Procedure for preliminary plans.* Prior to preparation for the simple lot division and division and rearrangement the subdivider shall have a preliminary discussion in regard to the requirements of this section with the zoning administrator.

Subd. 2.  *Filing with city clerk-treasurer.* To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

(a)  Nine copies of the subdivision.

(b)  A cash fee established by resolution of the city council.

(c)  An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3.  *Staff review.* The city clerk-treasurer shall forward a copy of the plans to the city engineer and the city planner, directing the engineer and the planner to review the plans and prepare a written report relating to the conformance of said plans with this section, and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original plans and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4.  *Planning commission review.* The planning commission must study the plans and the report of the engineer and the planner to determine whether such plans conform to this section and to sound engineering and planning principles. The planning commission must prepare a written report and submit it to the city council.

500.11.   Application for a simple lot division or a division and rearrangement.

Subd. 1.  *Identification and description.* Required information includes:

(a)  Legal description of property according to the records in the county recorder's office;

(b)  Names and addresses of all owners, the subdivider, surveyor and designer of the plans;

(c)  Graphic scale;

(d)  North-point; and

(e)  Date of preparation.

Subd. 2.  *Existing conditions.* Required information includes:

(a)  Boundary line of proposed subdivision, clearly indicated;

(b)  Existing zoning classification; and

(c)  Total approximate acreage.

Subd. 3.  *Optional information.* Provision of the following information may be required by the zoning administrator:

(a)  Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.

(b)  An S.C.S. soil survey map including the particulate makeup, permeability slope and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4.  *Other information.* Other required information includes:

(a)  Proposed protective covenants;

(b)  Source of water supply;

(c)  Provisions for sewage disposal, drainage and flood control; and

(d)  If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

500.13.   Approval of simple lot divisions and division and rearrangements.

The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including, without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots. The city council's approval shall be in the form of a resolution which shall be filed in the office of the Hennepin county recorder.

500.15.   Minimum design standards for simple lot divisions and division and rearrangement.

Subd. 1.  *Easements provided for utilities.* Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements shall be subject to the approval of the engineer.

Subd. 2.  *Easements provided for drainage.* Easements shall be provided along each watercourse, drainage channel or wetlands to a width sufficient to provide proper maintenance and protection and to provide for stormwater runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. Such easements shall be dedicated to the city by appropriate language in the owner's certificate.

Subd. 3.  *Lot frontage.* All lots in a subdivision as defined herein shall have no less than 200 feet of frontage on a right-of-way. A subdivision lot fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and shall meet minimum width requirements at the building setback line.

Subd. 4.  *Lot size.* Lot size requirements for divisions and subdivisions shall be governed by the zoning ordinance or section 705. All dimensions and lot area shall exclude right-of-way.

Subd. 5.  *Long lots prohibited.* Lots platted with length greater than four times width shall be prohibited.

Subd. 6.  *Water courses.* Lots abutting upon a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to ensure house sites that are not subject to flooding, inadequate drainage, or ground water which interferes with water supply or sanitary sewer.

Subd. 7.  *Natural features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, watercourses, marshes, historic areas or similar conditions, which if preserved will add attractiveness and stability to the proposed division or rearrangement.

Subd. 8.  *Remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 9.  *Outlots.* All outlots, as defined herein, are prohibited.

Subd. 10.  *Public access roads.* A subdivision shall not be approved unless the council makes a finding that the existing public roads providing access to the land to be divided can adequately accommodate any additional traffic that the subdivision may generate. If the public roads providing access to the subdivision do not meet the minimum requirements in section 500.45 of this Code, the required finding must be supported by a traffic study prepared by a licensed traffic engineer selected by the city.

(Amended, Ord. No. 94-02, § 1)

Subd. 11.  *Driveways.* A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired.

(Added, Ord. No. 2005-08, § 1)

500.17.   Procedure for large lot divisions.

Subd. 1.  *Procedure for preliminary plans.* Prior to preparation for the large lot divisions the subdivider must have a preliminary discussion in regard to the requirements of this section with the zoning administrator.

Subd. 2.  *Filing with clerk-treasurer.* To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

(a)  Nine copies of the subdivision.

(b)  A cash fee established by resolution of the city council.

(c)  An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3.  *Staff review.* The city clerk-treasurer shall forward a copy of the plans to the city engineer and the city planner, directing the engineer and the planner to review the plans and prepare a written report relating to the conformance of said plans with this section and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original plans and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4.  *Public hearing.* If three lots or less are being divided the planning commission need not hold a public hearing, but if there are more than three lots included in the large lot division they must hold a public hearing. Notice of such hearing must be published in the official newspaper of the city at least ten days prior to the said planning commission hearing. The city clerk-treasurer shall mail notice of such hearing to all owners of property abutting on the property proposed to be divided.

Subd. 5.  *Planning commission review.* The planning commission shall then hold this hearing (if necessary) and then shall study the plans and the report of the engineer and the planner to determine whether such plans conform to this section and to sound engineering and planning principles. The planning commission shall prepare a written report and submit it to the city council.

500.19.   Application for a large lot division.

Subd. 1.  *Identification and description.* Required information includes:

(a)  Legal description of property according to the records in the county recorder's office;

(b)  Names and addresses of all owners, the subdivider, surveyor and designer of the plans;

(c)  Graphic scale;

(d)  North-point; and

(e)  Date of preparation.

Subd. 2.  *Existing conditions; three lots or less.* Required information includes:

(a)  Boundary line of proposed subdivision, clearly indicated.

(b)  Existing zoning classification.

(c)  Total approximate acreage.

Subd. 3.  *Optional information.* The following information may be required by the zoning administrator:

(a)  Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.

(b)  An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4.  *Existing conditions; more than three lots.*

(a)  Boundary line of proposed subdivision, clearly indicated.

(b)  Existing zoning classification.

(c)  Total approximate acreage.

(d)  Location, widths and names of all existing or previously platted streets and rights-of-way, showing type, width and condition of improvements, if any, railroad and utility right-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract and to a distance of 100 feet beyond the tract.

(e)  Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown.

(f)  Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, which land must be identified by name and ownership.

(g)  Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.

(h)  An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics together with classification and boundaries of soils within the proposed subdivision.

Subd. 5.  *Subdivision design features.* Subdivision design features must be considered for only those large lot divisions of more than three lots. These include:

(a)  Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the use of such name is mandatory.

(b)  Location and widths of all proposed easements.

(c)  Typical cross-sections of proposed improvements upon streets, together with a plan for the disposal of surface and ground water, including storm sewers where required by sound engineering principles.

(d)  Approximate centerline gradients of proposed streets.

(e)  Layout, numbers and preliminary dimensions of lots and blocks.

(f)  Where a subdivider owns property adjacent to that which is being proposed for subdividing, the city council may require, where appropriate, that the subdivider submit a preliminary plat of the remainder of subdivider's property showing its relationship to the future development. Where the areas concerned are of major size the city council may limit the extent of this area to be included in the preliminary plat.

(g)  Areas, other than streets and utility easements, intended to be dedicated or reserved for public use, including the size of such areas in acres.

Subd. 6.  *Other information.* Other required information includes:

(a)  Proposed protective covenants.

(b)  Source of water supply.

(c)  Provisions for sewage disposal, drainage and flood control.

(d)  If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

500.21.   Approval of large lot division.

The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots. The city council's approval shall be in the form of a resolution which shall be filed in the office of the Hennepin county recorder.

500.23.   Final plat procedures.

Subd. 1.  *Three lots or less.* This subsection does not apply to plats of three lots or less.

Subd. 2.  *More than three lots.* On more than three lots, the following apply:

(a)  The subdivider shall within 90 days following approval of the preliminary plan, submit to the clerk-treasurer an up-to-date certified abstract of title or registered property abstract and such other evidence as the city attorney may require showing title or control in the applicant.

(b)  The abstract of title or registered property abstract shall be referred to the city attorney for examination and report. The city attorney's report shall be made to the city council within 15 days of such referral.

500.25.   Minimum design standards for large lot divisions of three lots or less.

Subd. 1.  *Easements provided for utilities.* Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block, and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements shall be subject to the approval of the engineer.

Subd. 2.  *Easements provided for drainage.* Easements shall be provided along each watercourse, drainage channel or wetlands to a width sufficient to provide proper maintenance and protection and to provide for stormwater runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. Such easements shall be dedicated to the city by appropriate language in the owner's certificate.

Subd. 3.  *Lot frontage.* All lots in a large lot division as defined herein shall have no less than 300 feet of frontage on a road as defined. A large lot division parcel fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and shall meet minimum width requirements at the building setback line.

(Amended, Ord. No. 89-F, 10-92)

Subd. 4.  *Lot size.* Lot size requirements for divisions and subdivisions shall be governed by the zoning ordinance or section 705, or both. All dimensions and lot area may include right-of-way.

Subd. 5.  *Long lots.* Lots platted with length greater than four times width shall be prohibited.

Subd. 6.  *Water courses.* Lots abutting upon a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to ensure house sites that are not subject to flooding, inadequate drainage, or ground water which interferes with water supply or sanitary sewer.

Subd. 7.  *Natural features.* In the subdividing of any land, due regard must be shown for all natural features, such as tree growth, watercourses, marshes, historic areas or similar conditions, which if preserved will add attractiveness and stability to the proposed division.

Subd. 8.  *Remnants.* Remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 9.  *Outlots.* Outlots, as defined herein, are prohibited.

Subd. 10.  *Public access roads.* A subdivision shall not be approved unless the council makes a finding that the existing public roads providing access to the land to be divided can adequately accommodate any additional traffic that the subdivision may generate. If the public roads providing access to the subdivision do not meet the minimum requirements in section 500.45 of this Code, the required finding must be supported by a traffic study prepared by a licensed traffic engineer selected by the city.

(Amended, Ord. No. 94-02, § 2)

Subd. 11.  *Driveways.* A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired.

(Added, Ord. No. 2005-08, § 2).

500.27.   Minimum design standards for large lot divisions which result in three or more lots.

Minimum design standards for large lot divisions are those set forth in subsections 500.43 through 500.57, except that as to subsection 500.57, subdivision 2, all dimensions and lot area may include right-of-way.

500.29.   Required improvements on the site of large lot divisions resulting in three lots or less.

Subd. 1.  *Inspection at subdivider's expense.* Required improvements to be installed under the provisions of this section must be inspected at the subdivider's expense during the course of construction. Such inspection shall be by the city engineer or an inspector appointed by the city council.

Subd. 2.  *Improvements completed prior to approval of final plat.* Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of subsection 500.61 only if the engineer shall certify satisfaction that the existing improvements conform to applicable city standards.

Subd. 3.  *Reimbursements to city for fees incurred.* The subdivider must reimburse the city for all engineering consulting fees, planning consulting fees, inspection fees and fees for legal services reasonably incurred by the city in processing a subdivision application under the terms of these regulations.

500.31.   Applicability of certain sections.

In large lot divisions resulting in more than three lots subsections 500.61 through 500.71 are applicable.

500.33.   Approval procedure for preliminary plat.

Subd. 1.  *Preliminary discussions.* Prior to preparation of a preliminary plat the subdivider shall have a preliminary discussion in regard to the requirements of this section with the zoning administrator for the city.

Subd. 2.  *Filing with city clerk-treasurer.* To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

(a)  Nine copies of the preliminary plat.

(b)  A cash fee established by resolution of the city council.

(c)  An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3.  *Staff review.* The city clerk-treasurer shall forward a copy of the preliminary plat to the city engineer and the city planner, directing the engineer and the planner to review the preliminary plat and prepare a written report relating to the conformance of said preliminary plat to this section, and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original preliminary plat and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4.  *Public hearing.* The city clerk-treasurer shall schedule a public hearing on the proposed preliminary plat, said public hearing to be held by the planning commission. Notice of such hearing shall be published in the official newspaper of the city at least ten days prior to the said planning commission hearing. The city clerk-treasurer shall mail notice of such hearing to all owners of property abutting on the property proposed to be subdivided.

Subd. 5.  *Planning commission review.* The planning commission shall hold the public hearing and shall study the preliminary plat and the report of the engineer and the planner to determine whether such plan conforms to this section and to sound engineering and planning principles. The planning commission shall prepare a written report and submit it to the city council.

500.35.   Data required for preliminary plat.

Subd. 1.  *Map.* The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivision maps shall be drawn at a scale of one inch equals 100 feet, unless otherwise required by the zoning administrator. The preliminary plat of the proposed subdivision shall contain or have attached thereto the information specified in this subsection.

Subd. 2.  *Identification and description.* Required information includes:

(a)  Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the county;

(b)  Legal description of property according to the records in the county recorder's office;

(c)  Names and addresses of all owners, the subdivider, surveyor and designer of the plat;

(d)  Graphic scale;

(e)  North-point; and

(f)  Date of preparation.

Subd. 3.  *Existing conditions.* Required information includes:

(a)  Boundary line of proposed subdivision, clearly indicated;

(b)  Existing zoning classifications;

(c)  Total approximate acreage;

(d)  Location, widths and names of all existing or previously platted streets and rights-of-way, showing type, width and condition of improvements, if any, railroad and utility right-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract;

(e)  Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown;

(f)  Boundary lines of adjoining unsubdivided or subdivided land within 100 feet identified by name and ownership;

(g)  Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines; and

(h)  An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4.  *Subdivision design features.* Required information includes:

(a)  Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the use of such name is mandatory;

(b)  Location and widths of all proposed easements;

(c)  Typical cross-sections of proposed improvements upon streets, together with a plan for the disposal of surface and ground water, including storm sewers where required by sound engineering principles;

(d)  Approximate centerline gradients of proposed streets;

(e)  Layout, numbers and preliminary dimensions of lots and blocks;

(f)  Where a subdivider owns property adjacent to that which is being proposed for subdividing, the city council may require, where appropriate, that the subdivider submit a preliminary plat of the remainder of subdivider's property showing its relationship to the future development. Where the areas concerned are of major size the city council may limit the extent of this area to be included in the preliminary plat; and

(g)  Areas, other than streets and utility easements, intended to be dedicated or reserved for public use, including the size of such areas in acres.

Subd. 5.  *Other information.* Required information includes:

(a)  Proposed protective covenants;

(b)  Source of water supply;

(c)  Provisions for sewage disposal, drainage and flood control;

(d)  If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and

(e)  Proposed location of driveways or accesses to each lot.

(Added, Ord. No. 2005-08, § 3)

500.37.   Qualifications governing approval of preliminary plat.

Subd. 1.  *Planning commission report.* The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including, without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots.

Subd. 2.  *Soil tests.* As a condition of approval, the council may, by resolution, require soil borings and percolation tests for each lot upon which the soil survey map fails to positively indicate sufficient suitable soils to meet on-site septic system requirements. The resolution of the city council approving the plat or division shall carry a legend identifying lots which cannot utilize standard on-site septic systems.

Subd. 3.  *Preliminary approval.* Approval of a preliminary plat by the planning commission and the city council is tentative only, involving merely the general acceptability of the layout. Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, and sewage disposal, sidewalks, gas and electric utilities, grading, gradients and roadway widths and surfacing of streets.

Subd. 4.  *Submission of final plat.* Approval of a preliminary plat shall be null and void unless within 90 days after receiving the last required approval of the plat by the city council, there shall be submitted to the city council a final plat or plats in accordance with the conditions upon which such approval was granted by the city council.

Subd. 5.  *Drainage; flooding.* No plan will be approved for a subdivision which covers an area subject to periodic flooding or which contains drainage facilities for the streets and lots which are inadequate as measured by sound engineering standards.

Subd. 6.  *Preliminary plat not approved.* If the preliminary plat is not approved by the city council, the reasons for such action shall be recorded in the proceedings of the city council and transmitted to the applicant.

500.39.   Approval procedure for final plat.

Subd. 1.  *Filing with city clerk-treasurer.* The subdivider shall within 90 days following approval of the preliminary plat, submit to the clerk-treasurer:

(a)  Five copies and a reproducible copy of the final plat. This final plat shall incorporate all changes required by the city council. Otherwise, it shall conform to the preliminary plat. The final plat may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop immediately.

(b)  An up-to-date certified abstract of title or registered property abstract and such other evidence as the city attorney may require showing title or control in the applicant.

Subd. 2.  *Final plat review.* The city clerk-treasurer shall refer two copies of the final plat to the planning commission, one copy to the engineer, and one copy each to the telephone, power and other utility companies. The abstract of title or registered property abstract shall be referred to the city attorney for the city attorney's examination and report. The city attorney's report shall be made to the city council within 15 days of such referral. The procedure and timing for the reports of the planning commission and the engineer and action by the city council are the same as for the final approval of the preliminary plat except that no public hearing is required in processing the final plat.

Subd. 3.  *Plat approval.* If the final plat is approved by the city council, the subdivider shall record it with the county recorder within 90 days after the date of approval; otherwise, the approval of the final plat shall be considered void.

Subd. 4.  *Recording.* The subdivider shall, immediately upon recording, furnish the city clerk-treasurer with three copies of the final plat showing evidence of recording, one for the building inspector, the assessor, and the planning commission. One Mylar shall be provided to the clerk-treasurer and one reproducible master (sepia) shall be provided to the engineer.

500.41.   Data required with final plat.

Subd. 1.  *General.* The final plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall conform to all state and county requirements, this section and the directives of the city council.

Subd. 2.  *Information to be shown on final plat.*

(a)  Accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other important features (dimensions of lot lines shall be shown in feet and hundredths);

(b)  An identification system for all lots and blocks;

(c)  True angles and distances to the nearest established official monuments (not less than two) which shall be accurately described in the plat;

(d)  Municipal, city, county or section lines accurately tied to the lines of the subdivision by distances and angles;

(e)  Radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs;

(f)  Accurate location of all monuments;

(g)  Accurate outlines and legal description of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision with the purposes indicated therein. Conveyance of all land for public use, other than right-of-way shall be by deed, which deed shall accompany the final plat;

(h)  Certification by a registered surveyor in the form required by Minn. Stats. § 505.03;

(i)  Execution by all owners and encumbrancers of any interest in the land on the certificate required by Minn. Stats. § 505.03 and which certificate shall include a dedication of the utility easements and any other public areas in such form as shall be approved by the city attorney;

(j)  Certifications showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full;

(k)  Form of approval of city council as follows:

Approved by the city council of the city of Independence, Hennepin County, Minnesota, this \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ / \_\_\_\_\_\_\_\_\_\_\_\_ , 20 \_\_\_\_\_\_\_\_\_\_\_\_ .

|  |  |  |  |
| --- | --- | --- | --- |
| Signed | \_\_\_\_\_\_\_\_\_\_\_\_ | Signed | \_\_\_\_\_\_\_\_\_\_\_\_ |
|  | City Clerk-Treasurer |  | Mayor |

(l)  Form for approval by county authorities as required; and

(m)  Form for approval by planning commission as required.

500.43.   Minimum subdivision design standards.

Subd. 1.  *Street plan.* The arrangement, character, extent, width, grade, and location of all streets shall conform to these regulations, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of stormwater, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

Subd. 2.  *Continuation of existing streets.* The arrangement of streets in new subdivisions shall make provision for the appropriate continuation of the existing streets in adjoining areas.

Subd. 3.  *Future projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

Subd. 4.  *Cul-de-sac easement required.* If a street terminates at the boundary line of the plat that could at a later date be extended into and through adjacent properties, a cul-de-sac shall be constructed and a cul-de-sac easement on a deed form shall accompany the final plats at the time of recording. Construction of the cul-de-sac shall be the same as the streets in the subdivision, and shall conform to these regulations in all respects.

Subd. 5.  *Public access roads.* A subdivision shall not be approved unless the council makes a finding that the existing public roads providing access to the land to be divided can adequately accommodate any additional traffic that the subdivision may generate. If the public roads providing access to the subdivision do not meet the minimum requirements in section 500.45 of this Code, the required finding must be supported by a traffic study prepared by a licensed traffic engineer selected by the city.

(Amended, Ord. No. 94-02, § 3)

500.45.   Streets.

Subd. 1.  *Widths* *.* All right-of-way widths and street widths shall conform to the following minimum dimensions:

|  |  |  |
| --- | --- | --- |
| Classifications | Right-of-Way | Street |
| Through Streets | Current county or state width specifications shall be required | |
| Collector Streets | 66 feet | 24 feet |
| Minor Streets | 66 feet | 24 feet |
| Cul-de-sacs | 125 feet (diameter) | 100 feet (diameter) |

Subd. 2.  *Deflections.* When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius of not less than 100 feet.

Subd. 3.  *Grades.* All centerline gradients shall be at least 0.5 percent and shall not exceed the following:

|  |  |
| --- | --- |
| Classifications | Gradient (in percent) |
| Through Streets | 4% |
| Collector Streets | 6% |
| Minor Streets | 6% |
| Cul-de-sacs | 4% (Revised 2/92) |

Subd. 4.  *Minor streets.* Minor streets must be so aligned that their use by through traffic will be discouraged.

Subd. 5.  *Frontage streets.* Where a subdivision abuts or contains an existing or planned major through street or a railroad right-of-way, the city council may require a street approximately parallel to and on each side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. Such frontage streets shall be located at a distance from the major through streets or railroad right-of-way suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.

Subd. 6.  *Half streets.* Where right-of-way is provided and streets are built along the boundaries of a plat, the full width right-of-way shall be provided and the full width of streets shall be constructed as provided herein. Half streets shall be prohibited.

Subd. 7.  *Reserve strips.* Reserve strips controlling access to streets are prohibited.

Subd. 8.  *Hardship to owners of adjoining property avoided.* Street arrangements may not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

500.47.   Intersections.

Subd. 1.  *Angle of intersection.* The angle formed by the intersecting of streets may not be less than 60 degrees with 90 degrees intersection preferred.

Subd. 2.  *Size of intersection.* Intersections of more than four corners are prohibited.

Subd. 3.  *Corner radii.* Roadways of streets intersections shall be rounded by a radius of not less than 50 feet. Corners at the entrances to cul-de-sacs shall be rounded by a radius of not less than 25 feet.

500.49.   Drainage.

A complete and adequate drainage system for the subdivision must be designed, and must include a storm sewer system or a system of open ditches, culverts, pipes, and catch basins, or both systems. The system or systems must be approved by the engineer and designed in conformity with standards as may from time to time be adopted by resolution of the city council.

500.51.   Easements.

Subd. 1.  *Provided for utilities.* Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements is subject to the approval of the engineer.

Subd. 2.  *Provided for drainage.* Easements must be provided along each watercourse, drainage channel or wet lands to a width sufficient to provide proper maintenance and protection and to provide for stormwater runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. The easements must be dedicated to the city by appropriate language in the owner's certificate.

500.53.   Street names.

Names of new streets may not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street, in which event it shall bear the name of the existing or platted street so in alignment.

500.55.   Blocks.

Subd. 1.  *Factors governing dimensions.* Block length and width or acreage within bounding streets must be such as to accommodate the size of lots required in the area pursuant to the terms of this section or the terms of the city zoning code and to provide for convenient access, circulation control, and safety of street traffic.

Subd. 2.  *Arrangement.* A block must be so designed as to provide two tiers of lots, unless it adjoins a railroad or major thoroughfare and unless topographic conditions necessitate a single tier of lots.

500.57.   Lots.

Subd. 1.  *Location.* Lots may have no less than 200 feet of frontage on a street or road, except lots fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and must meet minimum width requirements at the building setback line.

Subd. 2.  *Size.* Lot size requirements for divisions and subdivisions shall be governed by the zoning code or section 705, or both. All dimensions and lot area shall exclude right-of-way.

Subd. 3.  *Long lots.* Lots platted with length greater than four times width shall be prohibited.

Subd. 4.  *Water courses.* Lots abutting upon a watercourse, drainage way, channel or stream shall have an additional depth or width, as required, to ensure house sites that are not subject to flooding, inadequate drainage or ground water which interferes with water supply or sanitary sewer.

Subd. 5.  *Natural features.* In the subdividing of any land, due regard shall be shown for all natural features such as tree growth, watercourses, marshes, historic areas or similar conditions which if preserved will add attractiveness and stability to the proposed development.

Subd. 6.  *Remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 7.  *Outlots.* All outlots, as defined herein, are prohibited.

Subd. 8.  *Driveways.* A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired.

(Added, Ord. No. 2005-08, § 5)

500.59.   Public sites and open spaces.

Where the official map designates land for future public use and such land lies, in whole or in part, within the proposed subdivision or division, and such land is not yet dedicated to the appropriate public body, such land shall be reserved and no action taken toward approval of the subdivision or division for a period not to exceed six months after final action as required hereunder, to allow the appropriate public body the opportunity to consider and take action to acquire such land in accordance with Minn. Stats. § 462.359.

500.61.   Required improvements on the site.

Subd. 1.  *Improvements listed and described.* Prior to the approval of a final plat by the city council, the subdivider shall have agreed in the manner set forth in subsection 500.65 to install the following improvements on the site in conformity with construction plans approved by the engineer and in conformity with all applicable standards and ordinances of the city.

Subd. 2.  *Monuments.* Monuments of a permanent character, approved by the county surveyor, shall be placed in locations on the boundary of the subdivision and within it as required.

Subd. 3.  *Street improvements.* All streets within subdivisions shall be constructed with adequate grading, base and asphalt surfacing in accordance with the Independence street specifications, a copy of which is set forth in appendix III hereto.

Subd. 4.  *Street name signs.* Street name signs, which conform to current municipal, county or State of Minnesota highway standards, shall be placed at all street intersections within or abutting the subdivision, as required by the city council upon recommendation of the city engineer.

Subd. 5.  *Stop signs.* Stop signs, which conform to current State of Minnesota highway standards, shall be placed on all streets intersecting a through street or collector street, as required by the city council upon recommendation of the city engineer.

Subd. 6.  *Drainage facilities.* Such storm sewers and drainage facilities shall be constructed upon dedicated easements as will conform to the drainage plans required by the city council upon recommendation of the city engineer for the drainage of surface and excess ground waters.

500.63.   Payment for installation of improvements.

The required improvements to be furnished and installed by the subdivider, which are listed and described in subsection 500.61 are to be furnished and installed at the sole expense of the subdivider and at no expense to the city.

500.65.   Required agreements and bonds.

Subd. 1.  *Agreement.* Before a final plat is approved by the city council, the owner and subdivider of the land covered by said plat shall execute and submit to the city council an agreement approved by the city attorney, to make and install all improvements required to be installed under the provisions of this section, in accordance with the plans and specifications therefor to be approved by the city engineer.

Subd. 2.  *Bond.* The agreement shall be accompanied by a performance bond or other financial guarantee to be approved by the city attorney, in an amount equal to 1½ times the city engineer's estimated costs of said improvements. The performance bond or financial guarantee shall be conditioned upon:

(a)  The making and installing of the improvements required under the terms of this section within the time limit approved by the city council.

(b)  Completion of the work undertaken by the subdivider in accordance with the development contract.

(c)  The payment by the owner or subdivider to the city of all expenses of the city for the approval of plans and specifications of the improvements required under the terms of this section and the inspection of construction by the city engineer. If a cash escrow agreement is submitted, such agreement shall provide that payments therefrom for the improvements shall be made only on the joint order of the subdivider and the city, and the agreement shall further provide that in the event the required improvements are not completed within the time period, all amounts held under the escrow agreement shall be turned over and delivered to the city and applied by the city to the cost of the required improvements. If the funds available are not sufficient to complete the required improvements, the necessary additional cost shall be assessed against the subdivision. Any balance remaining in escrow fund after such improvements have been made shall be returned to the owner or subdivider.

500.67.   Inspection at subdivider's expense.

All required improvements to be installed under the provisions of this section shall be inspected at the subdivider's expense during the course of construction. Such inspection shall be by the city engineer or an inspector appointed by the city council.

500.69.   Construction plans.

Construction plans for the required improvements conforming in all respects with the standards of the engineer and this Code of the city, shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain engineer's seal. Such plans together with the quantities of construction items shall be submitted to the engineer for approval and for an estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required in subsection 500.65. The tracings of the plans approved by the engineer plus two prints shall be furnished to the city to be filed by the city clerk-treasurer as a city record.

500.71.   Improvements completed prior to approval of final plat.

Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of subsection 500.61 only if the engineer shall certify satisfaction that the existing improvements conform to applicable city standards.

500.73.   Reimbursement to city for fees incurred.

The subdivider shall reimburse the city for all engineering consulting fees, planning consulting fees, inspection fees and fees for legal services reasonably incurred by the city in processing a subdivision application under the terms of this section.

500.75.   Standards for variances.

The planning commission may recommend and the city council may grant variances from the literal provisions of this section in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Any person requesting a variance shall appear at all planning commission meetings and city council meetings where such application is considered and provide to the planning commission and the city council such maps, drawings, plans, records and other information necessary to make a determination on the application. It is the responsibility of the applicant to demonstrate that all of the following standards for variance have been met. Undue hardship can be found on the bases of the following:

(a)  Because of the particular physical surroundings, shape, or topographic conditions of the specific parcels of land involved, a particular hardship to the owner would result if the strict letter of this section were carried out.

(b)  The conditions upon which the application for variance is based are unique to the parcel of land for which the variance is sought and are not common to other properties within the city.

(c)  The hardship is related to the requirements of these regulations and has not been created by any persons presently or formerly having an interest in the parcel of land.

(d)  The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.

500.77.   Conditions and restrictions.

The planning commission may recommend and the city council may impose such conditions and restrictions in the granting of variances which will ensure compliance with the provisions of this section, will further and protect the spirit and intent of this section and will provide protection to the public.

500.79.   Application required.

Application for any variance shall be made in writing by the subdivider at the time the preliminary plat is considered by the planning commission. Said application shall set forth all facts relied upon by the applicant in requesting the variance. Any variance granted shall be passed in resolution form setting forth the reasons which justify the variance and entered on the minutes of the city council meeting.

500.81.   Copies of plats.

Copies of all such plats of subdivision, after the same have been submitted and approved as provided in this section, shall be filed with the county recorder and kept by the city clerk-treasurer among the city records.

500.83.   Public lands.

Subd. 1.  *Purpose.* In order to preserve areas of natural beauty such as marshes, streams and ponds; and in order to establish public parks, playgrounds, and open spaces, the provisions set forth in this subsection shall be applicable.

Subd. 2.  *Dedication of public lands.* In every plat, "division, large lot" (as defined by section 500.03, subdivision 4), "division, simple lot" (as defined by section 500.03, subdivision 5), and subdivision of land allowing development for residential, commercial or industrial uses, land lying within such plat, "division, large lot," "division, simple lot" or other subdivision, shall be dedicated by the owners thereof to the general public for lake access, park and playground purposes, public open space or trails, in accordance with the city's fee schedule.

(Amended, Ord. No. 93-03, § 1; Ord. No. 98-06, § 1; Ord. No. 2005-01)

The city may determine the location and configuration of any land dedicated, taking into consideration its suitability for its intended purposes and how it will best serve the public and future need of the community for such purposes. Where the owner provides for public use, neighborhood park amenities such as, but not limited to, tennis courts, ballfields, trails, open space or other recreational facilities, the city will credit the amount of such land to be dedicated or the cash contribution in lieu of such dedication by an amount equivalent to the costs of the facilities provided.

In accordance with the city's fee schedule, the city shall have the option to require cash contribution in lieu of dedicated land or to require a part of the land and the balance of the land value in cash. Any money so paid to the city shall be placed in a special fund and used only for the acquisition of land for parks and playgrounds or the development of existing park and playground sites or debt retirement in connection with land previously acquired for parks and playgrounds, and interest on the aforementioned special fund may be used for financing recreational programs within or outside the city which will benefit the citizens of the city.

(Amended, Ord. No. 2005-01)

Prior to the dedication, transfer or conveyance or any real property or interest therein to the city as provided herein, the subdivider shall deliver to the city an opinion addressed to the city by an attorney, and in a form acceptable to the city, as to the condition of the title of such property or in lien of a title opinion, a title insurance policy insuring the condition of the title of the property or interest therein in the city. The condition of the title of any real property or any interest therein to be dedicated, transferred or conveyed as may be provided herein by subdivider to city shall vest in city good and marketable title, free and clear of any mortgages, liens, encumbrances, or assessments.

Rearrangements or combinations of lots which do not result in any increase in the number of buildable lots shall not be subject to the fees imposed by this subdivision. When a plat, "division, large lot," "division, simple lot," or other subdivision of land includes a parcel on which the developer's homestead is located, the land dedication requirements or fees imposed by this subdivision shall not be applied to the parcel on which said homestead is located.

(Revised 7-90; Amended, Ord. No. 93-03, § 1; Ord. No. 98-06, § 1; Ord. No. 2005-01)

## SECTION 505.   MANAGEMENT OF SHORELAND AND FLOODPLAIN AREAS

(Deleted in its entirety, Ord. No. 2009-05)

## SECTION 505.   SHORELAND MANAGEMENT ORDINANCE

(Added, Ord. No. 2009-05)

[505.01. Shoreland overlay district - purpose and authorization.](#BK_2071E7451700B4766ACF6B576AE523A7)

[505.03. Designation of the shoreland district.](#BK_F3A1C9847EA1294BC77CC780840ABA68)

[505.05. Definitions.](#BK_AA9D4EA8D7AE4719DFF5CEAA2E737536)

[505.07. Water bodies included in the Shoreland Overlay District.](#BK_DBF35E3466EB90CCC51DDC151C2B92B7)

[505.09. Permitted uses.](#BK_538DB8CEC75C039607C0B49AAFAFD9F3)

[505.11. Conditional uses.](#BK_2F11F9134EB714BC6759F48AA578BF55)

[505.13. Zoning provisions.](#BK_7BE3EAADADCA69041A1ADE0068054880)

[505.15. Substandard lots.](#BK_D6133F816A172556A730EEEAD6794407)

[505.17. Subdivisions.](#BK_821A6496915DEDB42AAA423AB35264FA)

[505.19. Sewage treatment.](#BK_C11F589351CE406D89A5C944A9233789)

[505.21. Water supply.](#BK_2300029F00E60EF68B26A71EE56534E6)

[505.23. Shoreland alteration.](#BK_37F7266D26BBF29F64F834415363C5B4)

[505.25. Cluster developments.](#BK_DC7CA2907A7AE0845159495E8344260E)

[505.27. Nonconforming uses.](#BK_F7CDF8599616347B1ED46EBEDBE9442D)

[505.29. Development permits required.](#BK_918E26F9BC430063C5A8A9D779525480)

[505.31. Enforcement.](#BK_31160A0757AB3B3728035B37FB80B95E)

[505.33. Variances.](#BK_82EAD7F6838008F181503C57CC03ED41)

[505.35. Notice to commissioner.](#BK_EEFA40FD63FB45EFA772DF117295F488)

505.01.   Shoreland overlay district - purpose and authorization.

The city recognizes the consequences to the public health, safety and general welfare from the indiscriminate use of the shorelands of public waters. The purpose of this district is to control the density and location of development in the shorelands of public waters of the city in order to preserve and enhance the quality of surface waters, preserve the economic and natural environmental characteristics of shorelands, and provide for the wise use of public waters and related land resources in the city. This section 505 is adopted in compliance with the Shoreland Development Act, Minn. Stats. § 103F.201 et seq. and the regulations promulgated thereunder. It is intended to be in conformance with state requirements and to establish minimum standards for development within the shoreland overlay district.

505.03.   Designation of the shoreland district.

The shoreland district for the city shall include all land within the following distances of protected waters:

(i)  1,000 feet from the ordinary high water level of a lake, pond, or flowage; or

(ii)  300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The shoreland district shall be shown on the official zoning map of the city.

505.05.   Definitions.

For the purposes of this section 505, words and terms shall have the following meanings, unless another meaning is clear from the context. Unless otherwise specified, all distances are to be measured horizontally.

Subd. 1.  "Accessory use or structure" has the meaning assigned to it in section 510.05, subdivision 2 of this Code.

Subd. 2.  "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

(a)  Part or all of the feature is located in a shoreland area;

(b)  The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(c)  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

(d)  The slope drains toward the waterbody.

An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

Subd. 3.  "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.

Subd. 4.  "Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

Subd. 5.  "Building height" has the meaning assigned to it in section 510.05, subdivision 10 of this Code.

Subd. 6.  "Building line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which no structure may extend.

Subd. 7.  "Commercial use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subd. 8.  "Commissioner" means the commissioner of the Minnesota Department of Natural Resources.

Subd. 9.  "Conditional use" has the meaning assigned to it in section 510.05, subdivision 15 of this Code.

Subd. 10.  "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.

Subd. 11.  "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.

Subd. 12.  "Dwelling unit" has the meaning assigned to it in section 510.05, subdivision 20 of this Code.

Subd. 13.  "Extraction" has the meaning assigned to it in section 510.05, subdivision 24 of this Code.

Subd. 14.  "Feedlot" means a building or use of land intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of the zoning code, open lots used for the feeding and rearing of poultry (poultry ranges) are considered to be feedlots. Pastures are not considered feedlots under this zoning code.

Subd. 15.  "Forest land conversion" means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subd. 16.  "Guest house" has the meaning assigned to it in section 510.05, subdivision 37 of this Code.

Subd. 17.  "Hardship" means:

(1)  The property in question cannot be put to reasonable use under the conditions allowed by the official controls;

(2)  The plight of the landowner is due to circumstances unique to landowner's property, not created by the landowner; and

(3)  The variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

Subd. 18.  "Height of building" has the meaning assigned it in section 510.05, subdivision 10 of this Code.

Subd. 19.  "Individual sewage treatment system" has the meaning assigned it in section 710.05, subdivision 9 of this Code.

Subd. 20.  "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.

Subd. 21.  "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subd. 22.  "Lot" has the meaning assigned to it in section 510.05, subdivision 46 of this Code.

Subd. 23.  "Lot width" has the meaning assigned to it in section 510.05, subdivision 55 of this Code.

Subd. 24.  Nonconforming use" has the meaning assigned to it in section 510.05, subdivision 80 of this Code.

Subd. 25.  "Ordinary high water mark" has the meaning assigned to it in section 510.05, subdivision 59 of this Code.

Subd. 26.  "Public waters" has the meaning assigned to it in Minn. Stats. § 103G.005, subdivisions 15 and 15a.

Subd. 27.  "Sanitary system" has the meaning assigned to "sanitary sewer" in section 710.05, subdivision 25 of this Code.

Subd. 28.  "Setback area" has the meaning assigned to it in section 510.05, subdivision 72 of this Code.

Subd. 29.  "Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as regulated in section 710 of this Code.

Subd. 30.  "Sewer system" has the meaning assigned to "public wastewater treatment system" in section 710.05, subdivision 23 of this Code.

Subd. 31.  "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.

Subd. 32.  "Shoreland" means land located within 1,000 feet from the ordinary high water level of a lake, pond, or flowage, or land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of 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.

Subd. 33.  "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 county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this section 505. Where specific information in 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.

Subd. 34.  "Structure" has the meaning assigned to it in section 510.05, subdivision 79 of this Code.

Subd. 35.  "Subdivision" has the meaning assigned to it in section 500.03, subdivision 35 of this Code.

Subd. 36.  "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.

Subd. 37.  "Toe of the bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 38.  "Top of the bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 39.  "Variance" means any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical.

Subd. 40.  "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 need 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.

Subd. 41.  "Wetland" has the meaning assigned to it in Minn. Stats. § 103G.005, subd. 19.

505.07.   Water bodies included in the Shoreland Overlay District.

In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification.

(a)  The regulations of the Shoreland Overlay District shall apply to all lands within 1,000 feet of the ordinary high water level of the following public waters:

|  |  |  |
| --- | --- | --- |
| DNR Protected Waters | | |
| Name of lake | Classification | Inventory ID# |
| Haughey | NE | 27-187 |
| Independence | RD | 27-176 |
| Ox Yoke | NE | 27-178 |
| Rebecca | NE | 27-192 |
| Robina | RD | 27-188 |
| Sarah | RD | 27-191 |
| Irene | RD | 27-189 |
| NE—Natural Environment | | |
| RD—Recreational Development | | |

(b)  The regulations of the Shoreland Overlay District shall apply to land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. This applies to the following watercourses:

A—Crow River; T—Pioneer Creek; T—Painter Creek.

T—Unnamed tributary flowing from Robina Lake.

T—Unnamed tributary flowing into south end of Lake Sarah.

A = agricultural T = tributary.

505.09.   Permitted uses.

Within the shoreland overlay district, permitted uses include uses allowed in the underlying zoning district as indicated on the official zoning map of the city, with the exception of feedlots of ten or more animal units, which shall be treated as a conditional use as described in section 505.11. Permitted structures must comply with shoreland zoning provisions pursuant to section 505.13.

505.11.   Conditional uses.

(a)  Allowable conditional uses within the shoreland overlay district are limited to those that meet or exceed the following conditions, and shall be permitted only by conditional use permit issued pursuant to section 520.09, et seq. of this Code:

(1)  Grading of any property within the shoreland overlay district which disturbs land more than 50 percent of the total area of the parcel; or

(2)  Feedlots with ten or more animal units. For feedlots with less than ten animal units, please reference the provisions in section 505.23, subdivision 7 of this Code. Animal units are defined in section 510.05, subdivision 5 of this Code.

(b)  Applicants proposing a conditional use within the shoreland district must provide a plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation; and soil types. The following conditions shall apply within shoreland areas after a thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site is made to ensure:

(1)  The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2)  The visibility of structures and other facilities as viewed from public waters is limited;

(3)  The site is adequate for water supply and on-site sewage treatment.

(c)  The city council, upon consideration of the criteria listed above and the purposes of this section 505, shall attach such other conditions to the issuance of the conditional use permit as deemed necessary to fulfill the purposes of this section 505. Such conditions may include, but are not limited to, the following:

(1)  Increased setbacks from the ordinary high water level;

(2)  Limitations on the natural vegetation to be removed or a requirement that additional vegetation be planted; and

(3)  Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

505.13.   Zoning provisions.

Subd. 1.  *General.* The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply.

Subd. 2.  *Lot standards* *.*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | Unsewered Areas | | | Sewered Areas | | |
|  | NE Waters | RD Waters | Tributary Streams | NE Waters | RD Waters | Tributary Streams |
| Lot Area | 2.5 acres | 2.5 acres | 2.5 acres | 1.0 acre | 1.0 acre | 1.0 acre |
| Water frontage and lot width at building line | 200 ft | 200 ft | 200 ft | 125 ft | 100 ft | 100 ft |
| Structure setback from ordinary  high water mark | 150 ft | 100 ft | 100 ft | 150 ft | 100 ft | 100 ft |
| Structure setback from roads  and highways | 85 ft from centerline or 50 ft. from right-of-way, whichever is greater | | | | | |
| Structure height limitation | 35 ft | 35 ft | 35 ft | 35 ft | 35 ft | 35 ft |
| Maximum lot area covered by  impervious surface | 25% | 25% | 25% | 25% | 25% | 25% |
| Sewage system setback from ordinary high water mark | 150 ft | 75 ft (RR)  150 ft (AG) | 75 ft (RR)  150 ft (AG) | 125 ft | 75 ft | 75 ft |

(a)  Commercial and industrial uses located on public waters which do not have water oriented needs shall be set back from the ordinary high water level twice the distance indicated above or shall be substantially screened from view from the water by topography or vegetation, assuming summer leaf-on conditions.

(b)  Notwithstanding anything herein to the contrary, on undeveloped single-family residential lots where both adjacent lots are developed with existing principal structures, a new residential structure may be located the average setback of the adjacent structures from the ordinary high water level or reference lot standards table, whichever is greater, provided that all other requirements of this section 505 are met, and the building site is not within a shore or bluff impact zone.

Subd. 3.  *Bluff setbacks.* Regardless of classification of the waterbody, structures must be set back a minimum of 30 feet from the top of a bluff. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

Subd. 4.  *Elevation of lowest floor.*

(a)  *Lakes, ponds and flowages.* The elevation of the lowest floor shall be placed for lakes, ponds and flowages by an evaluation of available flood information and consistent with statewide standards and criteria for management of floodplain areas of Minnesota (Minn. Regs. NR 87(e)(1)). If there is no established floodplain elevation, and/or no floodplain mapping is available, elevation of lowest floor shall be determined by a level at least three feet above the highest known water level, or three feet above the ordinary high water elevation, whichever is higher. In those instances where sufficient data on known high water levels are not available, the ordinary high water mark shall be used.

(b)  *Rivers and streams.* The elevation for the lowest floor shall be placed for rivers and streams, by an evaluation of available flood information and consistent with statewide standards and criteria for management of floodplain areas of Minnesota (Minn. Regs. NR 87(e)(1)).

Subd. 5.  *Water-oriented accessory structures.* Water-oriented accessory structures are allowed, subject to the following conditions:

(a)  Only permitted in residential districts;

(b)  Not designated or used for human habitation and which do not contain sanitary facilities;

(c)  Not exceeding ten feet in height, with the exception of detached decks, which must not exceed eight feet above grade at any point;

(d)  Set back a minimum of ten feet from the ordinary high water level;

(e)  Does not exceed 120 square feet in size and set back in accordance with provisions set forth in section 500.05 of this Code; and

(f)  Must be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of topography, color, increased setbacks or vegetation, assuming summer leaf-on conditions.

Subd. 6.  *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts are subject to the following conditions:

(a)  Must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(b)  Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Larger landings may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(c)  No canopies or roofs;

(d)  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 than ensures control of soil erosion;

(e)  Must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

(f)  Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (a) to (e) are complied with in addition to the requirements of Minn. R. chapter 1430.

505.15.   Substandard lots.

Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:

(a)  Such use is permitted in the zoning district;

(b)  The lot of record is in separate ownership from abutting lands, and can meet or exceed 60 percent of the lot area and setback requirements of this section; and

(c)  All requirements of section 705 of this Code regarding individual sewage treatment systems are complied with.

505.17.   Subdivisions.

No land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, 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 of the community.

505.19.   Sewage treatment.

Subd. 1.  Connections to publicly owned sewer systems must be made and used when available.

Subd. 2.  All on-site sewage treatment systems shall be designed, installed and maintained in accordance with section 705 and must be set back from the ordinary high water level in accordance with the setbacks contained in section 505.13 of this Code. All existing on-site sewage treatment systems in the shoreland district shall comply with section 705 of this Code.

Subd. 3.  Nonconforming sewage treatment systems.

(a)  A sewage treatment system not meeting the requirements of this section 505 must be upgraded, at 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 nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(b)  Sewage systems installed according to all applicable local shoreland management standards adopted under Minn. Stats. chapter 103F, 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 MPCA's chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

505.21.   Water supply.

Subd. 1.  *Domestic supply.* Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health and Minnesota Pollution Control Agency standards for water quality.

Subd. 2.  *Public supply.* Connections to public or municipal water supplies must be made and used where available.

Subd. 3.  *Private wells.* Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood proofed. No private well shall be located closer than three feet to the outside basement wall of a dwelling. The outside basement footing shall be continuous across the opening of the well alcove. No well shall be located closer than 15 feet to a property line. Private wells shall be located in accordance with the standards of the Minnesota health department standards MHD 217 "Location of Wells," (c)(1).

Subd. 4.  *Permit.* No person, firm, or corporation shall install, or extend any private well without first obtaining a permit therefor from the zoning administrator of the city.

(a)  Application for permits shall be made in writing upon printed blanks or forms furnished by the zoning administrator and shall be signed by the applicant.

(b)  Each application for a permit shall include:

(i)  A file copy of the state report;

(ii)  Correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place;

(iii)  A plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings, sewage treatment facilities and property lines;

(iv)  A complete plan of the water supply system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended;

(v)  The name of the person, firm or corporation who is to install the system;

(vi)  Any further information as required by the zoning administrator.

505.23.   Shoreland alteration.

Subd. 1.  Roads and parking areas. Within the shoreland overlay district, roads and parking areas shall be located and constructed to retard the runoff of surface waters in accordance with the following:

(a)  Roads and parking areas shall meet the setback standards for structures established in section 505.13 of this Code, but in no event closer than 50 feet to the ordinary high water level; and

(b)  Vegetation or other natural materials shall be used to screen parking areas from views from public waters.

Subd. 2.  Alteration of vegetation or topography shall be regulated to prevent soil erosion, preserve shoreland aesthetics, preserve historic sites, prevent bank slumping, and protect fish and wildlife habitat. Vegetation alteration necessary for the construction of structures and individual sewage treatment systems or for the construction of roads and parking areas shall be exempt from the vegetation alteration standards of this subdivision but only if such construction is pursuant to a validly issued permit. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed, subject to the following standards:

(a)  Intensive vegetation clearing within the shore impact zone and bluff impact zone shall not be allowed, with the exception of invasive species as defined by the Minnesota DNR, such as buckthorn. Following such intensive clearing of invasive species, revegetation with non-invasive species will be required.

(b)  In the shore impact zone and bluff impact zone, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees shall be allowed to provide a view to the water from the principal dwelling and to accommodate the placement of permitted accessory structures or facilities, provided that:

(1)  The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

(2)  Along tributary streams, existing shading of water surfaces is preserved; and

(3)  The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

Subd. 3.  Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters and must meet the following standards:

(a)  In addition to meeting impervious coverage limits, setbacks and other zoning standards presents elsewhere in this Code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(b)  Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c)  Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(1)  No advertising signs or supporting facilities may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

(2)  Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

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

Subd. 4.  Grading, filling and excavation.

(a)  Grading, filling and excavation necessary for the construction of structures, individual sewage treatment systems, private roads, or driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filling permit under this section 505 but shall be accomplished in accordance with the provisions of this Code, section 508.21.

(b)  Public roads and parking areas are regulated by section 505.23 subdivision 1 of this Code.

(c)  Notwithstanding items (a) and (b) above, a grading and filling permit will be required for:

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

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

(d)  The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

(1)  Filling or grading of wetlands shall be permitted only in compliance with applicable state law;

(2)  The smallest amount of bare ground is exposed for as short a time as feasible;

(3)  Temporary ground cover such as mulch is used and permanent ground cover such as sod is established;

(4)  Methods to prevent erosion and trap sediment are employed;

(5)  Fill is stabilized to accepted engineering standards;

(6)  Any alterations below the ordinary high water level must first be authorized by the commissioner under Minn. Stats. chapter 103G;

(7)  Placement of natural rock riprap and retaining walls, where allowed shall comply with regulations adopted pursuant to Minn. Stats. § 103G.245. Natural looking riprap shall only be used for the correction of an established erosion problem that cannot be controlled through the use of native vegetation, slope stabilization using mulch, biomat, or similar bioengineered means.

(e)  Connections to public waters. Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the zoning administrator before construction is begun. Such permit may be obtained only after the commissioner of natural resources has issued a permit to work in the beds of protected waters.

Subd. 5.  Steep slopes. No structure, individual sewage treatment system, road, driveway or other improvement may be constructed on a steep slope prior to evaluation by city staff of such improvement with respect to soil erosion and visibility from public waters. The zoning administrator may require best management practices to prevent soil erosion or to preserve existing vegetative screening.

Subd. 6.  Stormwater management.

(a)  When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters wetlands and public waters that are designated on the protected waters inventory maps prepared under Minn. Stats. § 103G.201. Development shall be planned and constructed in a manner which will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods shall be used to retain sediment on the site.

(b)  When development density, topographic features, and soil and vegetation conditions are not sufficient to handle stormwater runoff adequately using natural features and vegetation, various types of best management practices such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subd. 7.  Agriculture and excavation standards.

(a)  Agricultural uses including general excavation, farming, grazing, nurseries, horticulture, truck farming, wild crop harvesting, and feedlots with less than five animal units shall be permitted if steep slopes, bluff impact zones, and shore impact zones are maintained in permanent vegetation. The shore impact zone for parcels with permitted agricultural use shall be the area within a line parallel to and 50 feet from the ordinary high water level. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(b)  Feedlots with between five and nine animal units shall be permitted subject the provisions of subdivision 7(a) above, in addition to a manure management plan that must be approved by the city through an administrative permit. Feedlots with ten or more animal units require a conditional use permit.

(c)  All mining and excavation uses shall be conducted in accordance with the requirements of sections 828.59 and 828.63 of this Code. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters.

Subd. 8.  Alteration of course, current or cross-section. Any work which will change or diminish the course, current or cross-section of a protected water or wetland shall be approved by the commissioner of natural resources, and such approval shall be construed to mean the issuance by the commissioner of natural resources of a permit under the procedures of Minn. Stats. § 105.42 and other related statutes.

505.25.   Cluster developments.

Subd. 1.  Cluster developments are allowed as a conditional use in the rural residential zoning district, described in section 530.05, subdivision 6 of this Code and the official zoning map. Any cluster developments proposed in the shoreland zone must meet the conditional use provisions as outlined in section 505.11 of this Code.

Subd. 2.  The applicant for a cluster development in the shoreland district must submit the following documents prior to final action being taken on the application request:

(a)  A site plan in conformance with section 520.09, subdivision 2 of this Code, which also shows surface water features, existing and proposed structures and other facilities, and land alterations.

(b)  Deed restrictions, covenants, permanent easements or other instruments that:

(1)  Properly address future vegetative and topographic alterations, construction of additional buildings, and beaching of watercraft;

(2)  Ensure the long-term preservation and maintenance of open space in accordance with the criteria specified in section 530.05, subdivision 6(b) of this Code; and

(3)  Those additional documents as requested by the city of Independence which are necessary to explain how the cluster development will be designed and will function.

505.27.   Nonconforming uses.

Any structure or use lawfully existing upon the effective date of this ordinance is a nonconforming use. A nonconforming use may be continued subject to the conditions outlined in section 515.07 of this Code.

505.29.   Development permits required.

No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a permit subject to the requirements of the zoning code and the building code. No mining, dredging, filling, grading, paving, excavation, or drilling operations shall be commenced until a permit has been obtained from the city.

505.31.   Enforcement.

This section 505 is enforced by the zoning administrator in accordance with the procedures of the zoning code. The zoning administrator shall review all development permit applications to determine whether the proposed use lies in the floodplain or shoreland district. Permit applications for uses to be located in the shoreland district shall not be granted unless they comply with provisions of this section 505. The zoning administrator shall determine that all federal and state permits have been obtained by the applicant prior to granting any city permit. Failure to obtain a federal or state permit shall constitute grounds for denial of a city permit.

505.33.   Variances.

Variances from the requirements of this section 505 may only be approved in compliance with the requirements of sections 520.19 et seq. of this Code; provided, however, that economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this section. A variance will not be granted for projects which are attempting to circumvent the general purposes and intent of this section 505. No variance may be granted which would allow any use that is prohibited in the zoning district in which the property is located or on any property which does not have a conforming individual sewage treatment system. Conditions may be imposed in the granting of a variance to ensure compliance with this section 505 and to protect adjacent properties and the public interest, including requiring that a non-conforming individual sewage treatment system be made conforming. The city may take into consideration seasonal and weather requirements when considering variance requests.

505.35.   Notice to commissioner.

(a)  Copies of all notices regarding any public hearings to consider variances, conditional use permit, zoning amendment, plat or other subdivision of property or other approval authorized or required by this section 505 affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative. Any notice required to be sent to the commissioner shall be postmarked at least ten days prior to the hearing. A copy of notice to consider a plat or other subdivision of property shall include a copy of the proposed plat or subdivision.

(b)  A copy of all approved zoning amendments, subdivisions, variances and conditional use permits affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative and postmarked within ten days after final action or approval. When a variance has been approved despite the commissioner's recommendation of denial, the copy of the final action required by this paragraph shall be accompanied by a summary of the public record and testimony regarding the matter and the findings of fact and conclusions which support the issuance of the variance.

## SECTION 506.   FLOODPLAIN ORDINANCE

(Added, Ord. No. 95-02, § 1; Repealed, Ord. No. 95-02, in its entirety; Replaced by Ord. No. 2004-05)

[506.01. New floodplain regulations.](#BK_185FCF31593326EB00178FFFBF62BF33)

[506.03. Statutory authorization, findings of fact and purpose.](#BK_7E30A88A5AB87279D138DB111EC28EEA)

[506.05. General provisions.](#BK_C72F278D9FD64E3EE9441CD72BCD11E7)

[506.07. Definitions.](#BK_7396E52900EEA62C59963FF656A62092)

[506.09. Establishment of zoning districts.](#BK_5DD10346B313CE15283E4FD3349E55A2)

[506.11. Floodway District (FW).](#BK_640E7F2D2B58B939D3C8E017AAB88801)

[506.13. Flood Fringe District (FF).](#BK_A20BF0BC1193D4912A8D9DE931DECCCD)

[506.15. General Floodplain District.](#BK_FB16C451AADEE80C73D17B352E335C86)

[506.17. Subdivisions.](#BK_AD812AFD132C6D075FB9E2718E3A4939)

[506.19. Public utilities, railroads, roads, and bridges.](#BK_E3DF7070CF417A64C1A1B445BF2D7065)

[506.21. Manufactured homes and manufactured home parks and placement of recreational vehicles.](#BK_69F076D280985D30B1C0DB3CC4D4B6F3)

[506.23. Administration.](#BK_2E986E545EA58A90160C1058F469F192)

506.01.   New floodplain regulations.

The regulations in section 505 of this Code relating to the management of floodplain areas are hereby superseded in all respects by this new section 506 relating to floodplain regulations. All regulations in section 505 relating to management of shoreland shall remain in full force and effect.

506.03.   Statutory authorization, findings of fact and purpose.

Subd. 1.  The Minnesota legislature, in Minn. Stats. § 103F.101, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Subd. 2.  The flood hazard areas of the City of Independence 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.

Subd. 3.  This section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota department of natural resources.

Subd. 4.  This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR parts 59—78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

Subd. 5.  It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described in subdivision 2 by provisions contained herein.

506.05.   General provisions.

Subd. 1.  This section shall apply to all lands within the jurisdiction of the city of Independence shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or General Floodplain Districts.

Subd. 2.  The following maps together with all attached material are hereby adopted by reference and declared to be a part of the official zoning map and this section. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016, and the flood insurance rate map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the city clerk-administrator and zoning administrator.

Effective Flood Insurance Rate Map panels: 27053C0109F, 27053C0117F, 27053C0119F, 27053C0128F, 27053C0129F, 27053C0134F, 27053C0135F, 27053C0136F, 27053C0137F, 27053C0138F, 27053C0139F, 27053C0141F, 27053C0142F, 27053C0143F, 27053C0144F, 27053C0257F, 27053C0276F, 27053C0280F, 27053C0285F.

(Amended, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 3.  In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state law.

Subd. 4.  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 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 and to submit technical evidence.

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

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

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

506.07.   Definitions.

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

Subd. 1.  "Accessory use or structure" means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Subd. 2.  "Base flood elevation" means the elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 3.  "Basement" means any area of a structure, including crawl spaces, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

Subd. 4.  "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:

(1)  Certain conditions as detailed in the zoning ordinance exist; and

(2)  The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Subd. 5.  "Development" means any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 6.  "Equal degree of encroachment" means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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

Subd. 8.  "Flood insurance rate map" means an official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 9.  "Flood frequency" means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 10.  "Flood fringe" means that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the flood insurance study for the City of Independence.

Subd. 11.  "Floodplain" means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Subd. 12.  "Flood proofing" means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Subd. 13.  "Floodway" means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Subd. 14.  "Lowest floor" means 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.

Subd. 15.  "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Subd. 16.  "New construction" means structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 17.  "Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Subd. 18.  "Principal use or structure" means all uses or structures that are not accessory uses or structures.

Subd. 19.  "Reach" means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Subd. 20.  "Recreational vehicle" means 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 use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Subd. 21.  "Regional flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.

Subd. 22.  "Regulatory flood protection elevation" means an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

Subd. 23.  "Special flood hazard area" means a term used for flood insurance purposes synonymous with "100-year floodplain."

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 24.  "Start of construction" means and includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 25.  "Structure" means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in subsection 506.21 of this section and other similar items.

Subd. 26.  "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.

Subd. 27.  "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 ensure safe living conditions; or

(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 section, "historic structure" shall be as defined in CFR, part 59.1.

Subd. 28.  "Variance" means a modification of a specific permitted development standard required in an official control, including this section, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

506.09.   Establishment of zoning districts.

Subd. 1.  The following zoning districts are hereby established:

(a)  *Floodway District.* The Floodway District shall include those areas designated as floodway on the flood boundary and floodway map adopted in subsection 506.05.

(b)  *Flood Fringe District.* The Flood Fringe District shall include those areas shown on the Flood Insurance Rate Map as adopted in section 506.05 as being within Zone AE, Zone AO, or Zone AH but being located outside of the floodway.

(c)  *General Floodplain District.* The General Floodplain District shall include those areas designated as Zone A or Zones AE, Zone AO, or Zone AH without a floodway on the flood insurance rate map adopted in section 506.05.

Subd. 2.  No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section. Within the Floodway, Flood Fringe and General Floodplain Districts, all uses not listed as permitted uses or conditional uses herein, shall be prohibited.

(a)  New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this section;

(b)  Modifications, additions, structural alterations, normal maintenance and repair or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section; and

(c)  As-built elevations for elevated or flood proof structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section.

506.11.   Floodway District (FW).

Subd. 1.  Permitted uses. The following shall be permitted uses within the Floodway District:

(a)  General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;

(b)  Industrial-commercial loading areas, parking areas, and airport landing strips;

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

(d)  Residential lawns, gardens, parking areas, and play areas.

Subd. 2.  The following standards shall apply for floodway permitted uses:

(a)  The use shall have a low flood damage potential;

(b)  The use shall be permissible in the underlying zoning district; and

(c)  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.

Subd 3.  Conditional uses. The following shall be uses allowed only by conditional use permit within the Floodway District:

(a)  Structures accessory to the uses listed as permitted or conditional uses;

(b)  Extraction and storage of sand, gravel, and other materials;

(c)  Marinas, boat rentals, docks, piers, wharves, and water control structures;

(d)  Railroads, streets, bridges, utility transmission lines, and pipelines;

(e)  Storage yards for equipment, machinery, or materials;

(f)  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 subsection 506.21 of this section; and

(g)  Structural works for flood control, such as levees, dikes and flood walls, constructed to any height where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

Subd. 4.  The following standards shall apply for floodway conditional uses:

(a)  No filling is allowed within the floodway;

(b)  No structure, temporary or permanent, 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;

(c)  All floodway conditional uses shall be subject to the procedures and standards contained in subsection 506.15 of this section;

(d)  The floodway conditional use shall be permissible in the underlying zoning district; and

(e)  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. As an alternative, 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 city council has received an appropriate plan which ensures 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.

Subd. 5.  The following standards shall apply to all 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. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, so far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures; and

(c)  Accessory structures shall structurally dry flood proof in accordance with the FP-l or FP-2 flood proofing classifications in the state building code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(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; and

(2)  Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.

(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.

Subd. 6.  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. 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 city council.

Subd. 7.  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 Minn. Stats. chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

Subd. 8.  A levee, dike or flood wall 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. 9.  Floodway development must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of an tributary watercourse or drainage system.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

506.13.   Flood Fringe District (FF).

Subd. 1.  Permitted uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning district(s).

Subd. 2.  The following standards shall apply for flood fringe permitted uses:

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

(b)  As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with subsection 506.13;

(c)  The cumulative placement of fill where at any one time in excess of 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 this section;

(d)  The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation; and

(e)  The provisions of subsections 506.13 and 506.15 of this section shall also apply to uses within the flood fringe district.

Subd. 3.  Conditional uses. Any structure that is not elevated on fill or flood proofed in accordance with this section or any use of land that does not comply with the standards in this section shall only be allowable as a conditional use. An application for a conditional use permit shall be subject to the standards and criteria and evaluation procedures specified in subsection 506.15.

Subd. 4.  The following standards shall apply for flood fringe conditional uses:

(a)  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 the enclosed area is above-grade on at least one side of the structure, it is designed to internally flood and is constructed with flood resistant materials and it is used solely for parking of vehicles, building access or storage. The alternative elevation methods are subject to the following additional standards:

(1)  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; and

(2)  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 the following:

(a)  The minimum area of "automatic" 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 subject to flooding unless registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, values, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(b)  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;

(b)  Basements shall be subject to the following:

(1)  Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(2)  Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with this section.

(c)  All areas of nonresidential 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-l 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; and

(d)  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. 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 city council.

Subd. 5.  The following additional standards shall apply for all flood fringe uses:

(a)  Any activities that impact the storage volume of the floodplain shall be prohibited unless compensatory floodplain mitigation is provided at a one-to-one ratio by volume and it is demonstrated that the obstruction will not impact the elevation of the regional flood.

(b)  All new principal structures must have vehicular access at or above an elevation not more than two 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;

(c)  Commercial accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation only if there exists 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 upon occurrence of the regional flood;

(d)  Measures shall be taken to minimize interference with normal manufacturing and industrial 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 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas;

(e)  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;

(f)  Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map; and

(g)  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.

506.15.   General Floodplain District.

Subd. 1.  Permissible uses. All uses permitted in the Floodway District shall be permitted uses within the General Floodplain District. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to this section.

Subd. 2.  The following procedures shall be used for floodway and flood fringe determinations within the General Floodplain District.

(a)  Upon receipt of an application for a conditional use permit for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District:

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

(2)  Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type; and

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

(b)  The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minn. R. 1983, parts 6120.5000—6120.6200 and 44 CFR part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1)  Estimate the peak discharge of the regional flood;

(2)  Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and

(3)  Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries; and

(c)  The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to FEMA or the Minnesota department of natural resources for review and comment. Once the floodway and flood fringe boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of this section.

506.17.   Subdivisions.

Subd. 1.  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 floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this section and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

Subd. 2.  In the General Floodplain District, applicants shall provide the information required in subsection 506.15 of this section to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

Subd. 3.  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. 4.  If a subdivision proposal or other proposed new development is in a flood fringe prone area, any such proposal must be reviewed to ensure that:

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(a)  All such proposals are consistent with the need to minimize flood damage within the flood prone area.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(b)  All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, and

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(c)  Adequate drainage is provided to reduce exposure of flood hazard.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

Subd. 5.  Building sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(a)  Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(b)  Constructed with materials and utility equipment resistant to flood damage;

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(c)  Constructed by methods and practices that minimize flood damage; and

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

(d)  Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Added, Ord. No. [2016-05](http://newords.municode.com/readordinance.aspx?ordinanceid=846413&datasource=ordbank) , § 1)

506.19.   Public utilities, railroads, roads, and bridges.

The following shall apply to public utilities, railroads, roads, and bridges with the Floodway, Flood Fringe and General Floodplain Districts:

Subd. 1.  All public utilities and facilities, such as gas, electrical, sewer, and water supply systems, to be located in the floodplain shall be flood proofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.

Subd. 2.  Railroad tracks, roads, and bridges to be located within the floodplain shall comply with subsections 506.11 and 506.13 of this section. 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.

Subd. 3.  Where public utilities are not provided, on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and 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 current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

506.21.   Manufactured homes and manufactured home parks and placement of recreational vehicles.

Subd. 1.  New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by subsection 506.17 of this section.

Subd. 2.  The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with subsection 506.13 of this section. If vehicular road access for pre-existing manufactured home parks is not provided, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the city council.

Subd. 3.  All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

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

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

(a)  Have current licenses required for highway use;

(b)  Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it; and

(c)  The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

Subd. 6.  The following areas are exempted for placement of recreational vehicles:

(a)  Individual lots or parcels of record;

(b)  Existing commercial recreational vehicle parks or campgrounds; and

(c)  Existing condominium type associations.

Subd. 7.  Recreational vehicles exempted in subdivision 5 lose this exemption when development occurs on the parcel exceeding $500.00 for a structural addition to the recreational vehicle or 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 subsection 506.13 of this section. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

Subd. 8.  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 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 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 subsection 506.13 of this section. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood; and

(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 subsection 506.15 of this section:

(1)  The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation; and

(2)  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 subsection 506.13 of this section.

506.23.   Administration.

Subd. 1.  A zoning administrator or other official designated by the city council shall administer and enforce this section. If the zoning administrator finds a violation of the provisions of this section, the zoning administrator shall notify the person responsible for such violation.

Subd. 2.  A permit issued by the zoning administrator in conformity with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

Subd. 3.  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.

Subd. 4.  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.

Subd. 5.  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 section.

Subd. 6.  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 section, and punishable as provided in section 520.31 of this section.

Subd. 7.  The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Flood proofing measure shall be certified by a registered professional engineer or registered architect.

Subd. 8.  The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

Subd. 9.  The zoning administrator shall notify, in riverside 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 Minn. Stats. 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).

Subd. 10.  Notification must be provided to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

Subd. 11.  The board of adjustment shall hear requests for variances and appeals from the decisions of the zoning administrator regarding this section as in the case of such appeals involving section 520. The board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities 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 section, any other applicable zoning regulations, 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 within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b)  Variances shall only be issued 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.

Subd. 12.  The board of adjustment shall submit by mail to the commissioner of natural resources a copy of the application for a proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

Subd. 13.  The planning commission shall hear and decide applications for conditional use permits under this section as in the case of such applications under section 520, except that the commissioner of the Minnesota department of natural resources must receive ten days' notice of any hearing. In passing upon conditional use applications, the planning commission shall consider all relevant factors specified in other sections of this section, 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 floodplain 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 section.

Subd. 14.  Upon consideration of the factors listed above and the purpose of this section, the planning commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. 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 section. 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. 15.  A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may continue to be used as in the case of a non-conforming use under subsection 515.07 of this section. Historic structures, as defined in subsection 506.07 of this section, shall be subject to the provisions of subdivisions 13 and 14 above.

(a)  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 subsections (b) and (d) below.

(b)  The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial floodplain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of subsections 506.11 or 506.13 of this section for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(c)  If any nonconforming use or structure is substantially damaged, as defined in this section, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in subsections 506.11, 506.13 or 506.15 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Floodplain District, respectively.

(d)  If a substantial improvement occurs, as defined in this section, 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 (as required by (b) above) and the existing nonconforming building must meet the requirements of subsections 506.11 or 506.13 of this section for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

Subd. 16.  The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Amendments shall be processed as in the case of zoning amendments under section 520. All amendments to this section, including amendments to the official zoning map, must be submitted to and approved by the commissioner of the Minnesota Department of Natural Resources prior to adoption. Changes in the official zoning map must meet the requirements of FEMA. The commissioner of the Minnesota Department of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to this section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

## SECTION 508.   EROSION AND SEDIMENT CONTROL

(Added, Ord. No. 97-01, § 1; Amended, Ord. No. 2012-09, § 1)

[508.01. Purpose.](#BK_902F145A7552ED711D6D357756B0810F)

[508.02. Definitions.](#BK_9C082F768950A83E3C3AC714EDDCEF99)

[508.03. Applicability.](#BK_59A25110878C6D35334E03B906B31F1F)

[508.04. Exemptions.](#BK_A2000F43AD2D5BCD1BDE4770CED0D39F)

[508.05. Permits.](#BK_32B0783DF8F993F52ECA960EA20D5685)

[508.06. Grading, drainage, and erosion control plan requirements.](#BK_E76D768B22057482C0508CCCCEC15871)

[508.07. Modifications to the plan.](#BK_CF754DAD2E24D94A7A1B1C9030D34684)

[508.08. Design requirements.](#BK_1BDA741BD23873FEBD0D63E3B1852BA5)

[508.09. Inspection.](#BK_9ABA419D5E87194EA1661CEE2415A126)

[508.10. Purpose.](#BK_3E4FF69B71BA041D9B6CAD309ADE12B4)

[508.11. Inspection for compliance.](#BK_6D52A7D1204A2B0B956925D2949A1476)

[508.12. Violations.](#BK_2858639BC2920B1F446036BBDAB0F052)

[508.13. Violation and penalties.](#BK_9A098B20D13AC19637B9C8A6C44D396D)

[508.14. Compatibility with other permit and ordinance requirements.](#BK_D26AEA17E782922CE20CE0274603BCCD)

[508.15. Severability.](#BK_4A86FFAEA38EC2B26544C6D2C919C308)

508.01.   Purpose.

During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat and for a healthy living environment for citizens of the City of Independence. The purpose of this Ordinance is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth within the City of Independence.

508.02.   Definitions.

For the purposes of this ordinance, the following terms shall mean:

Subd. 1.  BMP Manual: The manual titled Protecting Water Quality in Urban Areas (Best management Practices for Minnesota) prepared by the Minnesota Pollution Control Agency, Division of Water Quality, Latest Edition.

Subd. 2.  Certified contractor: An individual who has received training in the State of Minnesota and is knowledgeable in the area of grading, drainage, erosion and sediment control practices.

Subd. 3.  Clearing: Any activity which removes the vegetative surface cover.

Subd. 4.  Designated official: The city administrative official authorized by the city council to administer this ordinance.

Subd. 5.  Drainage way: Any channel that conveys surface runoff throughout the site.

Subd. 6.  Erosion control: Any measures that prevent erosion.

Subd. 7.  Grading, drainage, and erosion control plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Subd. 8.  Grading: Excavation or fill of material, including the resulting conditions thereof.

Subd. 9.  Perimeter control: A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

Subd. 10.  Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

Subd. 11.  Sediment control: Any measures that prevent eroded sediment from leaving the site.

Subd. 12.  Site: A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Subd. 13.  Grading permit: A permit issued by the municipality for which the purpose is construction or alteration of ground.

Subd. 14.  Stabilization: The use of practices that prevent exposed soil from eroding.

Subd. 15.  Start of construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Subd. 16.  Watercourse: A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

Subd. 17.  Waterway: A channel that directs surface runoff to a watercourse, or to the public storm drain.

508.03.   Applicability.

The section shall be applicable to all subdivision, site plan, building permit and grading permit applications, unless eligible for an exemption or granted a waiver from the city.

508.04.   Exemptions.

Notwithstanding the provisions of this ordinance, the following activities are exempt from this ordinance and permit requirements:

a)  Agricultural activities, including nurseries.

b)  Any emergency activity which is immediately necessary for the protection of life, property or natural resources.

c)  An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit.

d)  Excavation for cemetery graves.

e)  Land disturbing activities that disturb less than one acre of land and are not located within the Shoreland Overlay District.

f)  The filling or mining of soil where the volume is less than 100 cubic yards and are not located within the Shoreland Overlay District.

508.05.   Permits.

No land owner or land operator shall receive any building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this section prior to commencing the proposed activity. The permit application must be accompanied by the following in order that the permit application be considered: a grading, drainage, and erosion control plan, stormwater management plan (when required), and a permit review fee.

Subd. 1.  Each application shall include the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by the appropriate permit escrow.

Subd. 2.  Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the grading, drainage, and erosion control plan, and that a certified contractor shall be on site on all days where construction or grading activity takes place.

Subd. 3.  Combined with other permits. Separate grading permit applications will not be required when combined with other approved permits from the city, provided that all other provisions of this ordinance are met. Therefore, separate grading permits will not be required for: approved building permits, approved development plans, approved mining permits, and other approved permits as determined by the city.

Subd. 4.  Security. The applicant shall file with the City of Independence a letter of credit or other improvement security in an amount deemed sufficient by the City of Independence to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City of Independence for engineering and inspection costs and to cover the cost of failure or repair of improvements installed on the site. The amount of the security shall be determined by the city. For commercial development, the security amount shall not be less than 150 percent of the approved estimated cost of performing said work. The estimated cost shall be determined by the city.

Subd. 5.  Review and approval.

(a)  The City of Independence will review each application for a site development permit to determine its conformance with the provisions of this section. Within 60 days after receiving an application, the city shall, in writing:

1.  Approve the permit application; or

2.  Approve the permit application subject to reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

3.  Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(b)  Failure of the City of Independence to act on original or revised applications within 60 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Independence.

Subd. 6.  Permits issued under this section shall be valid for the period during which the proposed land disturbing or filling activities and soil storage takes place or is scheduled to take place.

508.06.   Grading, drainage, and erosion control plan requirements.

The plan shall meet the criteria set forth in the most recent version of the standard specifications for developers.

508.07.   Modifications to the plan.

Subd. 1.  Major amendments of the grading, drainage, and erosion control plan shall be submitted to the City of Independence and shall be processed and approved, or disapproved, in the same manner as the original plans.

Subd. 2.  Field modifications of a minor nature may be authorized by the designated official by written authorization to the permittee.

508.08.   Design requirements.

Grading, erosion and sediment control practices shall be adequate to prevent transportation of sediment from the site to the satisfaction of the designated official. The design shall conform to the most recent version of the standard specifications and as specified herein:

Subd. 1.  *Clearing and grading.*

(a)  Clearing and grading of natural resources protection areas, including Shoreland Overlay District, wetlands or wetland buffers shall not be permitted, except when in compliance all other city ordinances.

(b)  Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used, to the satisfaction of the designated official.

(c)  Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the city engineer.

(d)  Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(e)  Cut and fill slopes shall be no greater than 3:1, except as approved by the designated official to meet other community or environmental objectives.

Subd. 2.  *Erosion control.*

(a)  Exposed soil (including stockpiles) must be stabilized according to the following schedule:

|  |  |
| --- | --- |
| Slope | Time (days of inactivity) |
| Steeper than 3:1 | 7 days |
| 3:1 to 10:1 | 14 days |
| Flatter than 10:1 | 21 days |

(b)  If vegetative erosion control methods, such as seeding, have not become established within 30 days, the designated official may require that the site be reseeded, or that a non-vegetative option be employed.

(c)  On steep slopes or in drainage ways, special techniques shall be used to ensure stabilization.

(d)  At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.

(e)  Best management practices shall be employed to prevent the blowing of dust or sediment from the site.

(f)  Best management practices that divert upland runoff past disturbed slopes shall be employed.

Subd. 3.  *Sediment controls.*

(a)  Sediment controls shall be provided and maintained per the standard specifications. All control measures shall be installed prior to commencement of any upstream construction activities.

(b)  Where possible, detention basins shall be designed in a manner that allows adaptation to provide long term stormwater management. Detention basins must be cleaned after permanent erosion control measures are in place or final stabilization has been established. The design of the detention basins shall be per the standard specifications.

(c)  Adjacent properties shall be protected by the use of a vegetated buffer strip where applicable, in combination with perimeter controls.

(d)  Soil stockpiles must be stabilized or covered at the end of each work day unless a perimeter control is in place.

Subd. 4.  *Waterways and watercourses.*

(a)  When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and all necessary approvals obtained from Department of Natural Resources.

(b)  When in-channel work is conducted, the channel shall be stabilized before, during and after work.

(c)  All on-site stormwater conveyance channels shall be designed to accommodate the design flows and velocities.

(d)  Stabilization adequate to prevent erosion must be provided at the outlets of all pipes.

Subd. 5.  *Construction site access.*

(a)  A temporary access designed in compliance with the standard specifications shall be provided at all sites.

(b)  Other measures may be required at the discretion of the city engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

Subd. 6.  *Other.*

(a)  Solid waste and hazardous waste controls shall be installed as per the standard specifications and guidelines as established within the NPDES general permit for construction activity.

(b)  Dewatering and basin draining shall be performed in conformance with the guidelines as established within the NPDES general permit for construction activity.

(c)  Concrete washout areas shall be constructed in conformance with the guidelines as established within the NPDES general permit for construction activity. Concrete washout areas will be required for all construction sites where on-site concrete washout is proposed.

(d)  For sites requiring a NPDES general permit for construction activity, the applicant shall submit the stormwater pollution prevention plan and permit application to the City of Independence for review.

508.09.   Inspection.

The designated official shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the grading, drainage, and erosion control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Independence shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the City of Independence at least two working days before the following:

Subd. 1.  Start of construction.

Subd. 2.  Erosion and sediment control measures are in place and stabilized.

Subd. 3.  Site clearing has been completed.

Subd. 4.  Rough grading has been completed.

Subd. 5.  Final grading has been completed.

Subd. 6.  Close of the construction season.

Subd. 7.  Final landscaping.

508.10.   Purpose.

The purpose of the inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures.

508.11.   Inspection for compliance.

After final stabilization of the site has been established, the designated official shall inspect the site for compliance with the approved grading, drainage, and erosion control plans.

508.12.   Violations.

Any activity that is commenced or conducted contrary to the section or the conditions of the permit may be restrained or otherwise abated in a manner provided by law.

(a)  *Notice of violation.* When the city determines that an activity is not being carried out in accordance with the requirements of the section, it shall issue a written notice of violation to the owner of the property. The notice of violation shall include:

1.  The name and address of the owner or applicant.

2.  The address or location of the property where the violation is occurring.

3.  A statement specifying the nature of the violation.

4.  A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the remedial action.

(b)  *Stop work orders.* Site operators receiving a notice of violation will be required to halt all construction activities. The "stop work order" will be in effect until the city confirms that the applicant is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation can result in a civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this section.

508.13.   Violation and penalties.

Subd. 1.  No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this section.

Subd. 2.  Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance is committed, continued or permitted, shall constitute a separate offense.

Subd. 3.  In addition to the other penalties authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

Subd. 4.  The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal or state law or city ordinances and it is within the discretion of the City of Independence to seek cumulative remedies.

508.14.   Compatibility with other permit and ordinance requirements.

This section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law.

508.15.   Severability.

The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this section.

## SECTION 509.   STORMWATER MANAGEMENT

(Added, Ord. No. 2012-07, § 1; Amended, Ord. No. 2012-09, § 2)

[509.01. Purpose.](#BK_EF25E6F663DF326B6BBE3EF177EA1096)

[509.02. Definitions.](#BK_E549F2D471DCCD6553273FF7986AE1CE)

[509.03. Applicability.](#BK_904A587000DCEED81187DB47CF4F4390)

[509.04. Stormwater management plan.](#BK_48276A406A4735B052AC3F457CAC8539)

[509.05. Wetland management standards.](#BK_3C24D4EEACF7B5F355C9AAF304C92338)

[509.06. Inspection and Maintenance.](#BK_4C7A074E4B522E0F1AE7349F603DD51E)

[509.07. Security.](#BK_D046E5081C10F57A8C7550ABC53F0136)

[509.08. Enforcement.](#BK_23F4825C701B8ADD1A6008AC3C894411)

[509.09. Compatibility with other requirements.](#BK_B0B1EA53D28ACF30047F968CC1599EBB)

[509.10. Severability.](#BK_77B7BDCE23C8EA6A743DB14ABB94B65C)

509.01.   Purpose.

Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, erosion, and sediment transport and deposition, and water-borne pollutants. The purpose of this ordinance is to protect and safeguard the general health, safety, and welfare of the public by regulating stormwater runoff and to protect local water resources from degradation.

509.02.   Definitions.

Subd. 1.  For the purposes of this section, the following terms shall mean:

Subd. 2.  Accelerated erosion: Erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Subd. 3.  Applicant: A property owner or agent of a property owner who has filed an application for a permit.

Subd. 4.  Building: Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Subd. 5.  Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Subd. 6.  Dedication: The deliberate appropriation of property by its owner for general public use.

Subd. 7.  Developer: A person who undertakes land disturbance activities.

Subd. 8.  Drainage easement: A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Subd. 9.  Fee-in-lieu: A payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.

Subd. 10.  Grading, drainage, and erosion control plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Subd. 11.  Impervious cover: Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Subd. 12.  Land disturbing activity: Any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity, which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Subd. 13.  Nonpoint source pollution: Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Subd. 14.  National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Subd. 15.  On-site management: A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Subd. 16.  Recharge: The replenishment of underground water reserves.

Subd. 17.  Site development permit: The permit issued by the municipality for which the purpose is construction or alteration of ground.

Subd. 18.  Stop-work order: An order issued which requires that all construction activity on a site be stopped.

Subd. 19.  Stormwater management: The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Subd. 20.  Stormwater management plan: The hydrologic analysis report and drainage area map(s) that provides the pre-development and post-development hydrologic site conditions.

Subd. 21.  Stormwater runoff: Flow on the surface of the ground, resulting from precipitation.

Subd. 22.  Wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

509.03.   Applicability.

Subd. 1.  This section shall be applicable to all subdivision, site plan, building permit or grading permit, unless eligible for an exemption or granted a waiver by the city. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan, or a waiver of the approval requirements, has been obtained with the provisions of this ordinance.

Subd. 2.  Exemptions. The provisions of this ordinance do not apply to:

(a)  The plowing, tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.

(b)  Additions or modifications to existing single-family structures.

(c)  Construction of single-family structures that disturbs less than one acre of land.

(d)  Site development of lots for which a stormwater management plan was approved as part of a larger common development plan.

(e)  Any emergency activity which is immediately necessary for the protection of life, property or natural resources.

Subd. 3.  Waivers. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. The city council, upon recommendation of the planning commission, may waive any requirement of this ordinance upon making a finding that compliance with the ordinance would cause an unnecessary hardship and the waiver of such requirement will not adversely affect the objectives of this ordinance. Requests to waive the stormwater management requirements shall be submitted to the city for approval.

Subd. 4.  In instances where meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site, the city may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the city that the waiver will not result in the following impacts to downstream waterways:

(a)  Deterioration of existing culverts and other structures.

(b)  Increase in stormwater runoff rates and volume, soil erosion, siltation, stream temperature, or nonpoint source pollution.

(c)  Accelerated streambank or streambed erosion or siltation.

(d)  Increased threat of flood damage to public health, life, property.

Subd. 5  Where compliance with minimum requirements for on-site stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the city. Mitigation measures may include, but are not limited to, the following:

(a)  The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance.

(b)  Monetary contributions (fee-in-lieu) to fund stormwater management activities that are designed to service multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

1.  Where the city waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the city.

2.  When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with the adopted fee schedule. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

(c)  Dedication of land. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the city for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the city prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

509.04.   Stormwater management plan.

Subd. 1.  It is the policy of the city to require development and redevelopment to control stormwater quantity and quality through a management approach of detention, infiltration basins, or other approved BMPs. Detention and infiltration basins, whether on-site or regional in nature, shall be designed to incorporate all requirements of the Minnesota NPDES/SDS General Stormwater Permit for Construction Activity (MN R100001).

Subd. 2.  The storm water management plan shall be in conformance with the requirements of the approved local water management plan for the city, as amended.

Subd. 3.  Facilities shall be designed in accordance with the approved local water management plan and standard specifications for the city, as amended.

Subd. 4.  Rate control and water quality standards apply to all new development.

Subd. 5.  Volume control standards apply to new development where there are hydrologic soil group A and B soils. The volume of the first one inch of runoff from the new impervious area shall be infiltrated.

Subd. 6.  Phosphorous loading reduction. Facilities shall be designed to reduce phosphorous loading at down gradient site boundaries such that there is no net increase in pollutant loads as a result of development.

509.05.   Wetland management standards.

Subd. 1.  The city finds that wetlands serve a variety of beneficial functions and values. Wetlands maintain water quality, reduce flooding and erosion, provide food and habitat for wildlife, provide open space, and are an integral part of the city's environment. Wetlands are important physical, educational, ecological, aesthetic, recreational, and economic assets to the city. They are critical to the city's supply of clean drinking water, stormwater management, and other aspects of health, safety, and general welfare. Regulating wetlands and the land uses around them is therefor in the public interest.

Subd. 2.  In order to protect wetlands, this chapter incorporates by reference the Minnesota Wetland Conservation Act of 1991 (hereinafter referred to as the WCA) and any future amendments adopted by the legislature.

Subd. 3.  Wetland function and value assessment. The city has found that wetlands vary significantly in the degree that they have been altered. Wetlands exhibit great variations in their overall quality. Therefore, the city has determined that it is necessary and beneficial to protect wetlands based on the needs for their existing quality. A wetland function and value assessment shall be required in accordance with the provisions of the approved local water management plan for the city, as amended. Function and value assessments shall be required when any of the following activities are proposed:

(a)  Subdivision.

(b)  Any projects with wetland impacts as defined by the WCA (Minn. R. 8420).

(c)  Wetland excavation greater than 0.5 acres.

Subd. 4.  Wetland buffer strips. In addition to having regulations that affect the physical impacts within wetland areas, regulatory agencies require the city to address potential non-point source impacts from future development with the establishment of buffer strip standards to complement the existing stormwater standards. A buffer strip is an upland area left in, or restored to, its natural state (non-turf grass) that surrounds a wetland or stormwater pond and reduces negative impacts to wetlands from adjacent development. Buffer strips are necessary because:

(a)  Drainage swales, ditches, storm sewers and culverts typically collect street and front yard drainage and direct the drainage to an appropriately sized pond for pre-treatment prior to discharge to a wetland or water body. Back yard drainage typically reaches wetlands or water bodies without any pretreatment thereby allowing lawn and garden chemicals, sediments, pet wastes, fertilizer, and other types of contaminants to directly impact the receiving water body.

(b)  To promote water quality by maintaining the ability of wetlands to recharge groundwater and receive the discharge of groundwater, to retain sediment and toxins, and to filter nutrients from surface water runoff before it discharges into receiving waters, thus avoiding the contamination and eutrophication of these water features.

(c)  To provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the city.

(d)  To preserve the natural character of the landscape through the restoration of wetland ecosystems.

Wetland buffers are unmowed areas adjacent to wetlands that contain non-invasive vegetation, preferably dense native vegetation. Buffers filter pollutants before they can enter the wetland, reduce erosion, protect vegetation diversity and wildlife habitat, and minimize human impacts to the wetlands. Buffers are required around all wetlands within new subdivisions, with the width dependent upon relative susceptibility.

1.  *Design standards.* Buffer strips shall be designed in accordance with the approved local water management plan and standard specifications for the city, as amended.

2.  *Buffer monuments.* Buffers shall be adequately marked with approved signage at maximum 200-foot spacing.

3.  *Minimum buffer widths.* Minimum widths are shown in Table 1 below.

Table 1. Wetland Management Standards

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Standards | Management Class | | | |
| Preserve | Manage 1 | Manage 2 | Manage 3 |
| Bounce (10-year) | Existing | Existing plus 0.5 feet | Existing plus 1 feet | No limit |
| Inundation Period  (1- and 2-year) | Existing | Existing plus 1 day | Existing plus 2 days | Existing plus 7 days |
| Inundation Period  (10-year) | Existing | Existing plus 7 days |  |  |
| Runout Control | No change | No change | 0 to 1 feet above  existing | 0 to 4 feet above  existing |
| Stormwater Treatment | Sediment and nutrient | Sediment and nutrient | Sediment | Sediment |
| Buffer Width | 35 feet | 25 feet | 20 feet | 20 feet |

509.06.   Inspection and Maintenance.

Subd. 1.  All stormwater management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes, and to be structurally sound. It shall be the responsibility of the applicant to obtain or provide any necessary easements or other property interests to allow for inspection and maintenance purposes.

During the application process, the city shall determine who the responsible party will be for the ownership and maintenance of all stormwater management facilities. The city may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. The city may assign the responsibility to a responsible party.

The responsible party shall enter into an agreement with the city that documents all responsibilities for operation and maintenance of all stormwater treatment facilities. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be executed and recorded against the property.

Subd. 2.  Maintenance agreement. The maintenance agreement shall be in a form approved by the city and shall at a minimum:

(a)  Designate the owner or responsible party, which shall be permanently responsible for maintenance of the structural or non-structural measures.

(b)  Pass responsibility for such maintenance to successors in title.

(c)  Grant the city and its representatives the right of entry for the purposes of inspecting all stormwater treatment facilities at reasonable times and in a reasonable manner. This includes the right to enter a property when the city has a reasonable basis to believe that a violation of this division or maintenance agreement is occurring or has occurred and to enter when necessary for the abatement of a public nuisance or correction and enforcement of a violation of this division or agreement.

(d)  Allow the city to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party. The agreement shall permit the city to certify the costs of the maintenance/correction to the taxes for the subject property.

(e)  Include a maintenance plan that contains, but is not limited to the following:

1.  Identification of all structural stormwater treatment facilities.

2.  A schedule for regular inspection, monitoring, and maintenance for each facility. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quantity, temperature and quantity of runoff.

3.  Identification of the responsible party for conducting the inspection, monitoring and maintenance for each facility.

(f)  Identify a schedule and format for reporting compliance with the maintenance plan to the city.

509.07.   Security.

The applicant shall file with the City of Independence a letter of credit or other improvement security in an amount deemed sufficient by the City of Independence to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City of Independence for engineering and inspection costs and to cover the cost of failure or repair of improvements installed on the site. The amount of the security shall be determined by the city. For commercial development, the security amount shall not be less than 150 percent of the approved estimated cost of performing said work. The estimated cost shall be determined by the city.

509.08.   Enforcement.

Subd. 1.  *Stop-work order and revocation of permit.* In the event that any person holding a site development permit violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the site development permit.

Subd. 2.  *Violations and penalties.*

(a)  No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this section.

(b)  Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any continued or permitted, shall constitute a separate offense.

(c)  In addition to the other penalties authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this section shall be required to bear the expense of such restoration.

(d)  The remedies listed in this section are not exclusive of any other remedies available under any applicable federal or state law or other city ordinances and it is within the discretion of the city to seek cumulative remedies.

509.09.   Compatibility with other requirements.

This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this section should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

509.10.   Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this section.

## SECTION 510.   ZONING: TITLE, PURPOSE AND DEFINITIONS

(Ord. No. 88, 12-26-1979, deleted in its entirety; Replaced by Ord. 2005-05)

[510.01. Title.](#BK_18FB5F6E87A1AC15EC426EAA60BA4CED)

[510.03. Intent and purpose.](#BK_E0307054874970EC6BDAA4AF42F98A37)

[510.05. Definitions.](#BK_AF9ADB367C79104AB974A1697D5432F3)

510.01.   Title.

Sections 510 through 545 of this Code are known as the "Independence Zoning Code."

510.03.   Intent and purpose.

This zoning code is adopted without limitation, for the following purposes:

(a)  To implement the policies of the city's land use plan;

(b)  To provide at appropriate locations, rural residential and agricultural living environments while preserving prime agricultural land and protecting marshes, water ways, lakes, trees, and other natural features and systems;

(c)  To limit development to areas that can economically be served by public services and to obtain maximum usage of such services before expansion;

(d)  To provide limited retail, commercial service, and industrial development;

(e)  To provide housing that will accommodate residents from all income levels;

(f)  To provide a framework within which public and private agencies and individuals can plan their development and expansion;

(g)  To protect the public health, safety, morals, comfort, convenience, and general welfare by guiding the future development of land;

(h)  To preserve the value of the existing and future dwellings by setting minimum standards for housing design and maintenance that will promote and maintain compatibility among widely varying housing choices;

(i)  To provide adequate habitable space and to provide adequate ingress, egress and a suitable shelter in the event of fire, storm, or other emergency.

510.05.   Definitions.

Subd. 1.  The following words and terms, and their derivations have the meanings given in this zoning code:

Subd. 2.  "Accessory dwelling unit." A secondary dwelling unit that is:

(Amended, Ord. No. 2011-09)

(a)  Physically attached to or within a single-family dwelling unit or within a detached a accessory building that has a principal structure on the parcel; and

(b)  Subordinate in size to the single-family dwelling unit; and

(c)  Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and

(d)  Architecturally compatible with the principal structure (using similar materials, finishes, style and colors similar to the principal structure); and

(e)  The lesser of 33 percent of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet. The total square footage shall not include a designated mechanical room or unfinished basement below the accessory dwelling unit; and

(Amended, Ord. No. [2017-03](http://newords.municode.com/readordinance.aspx?ordinanceid=846419&datasource=ordbank) , § 1)

(f)  Not in excess of the maximum square footage for accessory structures as permitted in this Code; and

(g)  Has permanent provisions for cooking, living and sanitation; and

(h)  Has no more than two bedrooms; and

(i)  Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and

(j)  Uses the existing on-site septic system b or an approved holding tank; and

(k)  Respectful of the future subdivision of the property and the primary and secondary septic sites. The city may require a sketch of the proposed future subdivision of a property; and

(l)  In compliance with the adopted building code relating to all aspects of the dwelling unit.

a On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.

b The existing on-site septic system will be required to be inspected by the city to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.

Subd. 3.  "Agriculture." The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

(a)  Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers.

(b)  Livestock as defined in subsection 510.05, subdivision 44.

(c)  Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

Subd. 4.  "Animal assisted therapy" or "AAT." A use of land and associated structures for the delivery of therapy to improve human physical, social, emotional, and/or cognitive functioning, in which animals that meet specific criteria are an integral part of the treatment process. AAT is goal-directed and is delivered by a health/human service professional with specialized expertise. AAT may be provided in a group or individual setting.

Subd. 5.  "Animal unit." A unit of measure comparing the size of domestic farm animals as follows:

|  |  |  |
| --- | --- | --- |
|  | Animal | Animal Unit |
| (a) | One mature dairy cow | 1.4 |
| (b) | One slaughter steer or heifer | 1.0 |
| (c) | One mature horse | 1.0 |
| (d) | One mature hog, sheep, llama, or goat | 0.5 |
| (e) | One mature domestic fowl | 0.01 |
| (f) | Other: the average weight of the animal divided by 1,000 pounds | |

Subd. 6.  "Application." The documents and written material by which a property owner justifies a request for a building permit, a zoning amendment, a conditional use permit, a variance, an appeal, or other request for approval, relief or consideration, which must include all information on any application form approved by the city administrator-clerk.

Subd. 7.  "Berm." An earthen mound or series of mounds used as a buffer between two uses of land.

Subd. 8.  "Buildable acres." Land that is not classified as floodplain or wetland, that is contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments.

Subd. 9.  "Building." A structure having a roof supported by columns or walls.

Subd. 10.  "Building height." The vertical distance from the finished first floor grade to the coping of a flat roof, to the deck line 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 midpoint of the highest gable on a pitched or hip roof.

Subd. 11.  "Bunkhouse." A building accessory to a principal use that contains sleeping quarters for one or more persons who are employed in connection with the principal use of the premises.

Subd. 12.  "City." The City of Independence, Hennepin County, Minnesota.

Subd. 13.  "City council." The governing body of the city of Independence.

Subd. 14.  "Church." A building or use of land in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to promote religious worship.

Subd. 15.  "Conditional use." A use permitted in a particular zoning district only upon showing that the use in a specified location will comply with all standards herein for the location or operation of the use. The city may impose additional conditions in specific instances to protect the public health, safety or welfare.

Subd 16.  "Contractor's office." A building, with accessory outdoor storage, that serves as the headquarters for contractors involved in specialized activities such as plumbing, painting, plastering, masonry, carpentry, roofing, well drilling, landscaping and the like, where office activities take place and where tools, equipment and materials used in the business are stored.

Subd. 17.  "Division." The division of a parcel of land into two or more lots.

Subd. 18.  "Drainage system." Any natural or artificial feature or structure used for the conveyance, drainage, or storage of surface and/or underground water, including, but not limited to, streams, rivers, creeks, ditches, channels, conduits, gullies, ravines, washes, lakes or ponds and structures such as culverts, drainage tile, dams, bridges and water storage basins.

Subd. 19.  "Driveway." A private path for vehicular access to a public road, which is wholly located on the lot that is afforded access.

Subd. 20.  "Driveway, common." An easement encumbered by a common driveway agreement that provides for access, construction, maintenance and financing of private vehicular and pedestrian access to not more than three lots. A common driveway shall be considered if evidence of the following standards is met:

(Added, Ord. No. 2010-06)

(a)  Extension of a public street is not physically feasible as determined by the city. If the city determines that there is need for such extension, this provision shall not apply, and the right-of-way for a public street shall be provided by dedication in the plat; or

(Added, Ord. No. 2010-06)

(b)  The city determines that a public road extension would adversely impact natural amenities, including wetlands or stands of mature trees containing deciduous trees greater than 12 inches in diameter or coniferous trees greater than 25 feet in height; or

(Added, Ord. No. 2010-06)

(c)  There is no feasible present or future means of extending right-of-way from other directions; and

(Added, Ord. No. 2010-06)

(d)  Covenants which assign driveway installation and future maintenance responsibility are submitted and recorded with the titles of the parcels which are benefitted. The city will not provide maintenance or snow plowing for common or shared access driveways; and

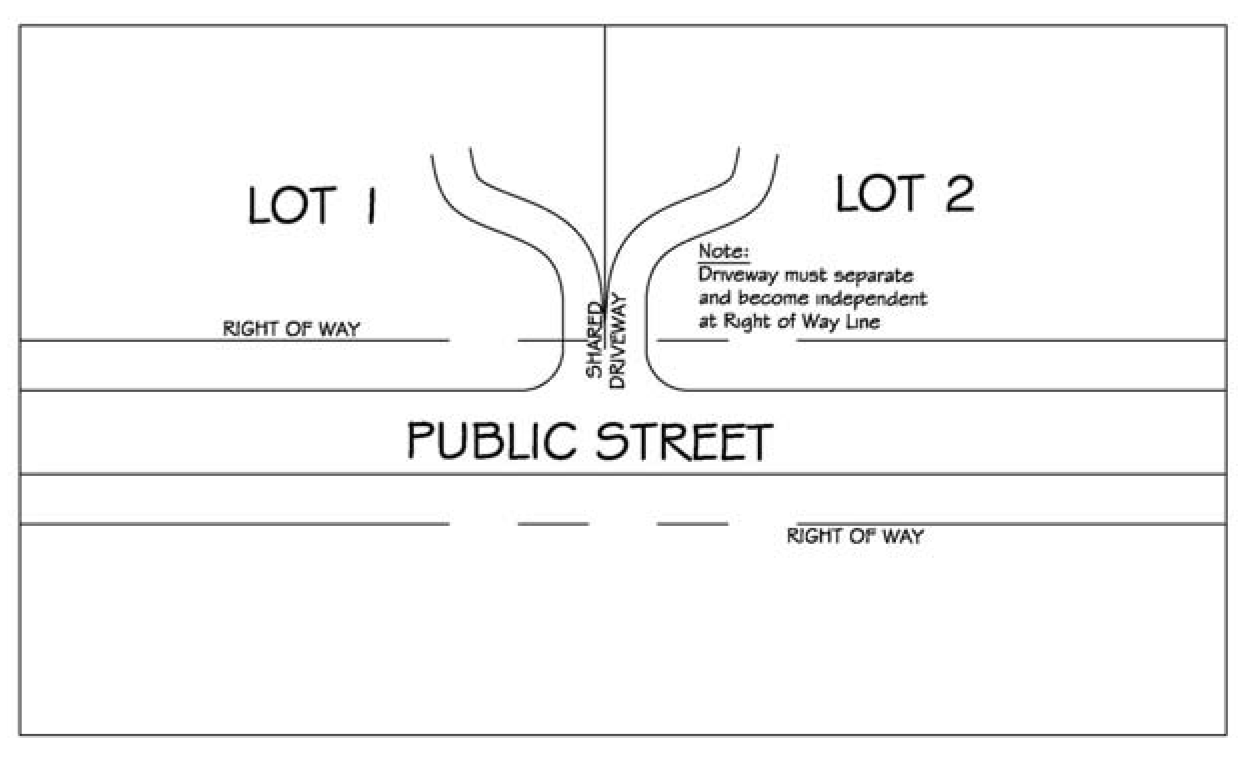
(Added, Ord. No. 2010-06)

(e)  Common driveways shall be constructed in accordance with the provisions established in the City of Independence Manual of Standards.

(Added, Ord. No. 2010-06)

Subd. 21.  "Driveway, shared access." Means a shared entry off of a public street serving two lots which meets the city's shared driveway configuration standards.

(Added, Ord. No. 2010-06)



Subd. 22.  "Dwelling unit." A single residential accommodation that is arranged, designed, used or intended for use, as the living quarters for one family.

Subd. 23.  "Dwelling, single-family." A building containing no more than one dwelling unit.

Subd. 24.  "Easement." A grant by a landowner for a specific use of land by the grantee.

Subd. 25.  "Essential services." Public conduits, including their appurtenant structures, used to provide sewage removal, water supply, power fuel, communications, and any other public convenience or necessity.

Subd. 26.  "Extraction." The removal of more than 100 cubic yards of sand, gravel, soil, peat, or other earthen deposits from a lot, except when such removal is part of construction under an approved building permit or conditional use permit.

Subd. 27.  "Family." Family is any of the following:

(a)  An individual;

(b)  Two or more persons related by blood, marriage or adoption and maintaining a common household;

(c)  A group of not more than five unrelated persons maintaining a common household.

Subd. 28.  "Farm." A lot, the principal use of which is agriculture.

Subd. 29.  "Farm building." Any accessory building or accessory structure, other than a single-family dwelling, which is used in a farming operation, including, but not limited to, a barn, granary, silo, farm implement storage building or milk house.

Subd. 30.  "Farriery." The establishment or the occupation of the shoeing of horses.

Subd. 31.  "Feedlot." A building or use of land intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of the zoning code, open lots used for the feeding and rearing of poultry (poultry ranges) are considered to be feedlots. Pastures are not considered feedlots under this zoning code.

Subd. 32.  "Fence." A partition intended as a dividing marker, a barrier, or an enclosure.

Subd. 33.  "Floor area." The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls.

Subd. 34.  "Forestry." The cultivation and management of forests or woods located on the premises, including: felling and trimming of timber; transportation of timber and timber logs, pulpwood, cordwood and similar products; sawing of logs into lumber and similar operations.

Subd. 35.  "Forestry products processing." The storage and processing of trees and tree products (excluding seeds and fruits), including sawmills and chipping operations but excluding the importing, storage or resale of manufactured lumber products or firewood.

Subd. 36.  "Frontage." The distance between the side lot lines of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 37.  "Garage, private." An accessory building or accessory portion of the principal building that is intended for storage of the private passenger vehicles of the family residing upon the lot.

Subd. 38.  "Glare." A light source that is located, directed or controlled such that the light source itself is visible from a point four feet above the ground or higher at any point off the lot on which the light source is located.

Subd. 39.  "Guest house." A separate building constructed on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal building or their non-paying guests, and consisting only of one or more sleeping rooms with or without bathrooms.

Subd. 40.  "Historical site." A structure or area of land or water of historic, archeological, paleontological or architectural value that has been designated as a historic site in the federal register of historical landmarks, the Minnesota historical society, or by a local governmental unit.

Subd. 41.  "Home occupation." Any occupation, business, or profession carried on within or from a dwelling unit by a person who occupies the dwelling unit as a principal residence which use is clearly secondary to the principal use of the lot as a dwelling unit.

Subd. 42.  "Horticulture." The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.

Subd. 43.  "Interim use." A temporary use of property until a particular date, or until the occurrence of a particular event.

Subd. 44.  "Irrigation system." Any structure or equipment, mechanized or otherwise, used to supply water for agriculture or horticulture, including, but not limited to, wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.

Subd. 45.  "Kennel." Any structure or premises on which four or more dogs over six months of age are kept.

Subd. 46.  "Livestock." Cattle, hogs, horses, bees, sheep, goats, llamas, chickens and other animals and fowl commonly kept for food production.

Subd. 47.  "Local government buildings." Public structures housing public facilities or services including, but not limited to, city halls, police stations, fire stations, libraries and highway maintenance facilities, but excluding schools.

Subd. 48.  "Lot." A parcel of land separated from other parcels by legal description.

Subd. 49.  "Lot area." The contiguous horizontal plane bounded by the lot lines.

Subd. 50.  "Lot, corner yard." Any property line that abuts or is bounded by two or more rights-of-way.

(Amended, Ord. No. [2015-06](http://newords.municode.com/readordinance.aspx?ordinanceid=856046&datasource=ordbank) , § 1)

Subd. 51.  "Lot depth." The average horizontal distance between the front lot line and the rear lot line.

Subd. 52.  "Lot line." A line defining the horizontal plane of a lot.

Subd. 53.  "Lot line, front." The line connecting the side lot lines of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 54.  "Lot line, rear." The lot line that is opposite the front lot line. If the rear line is less than ten feet in length or if the lot forms a point at the rear, the rear lot line is a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Subd. 55.  "Lot line, side." Any lot line that is not a front lot line or a rear lot line.

Subd. 56.  "Lot of record." A lot that satisfied the physical standards for width, depth, density, area and right-of-way frontage established by law, either:

(a)  On the date the lot was first subject to a written, verified and recordable contract for deed; or

(b)  On the date the lot was recorded with the Hennepin county recorder, after approval by the city council as a division or subdivision.

Subd. 57.  "Lot width." The maximum horizontal distance between the side lot lines measured parallel to and 50 feet from the front lot line.

Subd. 58.  "Mobile home." A dwelling unit bearing the seal of the state building inspector classifying it as a mobile home.

Subd. 59.  "Non-rental guest apartment." An apartment within the principal residence structure or its garage on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal residence, including their fulltime domestic employees or non-paying guests.

Subd. 60.  "Open space use." A use oriented to and utilizing the outdoors, including an area having an unimproved natural character or an area including parks, trails, waysides, and general recreation uses.

Subd. 61.  "Ordinary high water mark." A mark delineating 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. In areas where the ordinary high water mark is not evident, setbacks must be measured from the stream bank of the following water bodies that have permanent flow or open water; the main channel, adjoining side channels, backwaters, and sloughs.

Subd. 62.  "Poultry facility." A fenced area or structure used intensively for raising, feeding, breeding or holding chickens, turkeys or other poultry for eventual sale.

Subd. 63.  "Principal structure or use." The predominant purpose or activity for which the land, structure or building thereon is designed, arranged, or intended or for which it is occupied or maintained.

Subd. 64.  "Property line." The legal boundaries of a lot.

Subd. 65.  "Recreation, commercial." A privately owned business or lot offering recreational uses, services, or equipment for a fee.

Subd. 66.  "Recreation, public." A recreation use, facility, service, or equipment owned and operated by a governmental unit.

Subd. 67.  "Recreation use." Recreational facilities, services, equipment, or uses which may include water bodies and accessory buildings maintained for active or passive recreation including, without limitation, parks, playgrounds, golf courses, hunting preserves, equestrian facilities, nature trails, bridle paths, ski trails, picnic grounds, wildlife and nature areas.

Subd. 68.  "Relative." A father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law, grandparent or grandchild.

Subd. 69.  "Riding stable, commercial." Stables, barns, and facilities for the keeping and riding of horses, both indoor and outdoor, operated as a livery or boarding stable, or other commercial recreational use.

Subd. 70.  "Right-of-way." Land designated by the city council for public vehicular and pedestrian traffic by easement, dedication, statutory user, common law dedication, or other instrument or legal right.

Subd. 71.  "Road, private." An easement encumbered by a private road agreement that provides for access, construction, maintenance and financing of private vehicular and pedestrian access to one or more lots.

Subd. 72.  "Schools." Includes public and private nursery, elementary, secondary and college institutions.

Subd. 73.  "Setback area." The area of a lot between the lot line and the building setback line in which buildings and structures are prohibited by this zoning code.

Subd. 74.  "Setback, building." A line within a lot that establishes the minimum distance between the lot line and the nearest portion of a structure.

Subd. 75.  "Setback area, front yard." The setback area between the building setback line and the right-of-way.

Subd. 76.  "Setback area, rear yard." The setback area between the building setback line and the rear lot line.

Subd. 77.  "Setback area, side yard." The setback area between the building setback line and the side lot line.

Subd. 78.  "Solar energy system (SES)." A device or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 1)

Subd. 79.  "Solar energy system, building integrated." A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building, examples of which are roofing materials, windows, skylights, and awnings.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 1)

Subd. 80.  "Solar energy system, ground-mounted." A freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 1)

Subd. 81.  "Sign." Any publicly displayed message-bearing device or attention attracting device used for visual communication the primary purpose of which is to bring the subject thereof to the attention of the public, including any banner, pennant, symbol, valance, or similar display. See section 550, Signs, for additional definitions.

Subd. 82.  "Storage barn." A barn constructed for agricultural purposes and used for the storage of materials that are not held for rental or resale to the public.

Subd. 83.  "Street" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel.

(Added, Ord. No. 2010-06)

Subd. 84.  "Street, private," means a street serving as vehicular access for more than three parcels of land in which the right-of-way underlying the street is not dedicated to the public, but is owned by one or more private parties. The construction and maintenance provisions of said private street shall be set forth in writing by the city council and recorded in the office of the Hennepin county recorder. Private roads are strongly discouraged. Private roads may be considered by the city if extenuating circumstances prohibit a public road from being constructed.

(Added, Ord. No. 2010-06)

Subd. 85.  "Structure." Any construction consisting of one or more parts jointed or erected in a definite form and having a temporary or permanent location on the ground.

Subd. 86.  "Use, nonconforming." Any structure or use lawfully existing upon the effective date of this zoning code or an amendment hereto that does not conform to the provisions of this zoning code or amendment. Unless otherwise expressly provided by this zoning code or amendment, a nonconforming use may be continued subject to the conditions in subsection 515.07.

Subd. 87.  "Use, permitted." A use that may be lawfully established in a particular zoning district if it conforms to all requirements, regulations and performance standards in that zoning district.

Subd. 88.  "Variance." Any deviation from the regulations of this zoning code, except deviations from the uses permitted in a zoning district, that is approved by the city council in accordance with subsections 520.15, 520.17 and 520.19.

Subd. 89.  "Wind energy conversion systems (WECS)." A device that converts wind energy into a usable form of power; also known as a wind turbine. The mechanism may include a rotor, shaft or gearing, generator or alternator, supporting structure, foundation and guy wires.

(Amended, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 1)

## SECTION 515.   ZONING: GENERAL PROVISIONS

[515.01. Rules of construction.](#BK_3D30B974D7478507F6241AA1FB9D7D71)

[515.03. Application.](#BK_74A8E50986980061D76555626DFBC914)

[515.05. Separability.](#BK_3186B5A0E2EB888EBC3023250012F9C2)

[515.07. Nonconforming uses.](#BK_28DB95F395E03D85A10D96C8CFE7DDB3)

[515.09. Home occupations.](#BK_80C36FD5615256453F2FA9502CB0F58C)

[515.11. Solar energy systems.](#BK_21D6FA3755322BCE5F59ED92C9554005)

[515.12. Minimum size for residential dwellings.](#BK_8CEBF9A4D5E93E31C8CBEAD0D3B3044E)

[515.13. Opt-out of Minn. Stats. § 462.3593.](#BK_7EEC71CDCFBBBEEB1926BBFEF4ACF1B6)

515.01.   Rules of construction.

The following rules of construction apply to this zoning code:

(a)  Words and phrases are construed according to rules of grammar and according to their common and approved usage; technical phrases and other words that have acquired a special meaning, or are defined in this zoning code, are construed according to that special meaning or definition;

(b)  The singular includes the plural, and the plural, the singular, the present tense includes the past and future tenses and the future includes the present;

(c)  Where a general provision conflicts with a more particular provision, the two must be construed, if possible, so as to give effect to both; if the conflict is irreconcilable, the particular provision prevails unless the general provision was enacted later in time, in which case the general provision prevails;

(d)  The council does not intend a result that is absurd, unreasonable, or impossible of execution, and intends to favor the public interest over any private interest;

(e)  The council intends all provisions of this zoning code to be effective but does not intend to violate the constitution or laws of the United States or the State of Minnesota;

(f)  No provision of this zoning code may be deemed ineffective by failure to use or enforce it;

(g)  All measured distances expressed in feet must be rounded to the nearest tenth of a foot.

515.03.   Application.

This zoning code must be applied and enforced as follows:

(a)  In their interpretation and application, the provisions of this zoning code must be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare;

(b)  Where the conditions imposed by any provision of this zoning code are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations that are more restrictive or that impose higher standards or requirements prevail;

(c)  This zoning code is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the city by private declaration or agreement, but where the provisions of this zoning code are more restrictive than any easement, restriction or covenant, or the provision of any private agreement, the provisions of this zoning code prevail;

(d)  Except as this zoning code specifically provides, no structure may be erected, moved in, converted, enlarged, reconstructed or altered, and no structure or land may be used for any purpose or in any manner that is not in conformity within this zoning code;

(e)  Whenever in any zoning district a use is neither specifically permitted nor specifically prohibited, the use shall be considered prohibited unless the city council determines that the use is sufficiently similar to a permitted use such that the use should be deemed to be permitted;

(f)  No more than one principal use or structure is permitted on any lot in any zoning district. No accessory structure is permitted prior to the construction of the principal structure. No accessory use is permitted prior to the establishment of the principal use;

(g)  The physical standards of this zoning code relative to the width, depth, area, right-of-way frontage, and density may not prevent a lot of record, as defined herein, from being used for a permitted use within the zoning district.

515.05.   Separability.

Every section, provision or part of this zoning code or any permit issued pursuant to this zoning code is declared separable from every other section, provision or part thereof in accordance with the following:

(a)  If any court of competent jurisdiction adjudges any provisions of this zoning code to be invalid, the judgment will not affect any other provision of this zoning code not specifically included in the judgment.

(b)  If any court of competent jurisdiction adjudges invalid the application of any provision of this zoning code to a particular property, building, or structure, the judgment will not affect other property, buildings, or structures.

515.07.   Nonconforming uses.

Any structure or use lawfully existing upon the effective date of this zoning code or an amendment hereto that does not conform to the provisions of this zoning code or amendment is a nonconforming use. Unless otherwise expressly provided by this zoning code or amendment, a nonconforming use may be continued subject to the following conditions:

(a)  No nonconforming use may be expanded or enlarged without bringing the entire nonconforming use into conformity with the provisions of this zoning code, except as follows:

(Amended, Ord. No. 2011-07)

(1)  There may be no expansion, enlargement, or intensification, of any use or any site element of any non-conforming use except to make it a permitted use or except as otherwise provided in this subdivision. Expansion, enlargement or intensification of conforming aspects of a non-conforming development are excepted from this requirement. For example, if a structure has a non-conforming setback, it may be expanded as long as the expansion itself meets ordinance requirements.

(2)  A variance, pursuant to 520.19 of this section, is required if the expansion will intrude into one or more setback areas beyond the distance of the existing structure or will exceed the height or size limitations in this section by a distance or amount greater than the existing structure. For example, if the building currently has a front setback of 30 feet when 35 feet is required, and the expansion would reduce the setback to 25 feet, then a variance is required.

(b)  If a nonconforming use is discontinued for a period of one year, further use of the structures or lot must conform to this zoning code;

(c)  If a nonconforming use is replaced by another use, the new use must conform to this zoning code;

(d)  If a nonconforming structure is destroyed by any cause to an extent exceeding 50 percent of its fair market value, and no building permit has been applied for within 180 days of when the property is damaged subject to reasonable conditions on the building permit to mitigate any newly created impact on adjacent property, the nonconforming structure may not be rebuilt or repaired unless the structure is brought into conformity with this zoning code. If the property is less than 50 percent destroyed, then the nonconforming use may be continued, irrespective of the 180-day rule so long as the discontinued use or occupancy is not greater than one year;

(Amended, Ord. No. 2011-07)

(e)  Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations that do not extend or intensify the nonconforming use.

515.09.   Home occupations.

Subd. 1.  *Purposes.* The purposes of this subsection are to:

(a)  Allow for home occupations that are appropriate for residential settings; and

(b)  Protect the property rights of neighbors.

Subd. 2.  *Compliance required.* A home occupation may be established and conducted only in accordance with this subsection.

Subd. 3.  *Subordinate use.* A home occupation is an accessory use to a residential dwelling unit. The home occupation use must be clearly subordinate to the residential use of the property and must be conducted by a person or persons who reside in the dwelling.

Subd. 4.  *Requirements.* A home occupation must comply with the following requirements:

(a)  The home occupation must occur entirely within the principal dwelling unit;

(b)  No more than one person not residing in the dwelling unit may be employed or otherwise engaged in the home occupation on the site or report to the site in connection with performing the home occupation;

(c)  No over-the-counter retail sales may occur on-site but a limited number of customers, clients, patients or students may visit the site in connection with the home occupation;

(d)  No outdoor storage of equipment or materials shall be permitted;

(e)  All vehicles used in connection with the home occupation or making deliveries to or pick-ups from the site in connection with the home occupation must comply with all applicable weight restrictions on public roadways within the city;

(f)  No materials, equipment or parts used in the home occupation may be stored on the premises other than within the dwelling unit;

(g)  No signs relating to the home occupation may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning code;

(h)  No exterior alterations may be made to the dwelling unit to accommodate the home occupation except those alterations customarily found with dwelling units on lots of similar size within the district;

(i)  No light, glare, noise, vibration, dust, smell or other evidence of the home occupation may be perceptible beyond the boundaries of the lot except such as are customarily associated with residential use;

(j)  No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located;

(k)  There must be adequate off-street parking for the anticipated number of persons on the site in connection with the home occupation at any one time;

(l)  The hours and days during which the home occupation conducts business on the premises must be limited so as not to unreasonably interfere with the residential character of the surrounding area;

(m)  The home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations; and

(n)  (Deleted, Ord. No. 2005-11)

515.11.   Solar energy systems.

Subd. 1.  The purpose of this subsection is to provide design and performance standards pertaining to solar energy systems.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

Subd. 2.  Compliance required. A solar energy system is permitted only in accordance with this subsection.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

Subd. 3.  Permitted districts. Solar energy systems are only permitted in accordance with the following table:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Type of Use | Zoning Districts | | | | |
| AG  Agriculture | RR-Rural  Residential | UR-Urban  Residential | CLI-Commercial  Light Industrial | UC-Urban  Commercial |
| Building Integrated Solar Energy System | A | A | A | A | A |
| Ground Mounted Solar Energy System | C | C | C | C | C |
| P—Permitted  A—Accessory   C—Conditional  I—Interim | | | | | |

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

Subd. 4.  Building integrated solar energy systems shall conform to the following standards:

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(a)  Solar panels (photovoltaic and solar thermal systems) can be located on pitched and flat roofs of all principal and accessory buildings within the city.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(b)  Solar panels mounted on a pitched roof shall not have a highest finished pitch more than five percent steeper than the roof pitch on which the system is mounted, and shall be no higher than 12 inches above the roof. Solar panels mounted on a flat roof shall not extend more than five feet above the roof surface. Solar panels cannot exceed the maximum structure or accessory building height for the structure they are mounted on.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(c)  Solar panels, mounting structures and all accessory components shall be set back a minimum of four feet from the outside edge (or inside edge of the parapet) of a flat roof to minimize visibility and allow roof access.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(d)  Solar panels, solar devices, mechanical equipment and mounting structures shall have non-reflective finishes to eliminate glare.

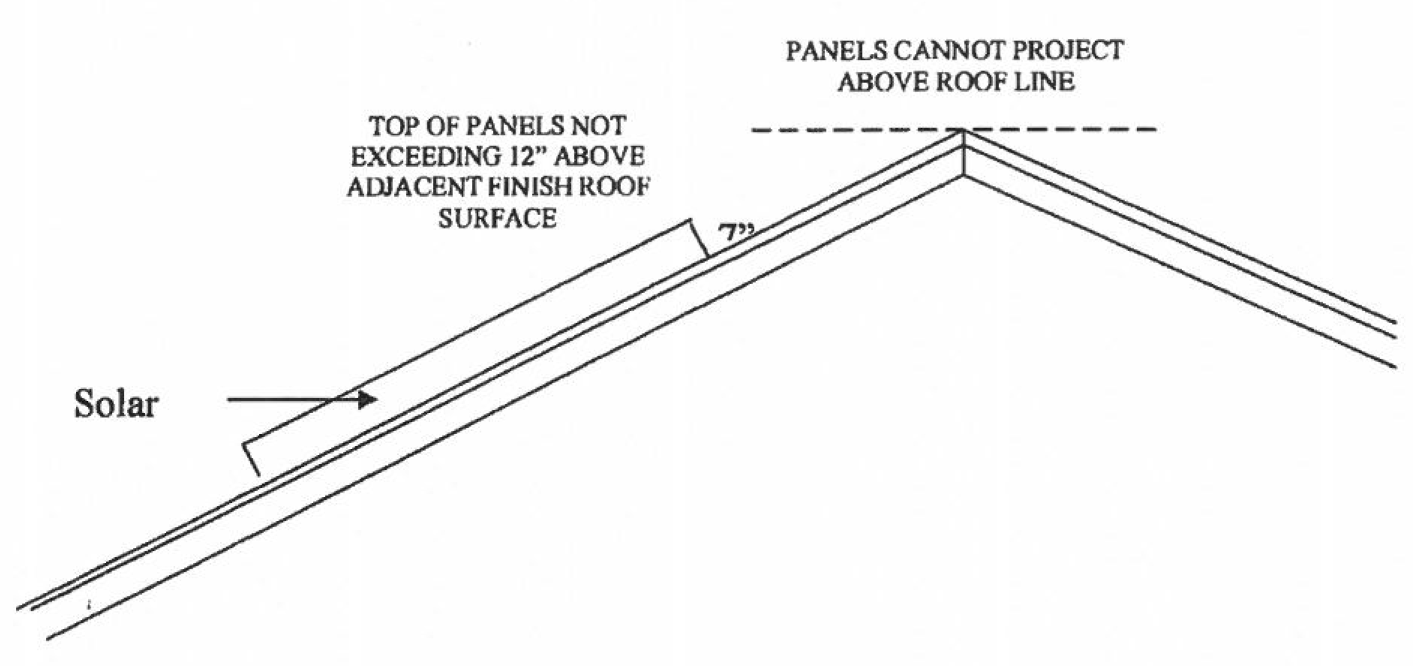
(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(e)  Solar panel frames and support structures should be constructed of a neutral color and compatible with the roof surface color.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(f)  Solar panels shall be placed in a uniform manner. Consider the panels as part of the overall roof configuration. Match the slope and proportions of the array with the shape and proportions of the roof.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)



Subd. 5.  Ground-mounted solar energy systems shall conform to the following standards:

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(a)  Ground-mounted systems shall only be allowed on a parcel with an existing principal structure.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(b)  Ground-mounted systems shall be located only in rear or side yards.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(c)  Ground-mounted systems shall not be located in the Shoreland Overlay District.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(d)  Ground-mounted systems shall be wholly screened from view from the public right-of-way and adjacent residential structures. Methods for screening shall include berming, fencing, landscaping and/or combination thereof.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(e)  Ground-mounted systems shall be located on a parcel of at least 2.5 acres.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(f)  Ground-mounted systems shall be setback 40 feet from the rear yards.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(g)  Ground-mounted systems shall be setback 30 feet from the side yards.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(h)  Ground-mounted systems shall have a maximum area of 500 SF.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(i)  The maximum height for any component of the system shall be 15 feet.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(j)  Ground-mounted systems shall be in compliance with any applicable local, state and federal regulatory standards, including building, electrical and plumbing codes.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

(k)  Ground-mounted systems and their support structures shall be designed by a certified professional to meet applicable professional standards for the local soil and climate conditions.

(Added, Ord. No. [2016-02](http://newords.municode.com/readordinance.aspx?ordinanceid=846410&datasource=ordbank) , § 2)

515.12.   Minimum size for residential dwellings.

All residential dwellings must be a minimum of 24 feet in width and 30 feet in length, and must contain a minimum of 720 square feet of habitable floor space. Length and width must be measured from the outside of the exterior siding or facia and habitable floor space must be measured from the inside of the interior wall surface. Interior partitions must not be considered.

515.13.   Opt-out of Minn. Stats. § 462.3593.

Pursuant to authority granted by Minn. Stats. § 462.3593, subd. 9, the City of Independence opts-out of the requirements of Minn. Stats. § 462.3593, which defines and regulates temporary family health care dwellings.

(Added, Ord. No. [2016-03](http://newords.municode.com/readordinance.aspx?ordinanceid=846411&datasource=ordbank) , § 1; Amended, Ord. No. [2016-04](http://newords.municode.com/readordinance.aspx?ordinanceid=846412&datasource=ordbank) , § 1)

## SECTION 520.   ZONING: ADMINISTRATION

[520.01. Planning commission established and continued.](#BK_DBE762D83CEE9C9260D4FC8E6237CEC2)

[520.03. Duties.](#BK_55C05692CA2CCC929B352D1C6F00A86C)

[520.05. Procedure on zoning amendments.](#BK_4830F8A137CFF8E2237B7CACA96700EE)

[520.07. Criteria on zoning amendments.](#BK_064DE1A8C32F5FC5A003C4A6EBA12575)

[520.09. Procedure for conditional use permits.](#BK_64C9561880557ABF5D7422DAAFC1DCE0)

[520.11. Criteria for granting a conditional use permit.](#BK_3EFEC5E81F0A44F51F76925583DEC70E)

[520.13. Conditions and restrictions.](#BK_E4760F8E424494BF8313CE6E0275D818)

[520.15. Procedure for interim use permits.](#BK_5E821AA9B763C55057927476B2B9DD3D)

[520.17. Criteria for granting an interim use permit.](#BK_17BB001F7F4F8CFF5D84BE9377B5B04D)

[520.19. Procedures on variances.](#BK_26865F518163C4D7EAAC769A7092738B)

[520.21. Standards for granting variances.](#BK_E590E57686599239A16D74C698537CE2)

[520.23. Conditions and restrictions.](#BK_744C566FDD4780B91B1EA5249F138B90)

[520.25. Site plan approval procedure.](#BK_11A531D4ADCA1CE99C4EDE5733F69F46)

[520.27. Appeals procedure.](#BK_A33FF11B27FCCB18C9A749FC621D2658)

[520.29. City administrator-clerk duties.](#BK_D3647CD65823EB9ED0863C85D9AD0E2C)

[520.31. City building inspector duties.](#BK_846DACD6CC9BE438EB95F71C3A00486C)

[520.33. City zoning administrator.](#BK_85755D8B3FB6FF05FBFFDDD3C22C9AFA)

[520.35. Planning commission recording secretary.](#BK_7D26DC1AAE0EA70702CCB3921BD062EC)

[520.37. Enforcement.](#BK_4567C92F8F6EF65AE4F1ECE0A229CFAE)

520.01.   Planning commission established and continued.

Subd. 1.  The city council hereby establishes and continues a planning commission consisting of five members, each of whom must be a resident of the city. Planning commissioners are appointed by majority vote of the city council and serve for a term of three years and until a successor has been appointed and qualified. A planning commissioner may be removed by an affirmative vote of two-thirds of all of the members of the city council.

Subd. 2.  "Planning commission organization." At its first meeting in January of each year, the planning commission must elect a chairperson by majority vote and may adopt reasonable rules of procedure for the conduct of its meetings.

Subd. 3.  "Officers." The city council must appoint a zoning administrator. The zoning administrator creates and maintains files and records on each application that comes before the planning commission and formally presents applications to the planning commission. The city council must appoint a planning commission recording secretary, who may not be a member of the city council or planning commission, and who prepares, maintains and forwards to the city administrator-clerk, minutes of all planning commission meetings. The secretary and the zoning administrator have those additional duties as may be assigned by the city council or by the provisions of this zoning code. The planning commission may elect a vice-chairperson and other officers and committees as it deems necessary.

520.03.   Duties.

Subd. 1.  The planning commission has the following duties:

Subd. 2.  The planning commission may, upon its own motion or upon direction of the city council, review the city's comprehensive plan and its zoning code and recommend any appropriate amendments and changes to the city council.

Subd. 3.  The planning commission must review all applications for conditional use permits and for zoning amendments, conduct all appropriate public hearings thereon and make recommendations on the applications to the city council.

Subd. 4.  The planning commission acts as the board of appeals and reviews applications where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning code and makes recommendations to the city council on the appeals.

Subd. 5.  The planning commission acts as the board of adjustment and reviews all applications for a variance from the regulations of the zoning code, conducts all appropriate public hearings thereon and makes recommendations on the applications to the city council.

Subd. 6.  Whether acting as the planning commission, the board of appeals, or the board of adjustment, the planning commission must keep minutes of its proceedings and make a specific recommendation on each application that comes before it. The planning commission is encouraged to make specific findings of fact on material disputed issues. A copy of its findings and its recommendations will be served on the applicant by first class mail and will be forwarded to the city council for a final decision. Failure to provide a copy of the findings and recommendations to the applicant does not invalidate any subsequent action by the city council.

520.05.   Procedure on zoning amendments.

Subd. 1.  An amendment to the text of the zoning code or the zoning map may be initiated by the city council, the planning commission, or by application of a property owner. Individuals wishing to initiate an amendment to the zoning map must complete and submit to the city administrator-clerk an application for a zoning amendment together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 2.  An application for an amendment to the zoning map must include a general development plan. The general development plan must be drawn to scale showing topography with a contour interval not greater than ten feet and must include the following:

(a)  The proposed site with reference to existing development on adjacent properties;

(b)  Proposed public and private road arrangements, walkways, and recreation and open space and other public areas;

(c)  General location of proposed structures;

(d)  General location of parking areas;

(e)  Soil classifications and ground water elevation;

(f)  General locations of wells and on-site sewage treatment systems;

(g)  General drainage pattern;

(h)  Plans and proposals generally describing the applicant's future expansion plans and intentions.

Subd. 3.  The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsection 520.05, subdivisions 1 and 2 has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4.  The planning commission must hold a public hearing on the proposed zoning amendment. Notice of the time, place, and subject matter of the proposed zoning amendment must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5.  The planning commission is encouraged to make written findings and recommendations on the proposed zoning amendment to the city council.

Subd. 6.  Following referral by the planning commission, the city council must approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7.  No application of a property owner for an amendment to the text of the zoning code or the zoning map may be considered by the planning commission within a one-year period following a denial of the same or similar request, except the planning commission may proceed on its own motion if the planning commission finds new evidence or a change of circumstances warrant it.

520.07.   Criteria on zoning amendments.

Subd. 1.  The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments.

Subd. 2.  Zoning amendments must conform to the Independence city comprehensive plan.

Subd. 3.  The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment.

Subd. 4.  The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts.

Subd. 5.  The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned.

Subd. 6.  The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

520.09.   Procedure for conditional use permits.

Subd. 1.  The applicant for a conditional use permit must complete and submit to the city administrator-clerk an application for a conditional permit together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application

Subd. 2.  The zoning administrator may require that the application for a conditional use permit include a site plan. The site plan must be drawn to scale showing topography with a contour interval of not greater than two feet and must include the following information, unless determined inapplicable by the zoning administrator:

(a)  Complete details of the proposed site development including identification signs, location of buildings, roads, driveways, parking spaces, locations of wells, and on-site sewage treatment systems, dimensions of the lot, lot area, yard dimensions and elevations.

(b)  Complete landscaping plans including species showing planting size and mature size of trees and shrubs proposed, together with an affirmative plan showing that existing trees will be protected and that due consideration has been given for other ecological and environmental concerns such as erosion control, silt accumulation, destruction of wildlife habitat, and similar considerations.

(c)  Plans and specifications for fences, walls, and other buffers as required.

(d)  Complete plans for proposed sidewalks or walkways to service parking, recreation and service areas within the proposed development.

(e)  A detailed soil survey including the particulate makeup, permeability, slope, and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed development. This data must be prepared by a soil scientist with four years of academic training or the equivalent in field experience, by a geologist, or by a registered professional engineer experienced in the field of soils engineering.

(f)  Complete plans for stormwater drainage systems consistent with the requirements of section 508 of this Code.

(g)  An on-site sewage system design with accompanying soil boring and percolation test information consistent with the requirements of section 710 of this Code.

(h)  Complete plans and specifications, including exterior wall finishes, for all proposed principal and accessory buildings.

(i)  Complete plans for storage areas for equipment, materials, waste and garbage.

Subd. 3.  The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsections 520.09, subdivisions 1 and 2, has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4.  The planning commission must hold a public hearing on the proposed conditional use permit. Notice of the time, place, and subject matter of the proposed conditional use permit must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5.  The planning commission is encouraged to make written findings and recommendations on the proposed conditional use permit to the city council.

Subd. 6.  Following referral by the planning commission, the city council shall approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7.  No application for a conditional use permit may be resubmitted for a period of one year after denial by the city council.

Subd. 8.  If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

Subd. 9.  If the applicant violates any of the conditions set forth in the conditional use permit, the city council may revoke the conditional use permit.

Subd. 10.  A conditional use permit lapses if construction does not proceed within one year of approval.

520.11.   Criteria for granting a conditional use permit.

Subd. 1.  An applicant for a conditional use permit must demonstrate that the proposed use meets all of the following criteria:

(a)  The conditional use will not adversely affect the health, safety, morals, and general welfare of occupants of surrounding lands.

(b)  The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

(c)  Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.

(d)  Sufficient off-street parking and loading space will be provided to serve the proposed use.

(e)  The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and a sufficient area of suitable soils for on-site sewage treatment is available to protect the city from pollution hazards.

(f)  The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, watercourses, wetlands, historic sites and similar ecological and environmental features.

(g)  The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.

(h)  The proposed conditional use is consistent with the comprehensive plan of the City of Independence.

(i)  The proposed use will not stimulate growth incompatible with prevailing density standards.

520.13.   Conditions and restrictions.

Subd. 1.  In permitting a new conditional use or the alteration of an existing conditional use, the city council may impose, in addition to standards and requirements expressly specified by this zoning code, additional conditions it considers necessary to protect the best interests of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

(a)  Increasing the required lot size or yard dimensions;

(b)  Limiting the height, size, or location of buildings;

(c)  Controlling the location and number of vehicle access points;

(d)  Increasing the road width;

(e)  Increasing the number of required off-street parking spaces;

(f)  Limiting the number, size, location, or lighting of signs;

(g)  Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;

(h)  Designating sites for open space;

(i)  Increasing on-site sewage system requirements;

(j)  Requiring provision of urban services including central sewer.

520.15.   Procedure for interim use permits.

Subd. 1.  The purpose of an interim use permit is to allow for uses not specifically permitted in a zoning district, on a temporary basis.

Subd. 2.  Site plan. The zoning administrator may require that the application for an interim use permit include a site plan. The site plan must be drawn to scale showing topography with a contour interval of not greater than two feet and must include the following information, unless determined inapplicable by the zoning administrator:

(a)  Complete details of the proposed site development including identification signs, location of buildings, roads, driveways, parking spaces, locations of wells, and on-site sewage treatment systems, dimensions of the lot, lot area, yard dimensions and elevations.

(b)  An affirmative plan showing that existing trees will be protected and that due consideration has been given for other ecological and environmental concerns such as erosion control, silt accumulation, destruction of wildlife habitat, and similar considerations.

(c)  Plans and specifications for fences, walls, and other buffers as required.

(d)  Information from the county soil survey regarding the soil type, permeability, slope, and other characteristics, as deemed applicable.

(e)  Complete plans for stormwater drainage systems consistent with the requirements of section 508 of this Code.

(f)  An on-site sewage system design with accompanying soil boring and percolation test information consistent with the requirements of section 710 of this Code.

(g)  Complete plans and specifications, including exterior wall finishes, for all proposed principal and accessory buildings.

(h)  Complete plans for storage areas for equipment, materials, waste and garbage.

Subd. 3.  The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsections 520.15, subdivisions 1 and 2, has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4.  The planning commission must hold a public hearing on the proposed interim use permit. Notice of the time, place, and subject matter of the proposed interim use permit must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5.  The planning commission is encouraged to make written findings and recommendations on the proposed interim use permit to the city council.

Subd. 6.  Following referral by the planning commission, the city council shall approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7.  No application for an interim use permit may be resubmitted for a period of one year after denial by the city council.

Subd. 8.  If an interim use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the interim use permit issued requires an amended interim use permit. An amended interim use permit application must be administered in a manner similar to that required for a new interim use permit.

Subd. 9.  If the applicant violates any of the conditions set forth in the interim use permit, the city council may revoke the interim use permit.

Subd. 10.  An interim use permit lapses if construction does not proceed within one year of approval.

Subd. 11.  Any interim use permit permitted hereunder shall terminate upon the earlier of a specified date, or upon the occurrence of a particular event, which is specified in the permit.

520.17.   Criteria for granting an interim use permit.

Subd. 1.  The city council may issue interim use permits for an interim use of property provided the proposed use meets all of the following criteria:

(a)  The use is deemed to be temporary and the use conforms to the development and performance standards of the zoning regulations herein;

(b)  The date or event that will terminate the use can be identified with certainty;

(c)  Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;

(d)  The user agrees to any conditions that the city council deems appropriate for allowing the use; and

(e)  The use meets the standards set forth in subsection 520.11 governing conditional use permits.

520.19.   Procedures on variances.

Subd. 1.  The applicant for a variance must complete and submit to the city administrator-clerk an application for a variance and required documentation, together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 2.  The city administrator-clerk must refer the application to the zoning administrator, who must review the application before presenting the application to the board of adjustment. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 3.  The board of adjustment must hold a hearing on the proposed variance. Notice of the time, place, and subject matter of the proposed variance must be posted at the city hall. The city must mail to the property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be posted and/or mailed at least ten days before the hearing. Failure to give the required notice does not invalidate the proceedings.

Subd. 4.  The board of adjustment is encouraged to make written findings and recommendations on the proposed variance to the city council.

Subd. 5.  Following referral by the board of adjustments, the city council must approve or deny the proposed variance within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

520.21.   Standards for granting variances.

Subd. 1.  The city council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where:

1)  The variance is in harmony with the general purposes and intent of this zoning code;

2)  The variance is consistent with the comprehensive plan; and

3)  The applicant establishes that there are practical difficulties in complying with the zoning code.

(Amended, Ord. No. 2011-08)

Subd. 2.  An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, "practical difficulties" means:

(a)  The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;

(b)  The plight of the property owner is due to circumstances unique to the property not created by the landowner;

(c)  The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(Amended, Ord. No. 2011-08)

Subd. 3.  The city council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property.

(Amended, Ord. No. 2011-08)

520.23.   Conditions and restrictions.

The board of adjustments may recommend and the city council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

(Amended, Ord. No. 2011-08)

520.25.   Site plan approval procedure.

Subd. 1.  *Policy statement.* It is the city's policy to preserve and promote attractive environments for its citizens through encouraging well-conceived, high quality developments. The following rules govern applications for site plan approval.

Subd. 2.  *Application.* The property owner or an authorized agent must submit a site plan approval application to the zoning administrator on a form provided by the city, together with a fee in an amount established by city council resolution.

Subd. 3.  *Exhibits.* The application must be accompanied by the following exhibits:

(a)  A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions accurately dimensioned.

(b)  A complete set of preliminary drawings prepared by a registered civil engineer or landscape architect showing:

(1)  An accurately scaled and dimensioned site plan indicating parking layout, including access provisions, location of structures, landscaping, including trees and shrubbery with indication of species, planting, size and location;

(2)  Fences or walls or other screening, including height and type of material;

(3)  Lighting provisions, including type and location;

(4)  Curbs.

(c)  Any other information deemed applicable by the zoning administrator.

Subd. 4.  *Decision.* The zoning administrator shall review the sketch and determine if it complies with the applicable site development standards in subsection 530.15. The zoning administrator shall have the prerogative and authority to refer the sketch to the planning commission and/or city council for discussion, review and comment. Deviations from the standards in subsection 530.15 may be granted through a formal variance review process.

Subd. 5.  *Expiration of site plan approval.* An approved site plan expires and becomes null and void one year following the date on which the application was approved, unless prior to the expiration of the year, a building permit is issued and construction is commenced. The city council may extend the period of site plan approval for one year, and the extension may be granted before or after the expiration of the initial one-year period.

520.27.   Appeals procedure.

Subd. 1.  Any person wishing to appeal an order, requirement, decision, or determination made by an administrative officer in enforcement of the zoning code must complete and submit to the city administrator-clerk an application for appeal within 30 days after the date of the order or decision in question. The application for appeal must contain a complete statement of the order, requirement, decision or determination, the name of the administrative officer involved, and a concise statement of the alleged error committed.

Subd. 2.  The city administrator-clerk must refer the application to the zoning administrator, who must review the application before presenting the application to the board of appeals.

Subd. 3.  The board of appeals must review the application and is encouraged to make written findings and recommendations to the city council.

Subd. 4.  The city council must grant or deny the appeal request after receiving the recommendation of the board of appeals.

520.29.   City administrator-clerk duties.

Subd. 1.  The city administrator-clerk performs or directs others to perform the following duties with respect to the zoning code:

(a)  Maintain permanent and current records of this zoning code, including, but not limited to, maps, permits, appeals, amendments, conditional uses, and variances;

(b)  Receive, file, and forward all applications for permits, appeals, amendments, conditional uses and variances or other matters required by law;

(c)  Publish and mail out hearing notifications as required;

520.31.   City building inspector duties.

Subd. 1.  The city building inspector performs or directs others to perform the following duties with respect to the zoning code:

(a)  Provide instruction and assistance to applicants for building permits;

(b)  Conduct a final review of building permit applications to verify compliance with the state building code and provisions of this zoning code;

(c)  Conduct inspections of buildings, structures, and on-site septic systems to determine compliance with the terms of this zoning code.

520.33.   City zoning administrator.

Subd. 1.  The city council must appoint a zoning administrator to perform the following duties with respect to the zoning code:

(a)  Provide instruction and assistance to applicants for conditional use permits, variances and zoning amendments;

(b)  Review applications for completeness and conformance with this zoning code prior to presentation to the planning commission or board of adjustment;

(c)  Conduct field inspections to determine compliance with the terms of this zoning code;

(d)  Make presentations of applications before the planning commission;

(e)  Prepare written reports of planning commission findings and recommendations and submit the reports to the city council.

520.35.   Planning commission recording secretary.

The city administrator-clerk may appoint a planning commission recording secretary to prepare and maintain minutes of planning commission meetings and assist the zoning administrator in preparing written reports of planning commission findings and recommendations.

520.37.   Enforcement.

Subd. 1.  Any person, firm, or corporation who violates or fails to comply with any of the provisions of this zoning code or the provisions of any permit issued pursuant to this zoning code or who makes any false statement in any document required under the provisions hereof is guilty of a misdemeanor. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense. The failure of any officer or employee of the city to perform any official duty imposed by this zoning code will not subject the officer or employee to a penalty imposed for violation.

Subd. 2.  In the event of a violation or the threatened violation of any provisions or condition of a permit issued pursuant to this zoning code, the city council, in addition to other remedies, may request that the city attorney institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violations or threatened violations. Such proceedings may include, but are not limited to, administrative enforcement proceedings providing notice and an opportunity to be heard regarding alleged violations. Such proceedings may result in the imposition of monetary fines or penalties to the extent permitted by law.

Subd. 3.  Neither the issuance of a permit nor compliance with the conditions thereof or with the provisions of this zoning code relieves any person from any responsibility otherwise imposed by law for damage to persons or property, nor may the issuance of any permit hereunder serve to impose any liability on the city or its officers or employees for injury or damage to persons or property. A permit issued pursuant to the Code does not relieve the permittee of responsibility for securing and complying with any other permit that may be required by any other law, ordinance, or regulation.

## SECTION 525.   ZONING: OFFICIAL ZONING MAP

[525.01. Land use districts.](#BK_812F3EBBD609C9922B334B58D07AA5E6)

[525.03. District boundaries established.](#BK_C871ABE01128C631202E44FAE846FBF9)

525.01.   Land use districts.

The city of Independence is hereby divided into land use districts identified by the following name and symbol:

Agricultural (AG).

Rural Residential (RR).

Urban Residential (UR).

Commercial-Light Industrial (CLI).

Urban Commercial (UC).

(Amended, Ord. No. 2012-01, § 1)

525.03.   District boundaries established.

The boundaries of the land use districts defined in this zoning code are hereby established as indicated on a map entitled "Official Zoning Map, City of Independence," as amended from time to time by ordinance of the city council and kept on file in the office of the city administrator-clerk. The official zoning map is made a part of this zoning code by reference.

## SECTION 530.   ZONING: DISTRICT PROVISIONS

[530.01. Agricultural District established.](#BK_CF3143DB1B5D11E0AEC69A8898974979)

[530.03. Physical standards.](#BK_C1BF0157389F8DD7BCD51AA708CE536D)

[530.05. Rural Residential District established.](#BK_998123EB9C8D4B0AD56507A899F05589)

[530.07. Physical standards.](#BK_C61CB035E917CBE47F2EA361CB3621C5)

[530.09. Urban Residential District established.](#BK_04DC5C33347791C1608B887960602331)

[530.11. Lot standards.](#BK_206D5B65E98EDFC46280F675AA8D58F9)

[530.13. Commercial-Light Industrial District established.](#BK_7B15EE94AF4C31B1A5A7CA33E76941DD)

[530.15. Site plan review.](#BK_9E4951116CCEC2A0C904F34B9D5628CA)

[530.17. Site development standards.](#BK_D9BDE9B5D25736500BED51498BE82365)

[530.19. Urban Commercial District established.](#BK_012D45DBD12835BBDD449A1C6C390D83)

[530.21. Physical standards.](#BK_FF1774924D4126E311A301257F0068DB)

[530.23. Building design requirements.](#BK_E3B9535EB0AE2D5693B79171AD49AFE9)

[530.25. Performance standards.](#BK_918B46CF7EE9287AEBEE734947E7D4A1)

530.01.   Agricultural District established.

Subd. 1.  *Purpose.* The agricultural district is established for the purpose of promoting continued farming of agricultural lands.

Subd. 2.  *Permitted uses.* The following uses are permitted in the Agricultural District:

(a)  Agriculture and horticulture;

(b)  Feedlots and poultry facilities;

(c)  Farm drainage and irrigation systems;

(d)  Forestry;

(e)  Public recreation;

(f)  Single-family dwellings

Subd. 3.  *Accessory uses.* The following accessory uses are permitted in the Agricultural District:

(a)  Private garages for single-family dwellings,

(b)  Home occupations operated in accordance with subsection 515.09 of this zoning code;

(c)  Fences;

(d)  Detached agricultural storage buildings, barns, or other structures, accessory to an existing single-family dwelling and subject to the following criteria:

(Amended, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

1.  No accessory building or structure shall be constructed on any residential lot prior to the time of construction of the principal building to which it is accessory.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

2.  Accessory buildings or structures of 120 square feet or less are exempt from the total square footage.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

3.  The total square footage of all accessory structures on an individual property shall not exceed the following standards:

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

|  |  |  |
| --- | --- | --- |
|  | Lots of record | Building Size 1 |
| (1) | 2½ acres or less | 1,850 square feet or 2% of lot area 2  (whichever is greater) |
| (2) | Greater than two and one-half acres but less than 10 acres | 2% of lot area 2 |
| (3) | Ten or more acres | No requirement |

(Amended, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

1 Building size shall be calculated by determining the footprint of the building.

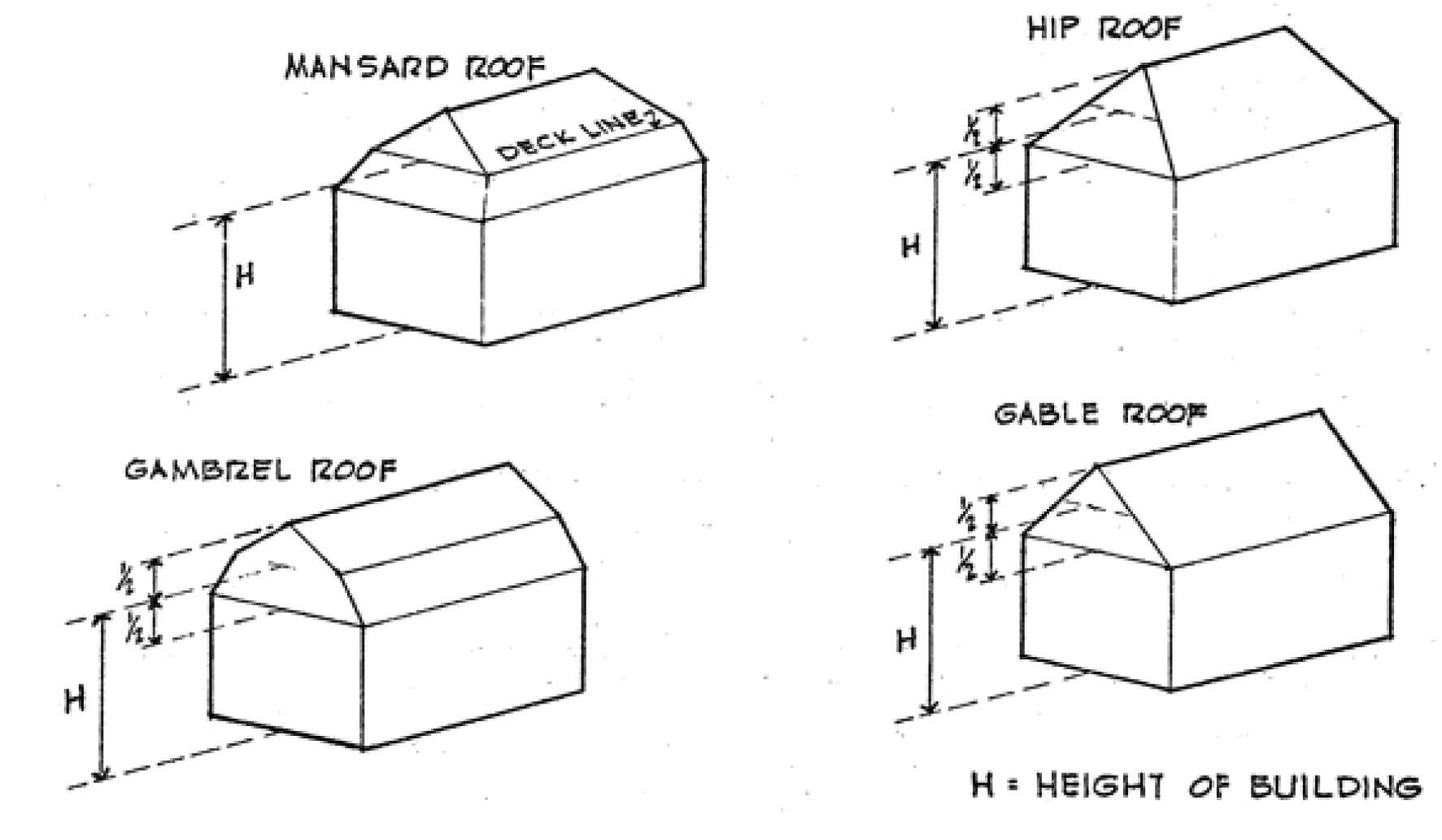
(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

2 Percentage of lot area shall be based on the buildable land. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments. In no instance shall the total impervious surface area of any lot exceed 25 percent.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

3 The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and accessory structure shall be measured in accordance with the definition provided in this ordinance, section 510.05, subdivision 10.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)



(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 1)

(e)  Retail sales, on a seasonal basis of agricultural and horticultural products grown on the premises by a person who occupies the premises as a principal residence, provided that the applicant apply for and receive an administrative permit from the city prior to commencing any sales of products. All applications shall meet and comply with all of the following standards:

(Added, Ord. No. 2010-04)

(1)  Adequate off-street parking is provided for the number of persons reasonably anticipated to be on the site at any one time;

(Added, Ord. No. 2010-04)

(2)  The hours of operation must be limited so as not to unreasonably interfere with the character of the surrounding area and the neighboring property owners' peaceful enjoyment of their properties;

(Added, Ord. No. 2010-04)

(3)  The following signs may be permitted: one permanent on-site sign of no greater than 32 square feet in area per surface and having no greater than two surfaces, two temporary off-site signs of no greater than eight square feet in area per surface and having no greater than two surfaces and such other signs as city may reasonably determine to not interfere with public safety or the character of the surrounding area;

(Added, Ord. No. 2010-04)

(4)  Any new accessory structure constructed for the purpose of such sales and any adjacent parking area must satisfy those requirements as to setback, size, appearance and screening as the city may reasonably determine for purposes of protecting public safety and the character of the surrounding area;

(Added, Ord. No. 2010-04)

(5)  Greenhouses may not be artificially lit between the hours of 9:00 p.m. and 7:00 a.m. unless shielded so as to prevent any light from escaping in any direction;

(Added, Ord. No. 2010-04)

(6)  Such requirements, including application of dust control materials and grading of roadways, as the city reasonably determine are necessary in order to minimize the impact of any increase in traffic on city roadways as a result of such sales being conducted on the premises;

(Added, Ord. No. 2010-04)

(7)  All applicable federal, state and local statutes, ordinances, codes and regulations, including, but without limitation, all applicable health and safety regulations, must be complied with.

(Added, Ord. No. 2010-04)

(f)  Aeration or decorative windmills provided the following performance standards are satisfied:

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(1)  Permit required. A building permit shall be required for the construction of a recreational or aeration windmill.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(2)  Minimum lot size requirement. Lot must be 5 acres in total area or larger.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(3)  Setback requirements. The windmill must be setback from all property lines and residential structures, ten feet plus the height of the windmill.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(4)  Height restrictions. The maximum height of the windmill, as measured to the top of the highest point of the structure or blade) must not exceed the height of the principal structure or 35 feet, whichever is less.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(5)  Stability. The windmill shall be installed to withstand a wind force of 90 miles per hour.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(6)  The function of the windmill can only be used for the purpose of water aeration or decoration and not for any other on or off-site use; including the generation of electric power, either for use or sale.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(7)  No more than one windmill shall be permitted per property.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

(8)  Windmills less than ten feet in height shall not require a permit.

(Added, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 2)

Subd. 4.  *Conditional uses.* The following conditional uses may be permitted in the Agricultural District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

(a)  Accessory dwelling units;

(Added, Ord. No. 2011-09)

(b)  Riding stables;

(c)  Bunkhouses;

(d)  Farrieries;

(e)  Detached agricultural storage buildings, barns, or other accessory structures that exceed the size limitations of subdivision 3(d) of this subsection;

(Amended, Ord. No. 2005-11)

(f)  Kennels;

(Amended, Ord. No. 2005-11)

(g)  Local government buildings;

(Amended, Ord. No. 2005-11)

(h)  Churches;

(Amended, Ord. No. 2005-11)

(i)  Cemeteries;

(Amended, Ord. No. 2005-11)

(j)  Extraction;

(Amended, Ord. No. 2005-11)

(k)  Essential services;

(Amended, Ord. No. 2005-11)

(l)  Temporary use of a mobile home or camper as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;

(Amended, Ord. No. 2005-11)

(m)  Wind energy conversion systems (WECS);

(Amended, Ord. No. 2005-11)

(n)  Commercial indoor storage in existing farm buildings, provided:

(Amended, Ord. No. 2005-11)

(1)  The applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit;

(2)  The building is located on property that is owner-occupied; and

(3)  The applicant establishes that the structure cannot be economically used for agricultural purposes.

(o)  Guest houses and non-rental guest apartments;

(Amended, Ord. No. 2005-11)

(p)  Commercial golf courses;

(Amended, Ord. No. 2005-11; No. Ord. 2010-04)

(q)  Telecommunications towers approved pursuant to section 540 of this Code;

(Amended, Ord. No. 2005-11; Ord. No. 2010-04)

(r)  Forestry products processing, provided that:

(Amended, Ord. No. 2005-11; Ord. No. 2010-04)

(1)  The operation of the conditional use must be on a lot that is being used as an occupied single-family dwelling;

(2)  The lot upon which the conditional use is operated must be not less than ten acres in area;

(3)  The area devoted to the conditional use, including buildings, parking, storage area, and all related uses may not exceed 15,000 square feet or 12 percent of the size of the lot, whichever is smaller, subject to existing accessory building standards.

(s)  Polo grounds.

(Added, Ord. No. 2007-01; Ord. No. 2010-04)

(t)  Catering business, provided that:

(Added, Ord. No. 2011-15)

(1)  The business is subordinate to the principal use of the property as a residence;

(2)  No materials, equipment or parts used in the business may be stored on the premises other than within the dwelling unit or accessory structure;

(3)  No signs relating to the business may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning ordinance;

(4)  No exterior alterations may be made to the dwelling unit to accommodate the business except those alterations customarily found with the dwelling units on lots of similar size within the district;

(5)  No traffic shall be generated by the business beyond what is reasonable and normal for the area in which it is located;

(6)  The hours and days during which the business is conducted on the premises is limited so as not to unreasonably interfere with the residential character of the surrounding areas;

(7)  No over the counter retail sales may occur on-site.

Subd. 5.  *Animal assisted therapy operation.* AAT may be permitted as a conditional use by action of the city council pursuant to subsections 520.09, 520.11 and 520.13 of the zoning ordinance, subject to the following additional conditions:

(a)  The applicant shall provide proof of insurance in an amount and with such coverage as the city attorney deems reasonable, and shall thereafter maintain such insurance.

(b)  The applicant shall provide proof of licensing or appropriate educational attainment and training in AAT for all therapists delivering services at the site. This requirement shall be continuing and the city may request such proof on a periodic basis for all therapists then delivering services.

(c)  The applicant shall provide documentation and a site plan describing the AAT program(s) to be delivered. Such documentation shall include a description of the goal-directed process and criteria for evaluating the effectiveness of the program(s).

(d)  The applicant shall identify all species of animals that will be present at the site and used in delivering AAT. No other species of animals shall be allowed with the city's approval.

(e)  For parcels of less than ten acres, the maximum density of animal units is two acres for the first animal unit and one additional acres for each additional animal unit.

(f)  Other than the delivery of AAT, no commercial or business activities may be conducted on the site except the production of agricultural products in de minimis amounts as a result of the delivery of AAT.

(g)  The city may periodically inspect the site without notice.

530.03.   Physical standards.

Subd. 1.  *Subdivisions.* Subdivisions within the Agricultural District shall be limited to lot line rearrangements and creation of rural view lots, according to the standards and procedures of subsection 500.09, subdivision ordinance.

Subd. 2.  *Rural view lot density.* A lot of record as of November 9, 1999, may be subdivided into the following maximum number of rural view lots, in addition to the original dwelling or dwelling site on the lot of record:

|  |  |
| --- | --- |
| Area of Lot of Record | Maximum Number of Rural View Lots Permitted |
| 39.99 b acres or less | Zero |
| 40.0 b —79.99 acres a | One |
| 80.0 acres | Two, plus one additional lot for every 40 acres of additional land |

(Amended, Ord. No. 2010-01)

a The city council may consider a density transfer option for non-contiguous 40 acre tracts that are under single ownership. (For example, a non-contiguous 40-acre lot and an undeveloped 40-acre lot could be combined to yield two new rural view lots plus the original parcel for a combined total of three lots.)

(Amended, Ord. No. 2010-01)

b For the purpose of determining the number of rural view lots that can be created, the area of a lot of record shall be measured to the center of bounding road rights-of-way. Furthermore, a lot of record that was originally subdivided into a quarter-quarter section and has not been further subdivided shall be deemed a 40 acre parcel for purposes of determining rural view lot eligibility. For properties within the jurisdiction of the shoreline ordinance (section 505), submerged lands within the boundaries of any water front parcel that are located waterward of the ordinary high water mark shall not be used to compute the area of the lot.

(Added, Ord. No. 2010-01)

Subd. 3.  *Physical standards.* All lots and construction thereon must meet the following physical standards:

(a)  Minimum lot area: a 2.50 acres buildable land.

(b)  Maximum lot area: ten acres.

(c)  Minimum lot frontage on an improved public road or street:

|  |  |
| --- | --- |
| Lot area | Minimum frontage |
| 2.50—3.49 acres | b 200 feet |
| 3.50—4.99 acres | b 250 feet |
| 5.00—10.00 acres | b 300 feet |

(d)  Height. The maximum height of all buildings must not exceed the lesser of 2½ stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.

(Amended, Ord. No. [2015-01](http://newords.municode.com/readordinance.aspx?ordinanceid=846407&datasource=ordbank) , § 1)

(e)  Lot depth. The ratio of lot frontage to lot depth must be no more than 1:4.

a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments.

b A waiver to permit lots with reduced frontage on a public right-of-way, neck lots or lots with no frontage on a public right-of-way but with frontage on a common driveway may be considered and granted or not granted. If granted, evidence must be provided that all standards established and defined in section 510.05, subdivision 20 of this zoning code are met:

(Amended, Ord. No. 2010-06)

Subd. 4.  *Setbacks.* All buildings and structures, including houses with attached garages or decks, must meet or exceed the following setbacks:

(a)  Front yard setback: a 85 feet from centerline of road.

(b)  Corner yard setback: c 51 feet from right-of-way line.

(c)  Side yard setback: a b 30 feet from side lot line.

(d)  Rear yard setback: a 40 feet from rear lot line.

(e)  Setback from lakes, rivers and streams: 100 feet from ordinary high mark.

(f)  Setback from wetlands: ten feet from the outside edge of the required wetland buffer.

(Amended, Ord. No. 2012-08, § 1; Amended, Ord. No. [2015-06](http://newords.municode.com/readordinance.aspx?ordinanceid=856046&datasource=ordbank) , § 2)

(g)  Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

( a Except buildings housing livestock, which may not be located closer than 150 feet from an existing residential structure on all adjacent property.)

( b Except detached garages and other accessory buildings, which may be 15 feet from the side lot line.) ;bl2; ( c All principle and accessory structures shall meet the corner yard setback requirements.)

(Added, Ord. No. [2015-06](http://newords.municode.com/readordinance.aspx?ordinanceid=856046&datasource=ordbank) , § 2)

Subd. 5.  *Animal unit density.* Livestock is permitted in the Agricultural District on parcels less than ten acres at a maximum density of two acres for the first animal unit and one additional acre for each additional animal unit.

530.05.   Rural Residential District established.

Subd. 1.  *Established.* The Rural Residential District is established for the purpose of providing for residential development affording enjoyment of the rural life style.

Subd. 2.  *Permitted uses.* The following uses are permitted in the Rural Residential District:

(a)  Single-family dwellings;

(b)  Commercial agriculture;

(c)  Public recreation;

(d)  Horticulture;

(e)  Forestry.

Subd. 3.  *Accessory uses.* The following accessory uses are permitted in the Rural Residential District:

(a)  Private fences, gardening and landscaping;

(b)  Recreation equipment;

(c)  Home occupations operated in accordance with subsection 515.09 of this zoning code;

(d)  Non-commercial greenhouses;

(e)  Private garage, additional storage buildings, barns or other structures, accessory to an existing single-family dwelling and subject to the following criteria:

(Amended, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

1.  No accessory building or structure shall be constructed on any residential lot prior to the time of construction of the principal building to which it is accessory.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

2.  Accessory buildings or structures of 120 square feet or less are exempt from the total square footage.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

3.  The total square footage of all accessory structures on an individual property shall not exceed the following standards:

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

|  |  |  |
| --- | --- | --- |
|  | Lots of Record | Building Size 1 |
| (1) | 2½ acres or less | 1,850 square feet or 2% of lot area 2  (whichever is greater) |
| (2) | Greater than two and one-half acres but less than 10 acres | 1,850 square feet |
| (3) | Ten or more acres | No Requirement |

(Amended, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

1 Building size shall be calculated by determining the footprint of the building.

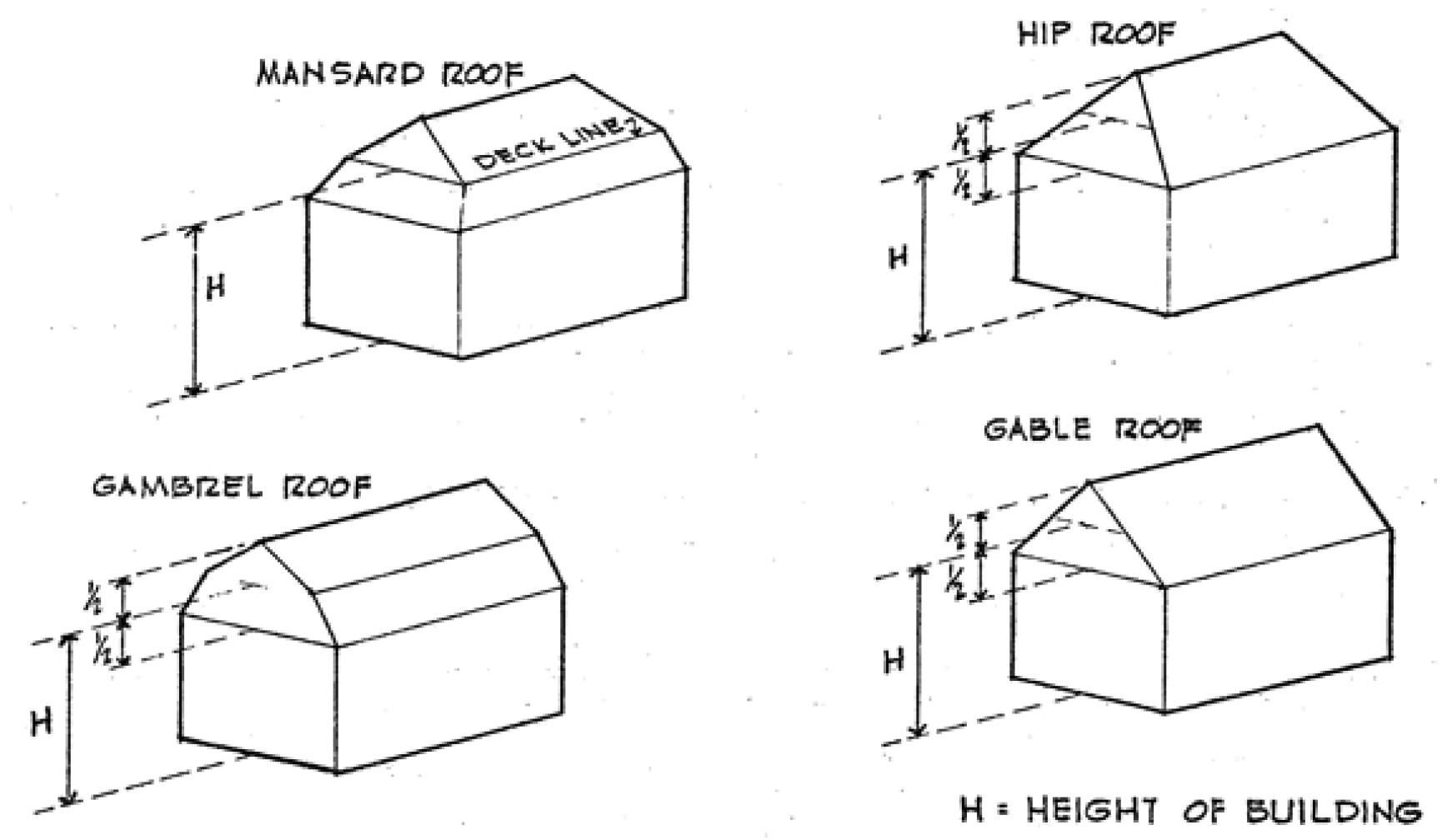
(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

2 Percentage of lot area shall be based on the buildable land. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments. In no instance shall the total impervious surface area of any lot exceed 25 percent.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

3 The height of an accessory structure shall not exceed the height of the principle structure. The height of the principle and ac1essory structure shall be measured in accordance with the definition provided in this ordinance, section 510.05, subdivision 10.

(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)



(Added, Ord. No. [2013-07](http://newords.municode.com/readordinance.aspx?ordinanceid=846401&datasource=ordbank) , § 2)

Subd. 4.  *Conditional uses.* The following conditional uses may be permitted in the Rural Residential District by action of the city council pursuant to subsections 520.09, 520.11, and 520.13 of this Code:

(a)  Cluster development meeting the standards of subdivision 6 of this section;

(b)  Kennels;

(c)  Nurseries;

(d)  Commercial recreation;

(e)  Local government buildings;

(Amended, Ord. No. 2005-11)

(f)  Churches;

(Amended, Ord. No. 2005-11)

(g)  Cemeteries;

(Amended, Ord. No. 2005-11)

(h)  Essential services;

(Amended, Ord. No. 2005-11)

(i)  Temporary use of a mobile home as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months;

(Amended, Ord. No. 2005-11)

(j)  Guest houses and non-rental guest apartments;

(Amended, Ord. No. 2005-11)

(k)  Telecommunications towers approved pursuant to section 540 of this Code; and

(Amended, Ord. No. 2005-11)

530.07.   Physical standards.

Subd. 1.  *Construction.* All construction in the Rural Residential District must meet the following physical standards:

(Added, Ord. No. 2010-01)

(a)  Minimum lot area (Added, Ord. 2010-01): a 2.50 acres buildable land.

(b)  Minimum lot frontage on an improved public road or street:

|  |  |
| --- | --- |
| Lot Area | Minimum Frontage |
| 2.50—3.49 acres | b 200 feet |
| 3.50—4.99 acres | b 250 feet |
| 5.00—10.00 acres | b 300 feet |

(Added, Ord. No. 2010-01)

a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of ten percent or other physical impediments.

(Added, Ord. No. 2010-01)

b Lots must have no less than the specified minimum frontage respectively on a right-of-way, provided that the city council may waive the requirement if the following conditions are met:

(Added, Ord. No. 2010-01)

(1)  The applicant submits and the city council approves a development plan encompassing all land under the control of the applicant.

(Added, Ord. No. 2010-01)

(2)  The development plan must demonstrate that vehicular and pedestrian access, as well as emergency and public vehicular access can be provided to each lot in the development plan.

(Added, Ord. No. 2010-01)

(3)  The applicant must enter into a private road agreement that meets the criteria of subsection 510.05, subdivision 70 of this Code as well as additional conditions deemed necessary by the city council to protect the health, safety and welfare of the occupants of the lots within the development plan.

(Added, Ord. No. 2010-01)

(c)  The ratio of lot frontage to lot depth must be no more than 1:4.

(Added, Ord. No. 2010-01)

(d)  Height. The maximum height of all buildings must not exceed the lesser of 2½ stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smoke-stacks, church spires, or electric transmission lines.

(Amended, Ord. No. 2010-01)

Subd. 2.  *Setbacks.* All buildings and structures, including houses with attached garages or decks, must meet or exceed the following setbacks:

(a)  Front yard setback: a 85 feet from centerline of road.

(b)  Corner yard setback: c 51 feet from right-of-way line.

(c)  Side yard setback: a b 30 feet from side lot line.

(d)  Rear yard setback: a 40 feet from rear lot line.

(e)  Setback from lakes, rivers and streams: 100 feet from ordinary high mark.

(f)  Setback from wetlands: ten feet from the outside edge of the required wetland buffer.

(Amended, Ord. No. 2012-08, § 1;

(Amended, Ord. No. [2015-06](http://newords.municode.com/readordinance.aspx?ordinanceid=856046&datasource=ordbank) , § 2)

(g)  Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

a Except buildings housing livestock, which may not be located closer than 150 feet from an existing residential structure on all adjacent property.)

b Except detached garages and other accessory buildings, which may be 15 feet from the side lot line.)

c All principle and accessory structures shall meet the corner yard setback requirements.)

(Added, Ord. No. [2015-06](http://newords.municode.com/readordinance.aspx?ordinanceid=856046&datasource=ordbank) , § 2)

Subd. 3.  *Density* *.* Lots of record in the Rural Residential District may be divided or subdivided into the following maximum number of lots, said maximum number to include the lot for any existing dwelling unit or other principal use:

(Amended, Ord. No. 2010-01)

|  |  |
| --- | --- |
| Area of Lot of Record | Maximum Number of Lots Permitted |
| 7.5 acres or less | One |
| 7.6 through 12.5 acres | Two |
| 12.6 through 17.5 acres | Three |
| 17.6 through 22.5 acres | Four |
| 22.6 through 27.5 acres | Five |
| 27.6 through 32.5 acres | Six |
| 32.6 through 37.5 acres | Seven |
| 37.6 through 42.5 acres | Eight |
| 42.6 through 47.5 acres | Nine, plus one addn. lot for every five addn. acres of land |

(a)  *Animal unit density.* Livestock are permitted in the rural residential district at a maximum density of two acres for the first animal unit and one additional acre for each additional animal unit.

Subd. 4.  *Cluster development conditional use permit.* Cluster development is a conditional use in the Rural Residential District, subject to the provisions of subsections 520.09, 520.11 and 520.13 of this Code.

(Amended, Ord. No. 2010-01)

(a)  *Purpose.* The purpose of the cluster development conditional use permit is to promote the creative and efficient use of land. The provisions of this subdivision are intended to:

(1)  Protect natural features in common open space.

(2)  Improve the arrangement of structures, facilities and amenities on a site.

(3)  Preserve the rural character of the community.

(b)  *Criteria.* A cluster development is a residential development in which a number of single-family dwelling units are grouped on smaller lots than in conventional developments, while the remainder of the tract is preserved as open space. If the following standards are complied with, density of one unit per four acres is permitted.

(1)  The development parcel must be 40 or more acres in size;

(2)  A minimum of 50 percent of the development must be preserved as open space, recreational space or agricultural use;

(3)  A minimum of 50 percent of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100-year floodplain elevation are not considered to be useable for the purpose of this subsection;

(4)  Woodland, wetlands and topography must be preserved in a natural state, with modification allowed when no reasonable alternative exists; or, if the site lacks unique features such as woodlands and wetlands, the site must be designed and constructed in such a manner that residential building sites are integrated into a created natural environment including reforestation, wetlands enhancement, and vegetative screening of structures;

(5)  The preliminary plat must show a primary and secondary individual sewage treatment site for each dwelling unit and must be supported with soil test reports indicating the adequacy of each proposed location, provided that shared treatment systems within a development may be acceptable if the plat identifies two or more suitable sites for the shared system and the city council approves the proposal;

(6)  Lots within the development must have a minimum lot size of 1.5 contiguous buildable acres. Buildable acreage must not be separated by streams, wetlands, slopes in excess of ten percent or other physical impediments;

(7)  Open space must be designated in the development as one or more outlots and must be owned either by a homeowners' association consisting of the owners of all of the residential lots in the development or by the owners of the residential lots, as tenants in common;

(8)  The developer must record against the development a declaration of covenants that places responsibility for management of the open space in a homeowners association and provides for the assessment of management costs to the association members;

(9)  All utilities must be placed underground;

(10)  All residential streets within the cluster development must be paved with a bituminous surface according to the city street standards in effect at the time of the development;

(11)  A development agreement must be entered into with the city.

530.09.   Urban Residential District established.

Subd. 1.  *Purpose.* The Urban Residential District is established for the purpose of promoting sustainable continuum of housing development in the city. The district is intended to provide for the development of residential scale, high quality medium density housing which is integrated into the surrounding residential and commercial development. It shall strive to create a sustainable pattern of land uses that diversifies the city's housing opportunities.

(Added, Ord. No. 2012-01, § 2)

Subd. 2.  *Permitted uses.* All uses are conditional, subject to the approval of the city council. No uses are permitted by right. In general, uses shall be consistent with the intent of the comprehensive plan.

(Added, Ord. No. 2012-01, § 2)

Subd. 3.  *Conditional uses.* The following conditional uses may be permitted in the Urban Residential District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

(a)  Planned development, subject to the following additional conditions:

The use of a planned development for development in the urban residential district should result in a reasonable and verifiable advancement of the intent and goals for such district as expressed in the comprehensive plan. The urban residential district is a residential district intended to accommodate medium density residential development that serves the local and regional market. The emphasis should be on providing sustainable, high quality, well planned, attractive and walkable housing opportunities. Uses within this district should complement existing residential neighborhoods and the downtown commercial development within the community and adjacent communities.

Residential development in this area shall be planned and organized so as to accommodate a sensitive transition between existing, lower density residential and higher density downtown development. Such development shall be designed with high quality building materials, complimentary architectural style and a coordinated landscaping theme, but shall avoid monotony in design and visual appearance. Vehicle and pedestrian access is coordinated and logically linked to provide a comprehensive circulation system. All development in this area shall incorporate the walkable community standards adopted by the city.

(Added, Ord. No. 2012-01, § 2)

530.11.   Lot standards.

Subd. 1.  *Physical standards.* All lots and construction thereon must meet the following physical standards:

(a)  Minimum lot area: ten acres buildable land.

(b)  Maximum and minimum density:

1.  4.3 units per acre minimum.

2.  seven units per acre maximum.

(c)  Minimum lot frontage on an improved public road or street:

1.  Lot area: ten acres.

2.  Minimum frontage: 300 feet.

(d)  Open space: 30 percent (gross area).

(Added, Ord. No. 2012-01, § 2)

Subd. 2.  *Origination of proposal.* Any applicant may propose a planned development in accordance with the procedures set forth by the city. Further, any applicant making an application must intend to act as the developer or sponsor of the development. A parcel or site proposed for a planned development does not need to be under single ownership. However, if the parcel is not under single ownership, the applicant must have a contractual agreement with the owners of all property to be considered in order to develop the land in accordance with a single, unified plan.

(Added, Ord. No. 2012-01, § 2)

Subd. 3.  *Drafting of planned development agreement.* A planned development agreement must be approved and executed by the city. The general intent of the zoning and subdivision ordinance shall be used for the foundation of the terms and conditions of the planned development agreement. Development standards that ensure public health and safety shall be included.

(Added, Ord. No. 2012-01, § 2)

Subd. 4.  *Design considerations.* The applicant must demonstrate that the following design considerations have been incorporated into the planned development.

(a)  *Adequate public facilities.* The applicant must demonstrate that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development. All costs associated with the investigation, design and construction of public facilities needed to serve a development shall be the responsibility of the applicant. Adequate public facilities shall include, but not be limited to the following:

1.  Roads—existing and proposed.

2.  Traffic—traffic patterns, controls.

3.  Sewage disposal systems.

4.  Water supply and distribution systems.

5.  Fire protection—fire protection services.

6.  Weather warning.

(b)  *Protection and preservation of natural features.* The applicant must demonstrate that the flexibility provided by the PD is used to protect and preserve natural features such as tree stands, wetlands, ponds and scenic views. These areas are to be permanently protected as public or private tracts or protected by permanently recorded easements.

(c)  *Stormwater management.* Due to the sensitive nature of the natural resources in Independence, the applicant shall place an emphasis on meeting all applicable stormwater management rules and regulations pertaining to the proposed planned development. Incorporation of best management practices and innovative solutions to stormwater management will be encouraged.

(d)  *Landscape standards.* The PD should be developed with a focus on providing a high level of integrated landscape standards. In place of mass grading for building pads and roads, stone or decorative blocks retaining walls shall be employed as required to preserve mature trees and the site's natural topography.

(e)  *Architectural standards.* The applicant should demonstrate that the PUD will provide for a high level of architectural design and building materials. While this requirement is not intended to minimize design flexibility, a set of architectural standards should be prepared for city approval. The primary purpose is to ensure the city that high quality design will be employed throughout the development.

(Added, Ord. No. 2012-01, § 2)

530.13.   Commercial-Light Industrial District established.

Subd. 1.  *Purpose.* The Commercial-Light Industrial District is established for the restricted purpose of providing for commercial-light industrial development compatible with the rural character of the city.

Subd. 2.  *Permitted uses.* The following uses are permitted in the Commercial-Light Industrial District. All permitted uses must be operated from, or in association with, a primary building.

(a)  Farm equipment sales;

(b)  Retail sales;

(c)  Commercial recreation;

(d)  Device or office uses;

(e)  Storage and warehousing, excluding the storage or warehousing of toxic, explosive, hazardous or highly flammable products;

(f)  Wholesale businesses;

(g)  Building material sales and storage, within enclosed buildings;

(h)  Contractors' offices;

(i)  Adult establishments licensed under section 1120 of this Code;

(j)  Any other use determined by the city council to be similar in character to a permitted use.

Subd. 3.  *Accessory uses.* The following accessory uses are permitted in the Commercial-Light Industrial District: buildings, structures, or uses necessary for the conduct of permitted uses, including parking and outdoor storage in conjunction with a building.

Subd. 4.  *Conditional uses.* The following conditional uses may be permitted by action of the city council pursuant to subsections 520.09, 520.11 and 520.13:

(a)  Telecommunications towers approved pursuant to section 540 of this Code;

(b)  Eating and drinking establishments;

(c)  Automobile service stations; and

(d)  Any other use determined by the city council to be similar in character to a permitted use, but potentially requiring special conditions to ensure compatibility.

530.15.   Site plan review.

Subd. 1.  All new development or construction in the C-I zoning district shall be subject to site plan review as described in subsection 520.25.

530.17.   Site development standards.

Subd. 1.  *Physical standards.* All construction in the commercial light industrial district must meet the following physical standards.

Subd. 2.  *Lot area, dimensions, and restrictions.*

(a)  Lot area must be adequate to provide for all expected improvements and for the installation of two on-site sewage treatment systems, but in no case may lot area be less than 2½ buildable acres, unless public sewer service is available.

(b)  All lots must have no less than 200 feet of frontage on a right-of-way, and the ratio of lot frontage to lot depth must be no more than 1:4.

Subd. 3.  *Setbacks.* All buildings and structures must meet or exceed the following setbacks:

(a)  Front yard setback: 100 feet from centerline of road.

(b)  Side yard setback: 20 feet from side lot line.

(c)  Rear yard setback: 20 feet from rear lot line.

(d)  Setback from boundary of agricultural or rural residential district: 100 feet.

(e)  Adult establishments licensed under section 1120 of this Code must comply with the setback requirements of subsection 1120.05 of this Code rather than the setback requirements of subsection 510.65, subdivision 3(d) of the Independence zoning ordinance.

(f)  Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

Subd. 4.  *Off-street parking and loading requirements.* Off-street parking and loading space must be provided in the Commercial-Light Industrial District in accordance with requirements of this subsection.

(a)  All outside, off-street parking and loading areas must be paved and curbed with B-6-12 or better concrete curbing.

(b)  Curbed islands must be placed at the end of every 20 parking spaces.

(c)  Off-street parking and drive aisle setback standards:

|  |  |
| --- | --- |
| Front yard | 20 feet from right-of-way |
| Side yard | 10 feet |
| Rear yard | 10 feet |
| Side corner yard | 20 feet |
| Side yard abutting "R" district | 20 feet |
| Rear yard abutting "R" district | 20 feet |

(d)  The following minimum parking standards are hereby established in the commercial-light industrial district:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Angle | Type | Space Width | Space Length | Aisle Width |
| 90 deg. | 2-way | 9.0 feet | 19 feet | 25 feet |
| 60 deg. | 1-way | 9.0 feet | 21 feet | 18 feet |
| 45 deg. | 1-way | 9.0 feet | 20 feet | 13 feet |
| 30 deg. | 1-way | 9.0 feet | 17 feet | 11 feet |
| 0 deg. | Parallel | 8.0 feet | 23 feet | 20 feet |

(e)  An accurate, dimensioned parking layout that complies with the foregoing must be submitted for approval with a site plan, and parking arrangements must thereafter comply with the approved layout. Parking spaces must be clearly designated by lines painted upon the surface of the parking area.

(f)  Each commercial-light industrial use must provide the following parking spaces:

(1)  Eating and drinking establishments: one space for each two seats plus one per employee.

(2)  Automobile service stations: three spaces for each enclosed bay plus one per employee.

(3)  Office buildings and non-retail commercial uses: one space for each 250 square feet of gross floor area.

(4)  Retail sales: one space for each 250 square feet of gross floor area.

(5)  Wholesale and warehousing: one space for each 2,000 square feet of gross floor area.

(6)  Industry and manufacturing one space for each 350 square feet of gross floor area.

(7)  Other uses: parking requirements for other uses not set forth herein must be established by the city council, upon recommendation of the city engineer and planning commission.

(g)  Off-street loading space required. Adequate off-street loading space is required for each commercial-light industrial use in the commercial-light industrial district, subject to the following:

(1)  One loading space shall be provided for each building, unless the zoning administrator determines that this requirements may be waived or modified.

(2)  Loading spaces must not be located on the side of a building fronting on a public street.

(3)  Loading spaces must be no less than 15 feet in width and 25 feet in length.

(4)  Loading spaces in all other respects must conform to the requirements for parking spaces.

Subd. 5.  *Landscape standards.*

(a)  Setback areas must be landscaped and maintained as a protective buffer and may not be used for parking, internal driveways, off-street loading, storage; nor may any structure or building be placed thereon, other than a fence.

(b)  Minimum landscape requirements in the protective buffer must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree) for each 40 feet of property line. The protective buffer must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in the protective buffer.

(c)  Minimum landscape requirements for each curbed island must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree). The curbed island must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in a curbed island.

(d)  When a commercial or industrial development is located adjacent to any "R" zone, an eight-foot opaque fence or wall must be erected to provide screening of the commercial or industrial use.

Subd. 6.  *Lot screening.* All commercial-light 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.

Subd. 7.  *Lot coverage.* Impervious lot coverage shall not exceed 30 percent of the lot area. Lot coverage of up to 75 percent may be allowed by conditional use permit provided stormwater run-off and surface drainage is no greater than pre-development rates for one-, ten- and 100-year storm events. Stormwater treatment ponding is required for all developments.

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.  *Solid waste.* Incineration of solid waste materials must be conducted in equipment approved by the Minnesota pollution control agency regulations.

Subd. 10.  *Access streets.* Streets servicing a commercial-light industrial area must have direct access to a collector street or higher-capacity street. No street servicing commercial-light industrial establishments may have access to local residential streets nor may business-oriented traffic be routed or directed to local residential streets.

530.19.   Urban Commercial District established.

Subd. 1.  *Purpose.* The Urban Commercial District is established for the purpose of promoting urban commercial development. The district is intended to provide for the development of community scale integrated retail, office, business services and personal services. It shall strive to create a sustainable pattern of land uses with cultural, employment, entertainment, shopping and social components.

(Added, Ord. No. 2012-01, § 3)

Subd. 2.  *Permitted uses.* All uses are conditional, subject to the approval of the city council. No uses are permitted by right. In general, uses shall be consistent with the intent of the Comprehensive Plan.

(Added, Ord. No. 2012-01, § 3)

Subd. 3.  *Conditional uses.* The following conditional uses may be permitted in the Urban Commercial District, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

(a)  Planned development, subject to the following:

The use of a planned development for development in the Urban Commercial District should result in a reasonable and verifiable advancement of the intent and goals for such district as expressed in the Comprehensive plan. The Urban Commercial District is a commercial district with retail and service uses of a scale and function that serves the local and regional market. The emphasis should be on providing an attractive, comfortable experience for shoppers and visitors. It shall be designed to serve pedestrian users as well as automobile traffic. Uses within this district should be first class retail commercial uses.

Development in this district shall be planned as a group of organized uses and structures to accommodate a sensitive transition between commercial activities such as loading, parking of automobiles, lighting and trash collection and surrounding residential uses. Such development shall be designed with one theme, with complimentary architectural style, high quality exterior building materials, and a coordinated landscaping theme, but shall avoid monotony in design and visual appearance. Vehicle and pedestrian access shall be coordinated and logically linked to provide a comprehensive circulation system.

(Added, Ord. No. 2012-01, § 3)

530.21.   Physical standards.

Subd. 1.  *Physical standards.* All lots and construction thereon must meet the following physical standards:

(a)  Minimum lot area: ten acres buildable land.

(b)  Minimum lot frontage on an improved public road or street:

1.  Lot area: ten acres.

2.  Minimum frontage: b 300 feet.

(c)  Open Space: 15 percent (gross area).

(Added, Ord. No. 2012-01, § 3)

Subd. 2.  *Origination of proposal.* Any applicant may propose a planned development in accordance with the procedures set forth by the city. Further, any applicant making an application must intend to act as the developer or sponsor of the development. A parcel or site proposed for a planned development does not need to be under single ownership. However, if the parcel is not under single ownership, the applicant must have a contractual agreement with the owners to develop the land in accordance with a single, unified plan.

(Added, Ord. No. 2012-01, § 3)

Subd. 3.  *Drafting of planned development agreement.* A planned development agreement must be approved and executed by the city. The general intent of the zoning and subdivision ordinance shall be used for the foundation of the terms and conditions of the planned development agreement. Development standards that ensure public health and safety shall be included.

(Added, Ord. No. 2012-01, § 3)

Subd. 4.  *Design considerations.* The applicant must demonstrate that the following design considerations have been incorporated into the planned development.

(a)  *Adequate public facilities.* The applicant must demonstrate that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development. All costs associated with the investigation, design and construction of public facilities needed to serve a development shall be the responsibility of the applicant. Adequate public facilities shall include, but not be limited to, the following:

1.  Roads—existing and proposed.

2.  Traffic—traffic patterns, controls.

3.  Sewage disposal systems.

4.  Water supply and distribution systems.

5.  Fire protection—fire protection services.

6.  Weather warning.

(b)  *Protection and preservation of natural features.* The applicant must demonstrate that the flexibility provided by the PD is used to protect and preserve natural features such as tree stands, wetlands, ponds and scenic views. These areas are to be permanently protected as public or private tracts or protected by permanently recorded easements.

(c)  *Stormwater management.* Due to the sensitive nature of the natural resources in Independence, the applicant shall place an emphasis on meeting all applicable stormwater management rules and regulations pertaining to the proposed planned development. Incorporation of best management practices and innovative solutions to stormwater management will be encouraged.

(d)  *Landscape standards.* The PD should be developed with a focus on providing a high level of integrated landscape standards. In place of mass grading for building pads and roads, stone or decorative blocks retaining walls shall be employed as required to preserve mature trees and the site's natural topography.

(e)  *Architectural standards.* The applicant should demonstrate that the PUD will provide for a high level of architectural design and building materials. While this requirement is not intended to minimize design flexibility, a set of architectural standards should be prepared for city approval. The primary purpose is to ensure the city that high quality design will be employed throughout the development.

(Added, Ord. No. 2012-01, § 3)

530.23.   Building design requirements.

Subd. 1.  *Standards established.* Building design standards are hereby established to ensure commercial and industrial buildings meet acceptable aesthetic standards.

(Amended, Ord. No. 2006-09)

Subd. 2.  *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 15 percent for commercial or retail buildings, or 25 percent for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials.

(Added, Ord. No. 2006-09)

Subd. 3.  *Design standards.*

(a)  Height. The maximum height of all buildings must not exceed the lesser of 2½ stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.

(b)  Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial 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).

(c)  All exterior vertical surfaces must be treated as a front and have an equally attractive or same fascia on all sides of the structure.

(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. 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.

(Added, Ord. No. 2006-09)

Subd. 4.  *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, an application to amend the zoning code text must be submitted per the requirements of city Code. In reviewing such an application to consider including a new material to the list of allowed materials in subdivision 3(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/industrial properties and other materials currently allowed within the commercial/industrial 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.

(Amended, Ord. No. 2006-09)

530.25.   Performance standards.

The following standards apply to all uses in the commercial and industrial district.

(a)  *Explosives.* Activities involving the storage, manufacture, or use of explosives, highly toxic, or extremely flammable materials are not permitted.

(b)  *Solid waste.* Incineration of solid waste must be conducted in equipment approved by the Minnesota pollution control agency.

(c)  *Noise.* Noise must not exceed 55 decibels on any octave band frequency measured at any point along the property line.

(d)  *Vibration.* No activity or operation may cause earth vibration perceptible beyond the boundaries of the lot on which the commercial-light industrial use is approved.

(e)  *Odor.* No commercial-light industrial use may discharge, beyond the boundaries of the lot on which it is approved, toxic or noxious odors or particulate matter.

(f)  *Glare and heat.* Glare and heat must be shielded to prevent light or heat rays to project beyond the boundaries of the lot on which the commercial-light industrial use is permitted.

(g)  *Storage of waste.* All solid waste, debris, refuse, or garbage not disposed of by incineration or by on-site sewage disposal must be stored in a completely enclosed building or in a closed container that is enclosed within a six-foot-high opaque fence or wall.

(h)  *Fuel storage.* All storage tanks and containers for flammable and combustible liquids and liquefied gases must be constructed and located in accordance with regulations of the Minnesota Uniform Building Code, Minnesota uniform fire codes, and the national fire protection association codes including NFPA-30 for flammable and combustible liquids and NFPA-58 for liquefied gases.

## SECTION 535.   ZONING: LIGHTING STANDARDS

[535.01. Lighting regulations.](#BK_2C30DA5FED7859C4A847DFE43F399D30)

[535.03. Definitions.](#BK_E0DC949E16AC4249F5C837E6E3C61AA2)

[535.03. Purpose.](#BK_DF6BA330547969410F82E168640E484F)

[535.05. Applicability.](#BK_849F6CA5F5CFB313F446EB5D71CA20D8)

[535.07. General application.](#BK_8D2DAA9369AB6D5CC6D0AD0346B0BC5A)

[535.09. Shielding requirements.](#BK_8FA105F2021D0A06C0C711EB098E7615)

[535.11. Exemptions.](#BK_054F285644C19D3AE9183D8E66791AAA)

[535.15. Penalties.](#BK_8127FC8C857EB5416AD58C72D4BB0F8E)

535.01.   Lighting regulations.

Subsections 535.03 through 535.15 constitute the lighting regulations for the city.

535.03.   Definitions.

Subd. 1.  For purposes of the lighting regulations, the following words and terms, and their derivatives, shall have the meanings assigned to them in this subsection unless the context specifically indicates otherwise:

Subd. 2.  Glare. A light source that is located, directed or controlled such that the light source itself is visible from a point four feet above the ground or higher at any point off the lot on which the light source is located.

Subd. 3.  Shield or shielding. A cover, shroud or protector placed over and around a light source to eliminate the glare and trespass light prohibited by this section.

Subd. 4.  Trespass light. The presence of light from a light source on a lot other than the lot upon which the light source is located.

535.03.   Purpose.

The intent of the lighting regulations is to establish standards for the installation and permitted use of outdoor lighting, in order to ensure both adequate lighting for public and user safety and to minimize glare and trespass light upon lots other than the lot upon which the light source is located.

535.05.   Applicability.

The lighting regulations apply to all outdoor light sources in all zoning districts, regardless of use of application, unless specifically excluded by the regulations. The light sources to which this section applies includes, but are not limited to, searchlights, spotlights, floodlights, area lights, building lights, advertising signs and displays, lamps, and luminous tube lighting. The lighting applications to which the lighting regulations apply include but are not limited to buildings, structures, recreational and sports facilities, parking lots, private roads, driveways, landscaping, lots, and areas.

535.07.   General application.

Subd. 1.  All light sources must be installed and shielded to prevent glare and trespass light. All light sources must be installed and shielded in accordance with the requirements of subsection 535.11 of this Code.

Subd. 2.  Glare is prohibited in all districts.

Subd. 3.  Trespass light must not exceed five-tenths footcandle, as measured on the property line when abutting any residential lot, and one footcandle on any abutting commercial or industrial lot, between the hours of sunset and sunrise.

Subd. 4.  No light source may be mounted or installed at a height above the ground exceeding 35 feet.

Subd. 5.  Blinking, flashing, or changing intensity lights are not permitted, except as authorized by subsection 550.07, subdivision 1 of this Code.

Subd. 6.  It is the responsibility of every installer of lighting and every owner or occupant of property on which a light source is located to comply with the provisions of these lighting regulations.

535.09.   Shielding requirements.

All light sources must be installed and shielded in accordance with the provisions of the following table:

|  |  |  |
| --- | --- | --- |
| Fixture Lamp Type | Commercial Shielded | Residential Shielded |
| Low Pressure Sodium | Fully | Fully |
| High Pressure Sodium | Fully | Fully |
| Metal Halide | Fully | Fully |
| Fluorescent | Fully | Fully |
| Quartz | Fully | Fully |
| Incandescent  (100 Watts or Less) | None | None |
| Incandescent  (Greater than 100 Watts) | Fully | Fully |
| Any Light Source of 30 Watts or Less | None | None |

All other light sources not listed on this table must receive prior approval from the city building official and be shielded in accordance with the conditions or approval thereupon.

535.11.   Exemptions.

Subd. 1.  The provisions of these lighting regulations do not apply to:

Subd. 2.  Lighting caused to be installed by city, county, state or federal government agencies to light streets. roadways, or places of public use and benefit.

Subd. 3.  Traditional holiday displays and decorations.

Subd. 4.  Lighting required by law for public safety reasons.

535.15.   Penalties.

Any person who violates any provisions of these lighting regulations, upon conviction thereof, may be punished by a fine not to exceed $700.00 or by imprisonment not to exceed 90 days or both. Each day that a violation continues is a separate punishable offense.

## SECTION 540.   ZONING: TELECOMMUNICATIONS TOWERS AND FACILITIES

[540.01. Findings.](#BK_6594046B6B39C56AAB182CFBF1C7B9E8)

[540.03. Definitions.](#BK_41A4E73F83387472C949D88AA7D3F113)

[540.05. Development of towers; approvals required.](#BK_D72D972383A0E34CD0CD3450E2EFC8ED)

[540.07. Application process.](#BK_32C7DE99C4668816EC3B342AEED13035)

[540.09. Performance standards.](#BK_C03167B1D32EFDA1788C4832A2FF52EA)

[540.11. Additional requirements.](#BK_ED08511CAEADCC5A395232C2292B499D)

[540.13. Variances.](#BK_AEA842573EB656244483C91BEB46BECB)

540.01.   Findings.

The city council finds:

Subd. 1.  The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act") grants the federal communications commission exclusive jurisdiction over the regulation of the environmental effects of radio frequency emissions from telecommunications facilities and the regulation of radio signal interference among users of the radio frequency spectrum.

Subd. 2.  Consistent with the Act, the regulation of towers and telecommunications facilities in the city will not have the effect of prohibiting any person from providing wireless telecommunications services. The general purpose of this subsection is to regulate the placement, construction and modification of telecommunication towers and facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications market place in the city. Specifically, the purposes of this chapter are:

(a)  To regulate the location of telecommunication towers and facilities;

(b)  To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;

(c)  To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;

(d)  To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;

(e)  To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;

(f)  To ensure that telecommunication towers and facilities are compatible with surrounding land uses;

(g)  To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

540.03.   Definitions.

Subd. 1.  For purposes of this chapter the following terms have the meanings given them, except where the context clearly indicates a different meaning:

Subd. 2.  "Antenna support structure" means a building, athletic field lighting, water tower, or other structure, other than a tower, that can be used for location of telecommunications facilities.

Subd. 3.  "Applicant" means a person who applies for a permit to develop, construct, build modify or erect a tower under this chapter.

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

Subd. 5.  "Engineer" means an engineer licensed by the State of Minnesota.

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

Subd. 7.  "Stealth" means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.

Subd. 8.  "Telecommunications facilities" means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure; the term does not include:

(a)  A satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;

(b)  A satellite earth station antenna one meter or less in diameter, wherever located.

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

540.05.   Development of towers; approvals required.

Subd. 1.  *Conditional use.* A tower is a conditional use in all zoning districts within the city. A tower may not be constructed in any district unless a conditional use permit has been issued by, and site plan approval obtained from, the city council, and a building permit has been issued by the building official.

Subd. 2.  *City property.* The city may authorize the use of city property for towers in accordance with the procedures of this Code. The city has no obligation to allow the use of city property for this purpose.

540.07.   Application process.

Subd. 1.  A person desiring to construct a tower must submit an application for site plan approval and, if applicable, for a conditional use permit, to the city administrator-clerk.

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

(a)  Name, address and telephone number of the applicant;

(b)  Name, address and telephone numbers of the owners of the property on which the tower is proposed to be located;

(c)  Legal description of the parcel on which the tower is proposed to be located;

(d)  Written consent of the property owner(s) to the application;

(e)  A scaled site plan depicting the parcel and proposed tower, including the proposed landscaping, camouflage, lighting and fencing;

(f)  Written evidence from an engineer that the proposed structure meets the structural requirements of this Code;

(g)  Written information demonstrating the need for the tower at the proposed site in light of the existing and proposed wireless telecommunications network(s) to be operated by persons intending to place telecommunications facilities on the tower;

(h)  A copy of relevant portions of a lease signed by the applicant and property owner(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed;

(i)  Such other information as the zoning administrator reasonably requests; and

(j)  An application fee established from time to time by resolution of the city council.

Subd. 3.  Council action. Requests for site plan approval and conditional use permit approval will be processed contemporaneously, according to the provisions of subsections 520.09, 520.11 and 520.13 of this zoning code. The council may attach conditions to the approval of the site plan and conditional use permit as the council determines to be reasonably necessary.

540.09.   Performance standards.

Subd. 1.  *Co-location capability.* Unless the applicant presents clear and convincing evidence to the city council that co-location is not feasible, a new tower may not be built, constructed or erected in the city unless the tower is capable of supporting at least two telecommunications facilities comparable in weight, size, and surface area to each other.

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

(a)  A tower must be located on a single parcel having a dimension equal to the height of the tower, as measured between the base of the tower located nearest the property line and the actual property line, unless an engineer specifies in writing that the collapse of the tower will occur within a lesser distance under reasonably foreseeable circumstances.

(b)  Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.

Subd. 3.  *Engineer certification.* Towers must be designed and certified by an engineer to be structurally sound and in conformance with the Uniform Building Code, and any other standards set forth in this Code.

Subd. 4.  *Height restriction.* A tower may not exceed the lesser of 185 feet in height or a height equivalent to ten feet more than the distance from the base of the tower to the nearest point of any property line. Measurement of tower height must include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height is measured from grade.

Subd. 5.  *Lighting.* Towers may not be artificially lighted except as required by the Federal Aviation Administration. At time of construction of a tower, in cases where there are residential uses located within a distance that is three times the height of the tower from the tower, dual mode lighting must be requested from the Federal Aviation Administration. Notwithstanding this provision, the city may approve the placement of an antennae on an existing or proposed lighting standard, provided that the antennae is integrated with the lighting standard.

Subd. 6.  *Exterior finish.* Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.

Subd. 7.  *Fencing.* Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed in accordance with the applicable fencing requirements in the zoning district where the tower or antenna support structure is located, unless more stringent fencing requirements are required by Federal Communications Commission regulations.

Subd. 8.  *Landscaping.* Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet setback requirements that are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 9.  *Accessory buildings and equipment.* No more than one accessory building is permitted per tower. Accessory buildings may be no more than 300 square feet in size. Telecommunications facilities not located on a tower or in an accessory building must be of stealth design.

(Amended, Ord. No. 2008-07)

Subd. 10.  *Security.* Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations.

Subd. 11.  *Design.* Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of comparable vertical structures in the vicinity of the proposed site.

Subd. 12.  *Non-tower facilities.* Telecommunications facilities not attached to a tower may be permitted as an accessory use to any antenna support structure at least 75 feet in height (except residential occupancies of three stories or less), or any existing tower, regardless of any other provision of this Code, provided that the owner of the telecommunications facility, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

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

(b)  That the antenna support structure and telecommunications facilities comply with the Uniform Building Code;

(c)  That the telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof, but that do not protrude more than six inches from the side of the antenna support structure.

Subd. 13.  *Removal of towers.* Abandoned or unused towers and associated above-ground facilities must be removed within 12 months of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the city council. Any tower and associated telecommunications facilities that are not removed within 12 months of the cessation of operations at a site are declared to be public nuisances and may be removed by the city and the costs of removal assessed against the property pursuant to section 2010 of this Code.

540.11.   Additional requirements.

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

Subd. 2.  *Maintenance.* Towers must be maintained in accordance with the following provisions:

(a)  Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.

(b)  Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.

(c)  Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.

(d)  Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.

(e)  Towers must comply with radio frequency emissions standards of the Federal Communications Commission.

(f)  If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

540.13.   Variances.

An applicant may request a variance to the setback, separation, buffer requirements, or maximum height provisions of this section 540 according to the procedures set forth in subsection 520.15 of this Code. The city council may grant the requested variance if the applicant demonstrates with written or other satisfactory evidence that:

(a)  The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located;

(b)  The variance will not create a threat to the public health, safety or welfare;

(c)  In the case of a requested modification to the setback requirement, that the size of parcel upon which the tower is proposed to be located makes compliance impossible, and the only alternative for the applicant is to locate the tower at another site that poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;

(d)  In the case of a request for modification of separation requirements, if the person provides written technical evidence from an engineer that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system and if the person agrees to create approved landscaping and other buffers to screen the tower from being visible to the residential area;

(e)  In the case of a request for modification of the maximum height limit, that the modification is necessary to:

(1)  Facilitates co-location of telecommunications facilities in order to avoid construction of a new tower; or

(2)  To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer;

(f)  The requested variance satisfies the criteria set forth in subsection 520.17 of this zoning code.

## SECTION 550.   SIGN REGULATIONS

[550.01. Purpose.](#BK_FC02C7C898E649EF35CEA5397DAE9881)

[550.03. Definitions.](#BK_387517B46BCA413EC28A061A74176380)

[550.05. General application.](#BK_9F20F580269D05B9B12689CE495E3D55)

[550.07. Prohibited signs.](#BK_A187DAC09E4573E6F56BDCB397E8FB45)

[550.09. District regulations.](#BK_29A3A7FE93237118F845CA8967BE3B4B)

[550.11. Temporary signs.](#BK_D073F1B29DA1C2F93F9FDEB13946A719)

[550.13. Administration and enforcement.](#BK_0E26338B18F57CCD13FA10C215B33ABB)

[550.15. Nonconforming signs.](#BK_B558F9F8EBFFE57C34C9D7A6C325C6CB)

[550.17. Administrative permits.](#BK_C0EFD029842E3F7EF95ECC557C7806B3)

[550.19. Severability clause.](#BK_B1A9BDE2EB7054D07381C5D7BF34F872)

[550.21. Supremacy clause.](#BK_4921B7A86226D5194F5015D35C752F0F)

[550.23. Penalty clause.](#BK_4161BA19B55F802F5DFBDB448FAA9B4E)

550.01.   Purpose.

This section 550 regulates the type, number, size, structure, height, lighting, erection, repair, location and maintenance of all outdoor signs within the city of Independence, provides for the issuance of permits and the charging of fees therefor, and provides penalties for non-compliance and violation thereof.

550.03.   Definitions.

Subd. 1.  The following words and phrases have the meanings assigned to them:

Subd. 2.  Sign. A sign as defined in subsection 510.05, subdivision 77 of the Independence zoning code and that is displayed outdoors.

Subd. 3.  Sign, accessory. A business sign relating to the business activity or service conducted on the premises upon which the sign is placed.

Subd. 4.  Sign, administrator. The officer or other person charged with the administration and enforcement of this section, and any duly authorized deputy.

Subd. 5.  Sign, address. A postal identification number only, whether written or in numeric form.

Subd. 6.  Sign, area. That area within the marginal lines of the surface which bears the advertisement or in the case of messages, figures, or symbols attached directly to any part of a building, that area which is included in the smallest rectangle that can be made to circumscribe the message, figures, or symbol displayed thereon. The maximum sign area for a free standing or pylon sign refers to a single surface.

Subd. 7.  Sign, billboard. A sign displaying products, services, commodities, entertainment or other activity not offered on the premises upon which the sign is located.

Subd. 8.  Sign, campaign. A sign erected by a bona fide candidate for public office or by a person or group promoting a candidate for public office or a political issue.

Subd. 9.  Sign, directional. A sign to direct patrons to an event business use or service located within the corporate limits of the city of Independence and not carried out on the premises where the sign is located.

Subd. 10.  Sign, farm. A sign advertising farm products that are produced by the owner or occupant of the premises upon which the sign is displayed.

Subd. 11.  Sign, flashing. An illuminated sign on which the illumination is not kept stationary or constant in intensity.

Subd. 12.  Sign, free standing. A sign that is placed in the ground and not affixed to any part of any structure.

Subd. 13.  Sign, governmental. A sign that is erected by a governmental unit for the purpose of directing or guiding the public.

Subd. 14.  Sign, illuminated. A sign that is erected by a governmental unit for the purpose of directing or guiding the public.

Subd. 15.  Sign, institutional directional. A sign that bears the address and/or name of a church, school, library, hospital, recreational area, non-profit service organization or similar use and directs traffic or pedestrians to the institution.

(Amended, Ord. No. 2011-04)

Subd. 16.  Sign, institutional. A sign that bears the address and/or name of a church, school, library, hospital, recreational area, non-profit service organization or similar use and is located on the site of the institutional use.

(Amended, Ord. No. 2011-04)

Subd. 17.  Sign, temporary institutional. A temporary sign that provides information, directions, dates and times or other similar information pertaining to a festival event, or seasonal event for a church, school, library, hospital, non-profit service organization or similar use.

(Added, Ord. No. 2010-03; Amended, Ord. No. 2011-04)

Subd. 18.  Sign, motion. A sign that revolves, rotates, or has any moving parts that attract attention.

Subd. 19.  Sign, nameplate, farm. A sign that bears the family name and address of an owner or occupant of the farm upon which it is located, the farm name, or an affiliation with an agricultural organization.

Subd. 20.  Sign, name plate, residential and institutional. A sign that bears the name and address of the business owner, or the occupants of premises.

Subd. 21.  Sign, non-conforming. A sign that lawfully existed prior to adoption of this section but does not conform to the newly enacted requirements of this section.

Subd. 22.  Sign, portable. A type of temporary sign so designed as to be movable from one location to another and that is not permanently attached to the ground or any structure.

Subd. 23.  Sign, projecting. A sign, all or any part of which extends laterally from the building more than 12 inches.

Subd. 24.  Sign, pylon. A free standing structure that is in excess of 20 feet in height with a sign mounted thereon.

Subd. 25.  Sign, roof. A sign erected upon the roof of a structure to which it is affixed.

Subd. 26.  Sign, temporary. A sign that is erected or displayed for a limited period of time.

Subd. 27.  Sign, traffic directional. A sign that is erected on the premise by the owner or occupant of the premise for the purpose of guiding vehicles and pedestrian traffic in finding locations such as parking, shipping and receiving.

Subd. 28.  Sign, wall. A sign affixed to the wall of a building.

Subd. 29.  Sign, warning. A sign that prohibits specified activities or informs of danger, hazard or restrictions such as "No Hunting, No Trespassing, Beware of Dog, Keep Off," and similar material.

Subd. 30.  Occasional sale. The sale of any items not held in the ordinary course of a business by the owner of the items, upon the premises owned or occupied by the owner of the items.

Subd. 31.  Premise of premises. A single lot, as defined in the Independence zoning code, or a combination of lots that comprise a single use, or that comprise a single enterprise.

550.05.   General application.

Subd. 1.  It is unlawful for any sign to be erected, altered, repaired, removed, equipped or maintained in the city of Independence that does not conform to this section.

Subd. 2.  Construction and maintenance. All signs must be constructed in such manner and of such material that they are safe and substantial, must be properly secured, supported, and braced, must be kept in good repair, and must be maintained in a neat, clean and attractive condition.

Subd. 3.  Offensive material. No sign may contain any indecent, obscene or offensive pictures, symbols or written matter.

Subd. 4.  Location. No sign other than a governmental sign, warning sign, or a sign advertising an occasional sale may be erected or temporarily placed within any street right-of-way or upon any public easement.

Subd. 5.  Interference with traffic. A permit for any sign to be located within 50 feet of any street or official traffic sign or signal or within 50 feet of any intersection, driveway, or crosswalk will be issued only:

(a)  If the sign will not interfere with the ability of drivers and pedestrians to see the traffic sign or signal or the intersection, driveway or crosswalk; and

(b)  If the sign will not distract drivers nor cause any interference with an official traffic sign or signal.

Subd. 6.  Illumination. Illuminated signs must comply with the electrical requirements of the state electrical code of the State of Minnesota.

(a)  Illuminated signs must be shielded to prevent any light from being directed at oncoming traffic in such brilliance as to impair the vision of any driver. Where the sign is illuminated the source of light must not be directed upon any part of a residence or into any area zoned for residential use. The illumination must be indirect or diffused.

550.07.   Prohibited signs.

Subd. 1.  *Flashing signs.* Flashing signs and motion signs are prohibited in all districts, except that informational signs giving time, date and temperature are permitted in commercial/light industrial districts.

Subd. 2.  *Billboards.* Billboards (off-premises signs) are prohibited in all districts except as provided for in subsection 550.11, subdivision 8 of the Independence zoning code.

(Amended, Ord. No. 2010-03; Ord. No. 2011-04)

Subd. 3.  *Wall signs.* Wall signs painted directly on walls of buildings are prohibited in all residential districts.

Subd. 4.  *Roof signs.* Roof signs erected on the roof, or in the air space over the roof of any structure are prohibited in all districts.

550.09.   District regulations.

Subd. 1.  The following signs are permitted in the district indicated.

Subd. 2.  Rural residential districts. One nameplate is permitted for each single-family dwelling unit, provided that it may be no greater than two square feet in area per surface and may have no more than two surfaces. The signs may include the names of home occupations approved under subsection 515.09 of the zoning code, but may not contain further advertising.

Subd. 3.  Agricultural districts. One farm nameplate is permitted for each farm, provided that it may be no greater than 12 square feet in area per surface and may have no more than two surfaces.

Subd. 4.  Subdivisions, all districts. One name plate is permitted for each development area of five or more lots, provided that it may be no more than 32 square feet in area per surface, may have no more than two surfaces, and must contain the name and address of the development area only.

Subd. 5.  Institutional signs, all districts. An institutional sign is permitted for each institutional building occupying a single premise, provided that no sign may exceed 32 square feet per surface, and may have no more than two surfaces. Two signs are permitted for institutional buildings occupying corner lots, one sign facing each street, provided that the total sign area does not exceed 32 square feet.

Subd. 6.  Directional signs, permitted business and institutions, all applicable districts. Three directional signs or the number which in the discretion of zoning administrator is necessary to direct patrons, whichever is less, are permitted for each business or institutional premise, provided that each sign may be no greater than four square feet in area per surface, and may have no more than two surfaces.

Subd. 7.  Commercial/light industrial districts. The following regulations apply in commercial/light industrial districts:

(a)  *Previous regulations applicable.* The regulations for residential, institutional and business uses set forth in subsection 550.09, subdivisions 2 through subdivision 5 apply to those uses if established in the commercial/light industrial district, except that directional signs may have up to 20 square feet per surface.

(b)  *Total area, business signs.* A total of four square feet of signage for each lineal foot of building frontage is permitted for each premise which is used for business purposes. The building frontage for sign area purposes is the single principal frontage of a building facing a public right-of-way. No sign may have more than two surfaces. Signs on multiple-use buildings or premises must be coordinated in the use of colors, materials and shapes.

(c)  *Wall signs.* The total area of any wall sign affixed to a building wall may not exceed 15 percent of the total area of the wall it occupies, up to a maximum of 100 square feet. No wall sign may extend more than two feet above the highest outside wall at the same location.

(d)  *Free standing signs.* No more than one free standing sign is permitted for each premise which is used for business purposes, provided that the free standing sign may be no more than 80 square feet in area per surface, may contain no more than two surfaces, must not exceed a maximum height of 20 feet, and must have a minimum set-back from the public right-of-way of ten feet.

(e)  *Projecting signs.* No projecting signs may exceed ten square feet in area per surface.

(f)  *All districts.* Warning signs are permitted in all districts without a permit, provided that the sign does not exceed two square feet in area.

550.11.   Temporary signs.

Subd. 1.  *General standards.* Temporary signs and temporary institutional signs may not be illuminated, must be limited to the following uses, and are regulated as follows. Temporary signs and temporary institutional signs, except for those listed under subsection 550.13, subdivision 4, must receive an administrative permit, as specified in subsection 550.17.

(Amended, Ord. No. 2011-04)

Subd. 2.  *Sale of individual parcels.* Signs for the purpose of selling or leasing individual lots or homes, provided the signs may not exceed four square feet per surface and must be removed within seven days following the lease or sale.

Subd. 3.  *Sale of acreage or tract.* One temporary real estate sign is permitted for the purpose of selling an acreage, promoting a residential project of five or more dwelling units or promoting any non-residential project, provided that the sign may not exceed 32 square feet in area per surface, and must be limited to a single surface, and is located no less than 100 feet from any pre-existing residence. The sign must be removed upon completion, sale, lease or other disposition of the project. One additional temporary real estate sign is permitted for each additional street upon which the property abuts. Signs advertising the sale of building lots are not permitted unless the lots in question already exist or have received final subdivision approval.

Subd. 4.  *Construction signs.* One temporary identification sign is permitted upon a construction site in any district, said sign may not exceed 32 square feet in area per surface, is limited to a single surface, must be located upon the subject construction site, and must be removed upon completion of the project.

Subd. 5.  *Campaign signs.* Campaign signs are permitted in residential districts, provided the signs do not exceed four square feet in area per surface, and may be placed in other districts provided the signs do not exceed eight square feet in area. Campaign signs are subject to the following additional regulations:

(a)  Campaign signs may not be posted on any public right-of-way or public property.

(b)  Campaign signs may not be attached to a tree or utility pole, whether on private property or public.

(c)  No person may post or attempt to post a campaign sign on private property without the express consent of the owner or occupant of the property.

(d)  All campaign signs must be removed within 14 days after the election.

Subd. 6.  *Farm signs.* One farm sign, not to exceed 32 square feet in area per surface and having no more than two surfaces, is permitted on each farm to advertise the seasonal sales of farm products.

Subd. 7.  *Occasional sales.* A temporary sign is permitted for each occasional sale, provided the sign does not exceed 16 square feet in area per surface and has no more than two surfaces, and further provided that the sign be removed within three days after the sale.

Subd. 8.  *Temporary institutional festival/event.* A temporary institutional sign, as defined in subsection 550.03, subdivision 17, is permitted, either on or off-site, to announce festivals and events for institutional organizations. Said signage must be put in place, with property owner permission, no sooner than 14 days before the event is advertised, and must be removed within five business days after the last scheduled date of the event. No more than three events can be advertised during any 12 month period. Said signage is limited to one sign no larger than 32 square feet per side and cannot have more than two surfaces. Temporary institutional signs will not be permitted for festivals and events already advertised on a temporary institutional sign for a temporary seasonal event.

(Added, Ord. No. 2010-03; Amended, Ord. No. 2011-03; Ord. No. 2011-04)

Subd. 9.  *Temporary institutional seasonal.* A temporary institutional sign, as defined in subsection 550.03, subdivision 17, is permitted, either on or off-site, to advertise a seasonal event for institutional organizations. Said signage must be put in place, with property owner permission, no sooner than 14 days before the seasonal event is advertised, and must be removed within five business days after the last scheduled date of the seasonal event. The maximum length a temporary institutional sign for a seasonal event can be put in place is three months or the length of event, whichever is less. No more than one seasonal event can be advertised by the same institution during any 12 month period. Said signage is limited to one sign no larger than 32 square feet per side and cannot have more than two surfaces.

(Added, Ord. No. 2010-03; Amended, Ord. No. 2011-03; Ord. No. 2011-04)

550.13.   Administration and enforcement.

Subd. 1.  *Permits required.* The owner or occupant of the premises on which a sign is to be erected, or the owner or installer of the sign, must file application with the city administrator-clerk for a permit to erect the sign. Permits must be acquired for all new, relocated, modified, or redesigned signs except those specifically excepted below. The applicant must submit with the application a complete description of the sign and a scale drawing showing its size, location, manner of construction and such other information as required by the zoning administrator. If a sign authorized by permit has not been installed within three months after the date of issuance of the permit, the permit becomes null and void.

Subd. 2.  *Issuance of permits.* All residential, business or industrial plats, conditional use permit applications, or development projects of every kind, which require approval by the city council, must be accompanied by a site plan showing the size, type and location of proposed signs. Project approval must include approval of the general location, size and type of proposed signs; provided, however that the specific provisions of this section are controlling. Any major change in location, size, or type of such the proposed signs requires the approval of the city council, provided that the specific provisions of this section are controlling. All other sign permits may be approved and issued by the zoning administrator, provided the signs meet all applicable provisions of this ordinance.

Subd. 3.  *Fees.* For any sign for which a permit is required, a fee in an amount set by city council resolution must be paid to the city clerk at the time application is made.

(a)  Reimbursement for costs. In addition to the fee described in subsection 550.13, subdivision 3, the applicant must sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 4.  *Exceptions.* The exceptions permitted by this section apply only to the requirement of a permit and are not to be construed as excusing the installer of the sign or the owner of the property upon which the sign is located from conforming with the other provisions of this section. No permit is required under this section for the following:

(a)  Signs having an area of four square feet or less.

(b)  Signs erected by a governmental unit, public school or church.

(c)  Campaign signs listed in subsection 550.11, subdivision 5.

(d)  Memorial signs or tablets containing the name of the building, its use, and date of erection when cut or built into the walls of the building and constructed of bronze, brass, stone, marble or similar material.

Subd. 5.  *Variances.* The planning commission may recommend and the city council may grant variances from the literal provisions of this section in instances where the applicant for a variance has demonstrated that all of the following standards have been met:

(a)  Because of the physical surroundings, shape, topography or condition of the land involved, a hardship to the applicant would result if the strict letter of the section were carried out;

(b)  The conditions upon which the variance is based are unique to the applicant's land and not generally applicable to other property within the same zoning classification;

(c)  The hardship arises from the requirements of this section and has not been created by persons presently or formerly having any interest in the property;

(d)  A granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the land is located.

Subd. 6.  *Conditions and restrictions.* Upon the granting of a variance the city council may impose conditions and restrictions with the spirit and intent of this section.

550.15.   Nonconforming signs.

Subd. 1.  *Continuation; limit on rebuilding or alteration.* Nonconforming signs that were lawfully existing at the time of adoption of this section or amendment to this section may continue in use, but may not be altered other than to change the message, or relocated without being brought into compliance with the requirements of this section. A nonconforming sign that is damaged by fire or other peril to the extent of greater than 50 percent of its market value, as determined by the city building inspector or licensed appraiser retained by the city, may not be rebuilt or repaired except in compliance with this section. After a nonconforming sign has been removed, it may not be replaced by another nonconforming sign.

Subd. 2.  *Discontinued use of nonconforming signs.* Whenever use of a nonconforming sign has been discontinued for a period of one year, the use may not thereafter be resumed unless in conformance with the provisions of this section.

Subd. 3.  *Dilapidated signs.* A nonconforming sign or sign structure must be removed within ten days after notice in writing to the owner that the sign or sign structure is unsound, damaged, in disrepair or hazardous. Failure of notification on the part of the city does not place any liability on the part of the city nor absolve or mitigate any liability on the part of the owner of the sign or sign structure.

550.17.   Administrative permits.

Subd. 1.  Administrative permits may be issued for the following purposes and subject to the following provisions:

Subd. 2.  Purposes. Administrative permits may be issued for temporary signs.

Subd. 3.  Duration and number. Administrative permits are valid for a reasonable period not to exceed 120 hours and no more than three administrative permits may be issued for a premise during any period of 12 consecutive months.

Subd. 4.  Limitation. Signs approved by administrative permit must conform to the requirements of this section except that the sign area is in addition to all other legal sign area on the premise.

550.19.   Severability clause.

If any section, clause, provision or portion thereof of this section is found to be invalid or unconstitutional by any court of competent jurisdiction, the decision will not affect any other section, clause, provision or portion thereof.

550.21.   Supremacy clause.

When any condition imposed by any provision of this section is in conflict with or more restrictive than similar conditions imposed by provisions of other city ordinances, or Minnesota state statutes, the provision of this section controls to the extent allowable by law.

550.23.   Penalty clause.

It is unlawful for any person, firm or corporation to erect, alter, repair, remove, equip, maintain, or permit any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this section. Whoever does any act or omits to do any act that constitutes a breach of any provision of this section is guilty of a misdemeanor.