

CITY OF WOODLAND CODE OF ORDINANCES

CHAPTER 9
ZONING

CHAPTER 9. ZONING

SECTION 900 - ZONING

900.01 Purpose, Scope and Interpretation.

Subd.1. Purpose. This Chapter is adopted as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

Subd. 2. Scope. The use of all land and every structure and the erection of any structural alteration of any structure or portion of a structure in the City shall be in conformity with the provisions of this Chapter 9. Any structure or use lawfully existing on September 10, 2001 but not in conformity with this Chapter 9 as amended may be continued subject to the provisions of Section 900.05.

Subd. 3. Interpretation. The provisions of this Chapter shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare, and also shall be interpreted as provided in Section 105.12. Where the provisions of this Chapter impose greater restrictions than those of any statute, other City Ordinance or regulation, this Chapter shall apply. Where the provisions of any statute, other City Ordinance or regulation impose greater restrictions than this Chapter, the more restrictive provisions shall apply.

900.02 Definitions. For the purposes of this Chapter, the terms set forth in this Section have the meanings given them in this Section.

Subd. 1. Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more, measured on the ground, shall not be considered part of the bluff):

- (a) Part or all of the feature is located within 1000 feet of any lake;
- (b) The slope rises at least 25 feet above the ordinary high water level of the lake;
- (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 lake.

Subd. 2. Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

Subd. 3. Boat house means a structure designed and used solely for the storage of boats or boating equipment.

Subd. 4. Building means any structure having a roof supported by columns, walls or other means of support for the shelter or enclosure of persons or property.

Subd. 5. Building, Accessory, means a building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Subd. 6. Building, Main means a building in which the principal use of the lot is conducted.

Subd. 7. Building Line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subd. 8. Building Site or Building Lot - See "Lot".

Subd. 9. Commissioner means the commissioner of the Minnesota Department of Natural Resources.

Subd. 10. Conditional Use A use that would not be appropriate generally but may be allowed with appropriate restrictions, upon a finding that certain conditions as detailed in the zoning ordinance exist, the use conforms to the Comprehensive Plan of the community, and the use is compatible with the existing neighborhood. The city may impose additional conditions in specific instances to protect the health, safety and welfare. Any use deemed a Conditional Use per the ordinance must obtain a Conditional Use Permit.

Subd. 11. Construction activity shall include, but not be limited to:

- a) Clearing, dredging, excavating, and grading of land.
- b) The use or movement of manual tools, or any kind of electric, diesel or gas powered equipment and construction materials or supplies commonly employed in building, excavation, or roadway construction.
- c) The delivery, organization, or distribution of building materials or equipment associated with building, and
- d) The congregating of workers outdoors at or near the construction site, except where workers remain in their vehicles.

Subd. 12 Commercial property maintenance activity shall include, but not be limited to:

- a) The use of manual, power and maintenance equipment, lawn mowers, chain saws, leaf blowers, tractors, commercial vehicles, excavation equipment, generators, and compressors.
- b) Deliveries of landscaping supplies and equipment, and
- c) The gathering together of workers on site.

Subd. 13. 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 3 feet above ground. A deck adjoining or adjacent to a Main Building is considered an integral part of the Main Building.

Subd. 14. Dwelling means a building having running water and cooking and toilet facilities and customarily occupied by only one family.

Subd. 15. Dump (or Junk Yard) means an area used for the outdoor storage, keeping or abandonment of junk or discarded materials, including rubbish, trash, cans, bottles, garbage, vehicles, machinery or mechanical parts.

Subd. 16. Essential Services means gas, electrical, steam, or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, reasonably necessary to provide adequate service by a public utility, governmental entity or commission, or required to protect the public health, safety or general welfare. The term includes towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories but does not include buildings, microwave radio relay structures, or satellite dishes.

Subd. 17. Family means one person or two or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than three persons not so related occupying a residence, maintaining a common household and using common cooking and kitchen facilities.

Subd. 18. Fence means any structure, wall or gate erected as a divider, marker, barrier or enclosure.

Subd. 19. Guesthouse means an accessory structure used as a dwelling for non-paying guests or persons employed on the premises.

Subd. 20. Height of Building means the vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest adjoining ground level, whichever is lower, and the highest point of any roof. Each such ground level will be measured using the spot elevation existing on June 14, 2010 or the spot elevation as of the building permit application date, whichever is lower.

Subd. 21. Home Occupation - means a use carried on for gain or as a hobby by an occupant of a dwelling entirely within a dwelling or within an accessory building, which use is clearly incidental and secondary to the residential use does not change the residential character of the property, and is subject to the following limitations:

- (a) no person not residing in the dwelling may be employed on-site in the home occupation;
- (b) no interior or exterior alterations may be made to the dwelling to accommodate the home occupation except as may be customarily found in a dwelling;
- (c) exterior signs or signs visible from the exterior advertising the home occupation are prohibited;
- (d) outside storage or display of items related to the home occupation is prohibited;
- (e) home occupations that provide medical or dental care, veterinary care or pet boarding, beauty or hygienic services, are prohibited;
- (f) the residential premises may not be held open to the general public as an on-demand, walk-in retail or wholesale showroom or service center;
- (g) no customers, clients, or patients may visit the site in connection with the home occupation except for the following: (1) product sales to specific customers seen by advance appointment; (2) product sales associated with private social events (i.e., "Tupperware" parties) provided they occur no more than 4 times per year at any given residence; (3) client meetings by advance appointment that are part of a home professional office as defined in Subd. 20 of this section below; and (4) in house instrument instruction and/or educational tutoring;
- (h) deliveries and other vehicular activity associated with the home occupation shall occur only in single rear axle straight trucks or smaller vehicles typically used to serve residential areas, and no trailered vehicles or equipment is allowed in connection with the home occupation;
- (i) all vehicle parking required for conduct of the home occupation, including visits by customers and clients, shall be off-street, and parking/storage of any commercial or non-passenger vehicles used in the home occupation shall be within an enclosed garage;
- (j) the home occupation may not produce any light, glare, noise, vibration, odor, vapor, or smoke perceptible beyond the boundaries of the property which is not

customarily associated with residential use; and

- (k) the home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations.

Subd. 22. Home Professional Office means an office designed for clerical work, art or craft studio, or for a professional advice practice such as an attorney, clergyman, architect, artist, engineer, financial advisor or similar professional person located in the professional's dwelling.

Subd. 23. Impervious Surface means a surface which will not permit the passage of rainwater through it, including such surfaces as roofs, awnings, concrete or bituminous driveways, walkways, tennis courts, swimming pools and patios and plastic landscaping sheets or barriers. In determining the impervious surface area of a house or other structure, the entire area of the roof will be considered impervious surface, together with any additional impervious surface areas. For purposes of this Code, slatted decking will be deemed to be 90% impervious.

Subd. 24. Intensive Vegetation Clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.

Subd. 25. Lake means any one of the following public waters located in whole or in part in the City, which are given the following classifications by the Minnesota Department of Natural Resources:

		<u>P.W.I.D.#</u>	<u>Ord. High Water Level</u>
Lake Minnetonka	General Development	27-133	929.4 ft. above sea level
Lake Marion	Recreational Development	27-87	930.9 ft. above sea level
Shavers Lake	Development	Recreational	27-86 930.4 ft. above sea level

Subd. 26. Lot means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels by such description for the purpose of sale, lease, or separation.

Subd. 27. Lot Line, Front means the lot line adjacent to an existing or proposed street. In the case of a corner lot, the front lot line means the lot line adjacent to the street which the main building faces.

Subd. 28. Lot of Record means a lot which is a part of a subdivision, the map of which has been recorded in the office of the registrar of deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the registrar of deeds before January 1, 1988.

Subd. 29. Lot Width means the shortest distance between lot lines measured at the midpoint of the building line.

Subd. 30. Non-conforming Use means a structure or use that does not conform to the requirements of this Code at the time of adoption of the Code or at the time of an amendment of the Code which causes the structure or use not to conform.

Subd. 31. On-Site Sewage Treatment System has the meaning assigned that term in Section 705.02 of this Code.

Subd. 32. Ordinary High Water Level, used to define the boundary of public waters means an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Subd. 33. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) That the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) The plight of the landowner 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.
- (d) Economic considerations alone do not constitute practical difficulties.
- (e) For existing developments, not served with municipal sewer and water, a complying sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

Subd. 34. Public Waters means any waters defined in Minnesota Statutes § 103G.005, The designation of waters herein as "public waters" does not (1) grant the public additional or greater right of access to the waters, (2) diminish the right of ownership or usage of the beds underlying the designated public waters, or (3) affect state or local law forbidding trespass on private lands.

Subd. 35. Setback means the minimum horizontal distance between a structure or on-site sewage treatment system and an ordinary high water level, shoreline improvement, top of a bluff, road, highway, or property line.

Subd. 36. 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. 37. Significant Historic Site means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, § 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Subd. 38. Steep Slope means lands, exclusive of bluffs, having average slopes exceeding 12 percent over distances of 50 feet or more, measured on the ground, or lands that are otherwise poorly suited for development without appropriate design and construction techniques because of slope steepness and soil characteristics.

Subd. 39. Street means a public roadway which affords the principal means of access to abutting property.

Subd. 40. Structure means anything constructed or erected on the ground or attached to the ground.

Subd. 41. Structure, Accessory means a subordinate structure, the use of which is incidental to that of the main building located on the same lot.

Subd. 42. Structure, Principal means a structure, other than an accessory structure, in which the principal use of the lot is conducted.

Subd. 43. Structural Alteration means any change in or addition to the supporting members of a structure, including the enlargement or extension of outside building dimensions or building height or depth, and including conversion of a dwelling used for summer living only to a dwelling intended for use during all seasons.

Subd. 44. Swimming Pool means any outdoor structure, basin, chamber or tank for swimming, diving, or recreational bathing and having a water surface area of 100 or more square feet, and a depth of more than 24 inches at any point. The structural area of a swimming pool is deemed to include the water surface area and 4 feet of deck on all sides, or the water surface area plus proposed deck, whichever is greater.

Subd. 45. Toe of the Bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Subd. 46. Top of the Bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Subd. 47. Tree means a woody, perennial plant usually with one stem or trunk and with many branches which has a diameter greater than six inches when measured at a point four feet above the ground.

Subd. 48. Use means the purpose for which land or a building or structure is or is to be used, occupied or maintained.

Subd. 49. Use, Accessory means a subordinate use on the same lot with the principal use and incidental and accessory to the principal use.

Subd. 50. Variance has the meaning assigned that term in Minnesota Statutes, Chapter 462.

Subd. 51. "Wetland" or "Wetlands" - "Wetland" or "Wetlands" is defined in Minn. R. 7050.0186, Subp. 1.a. and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:

1. A predominance of hydric soils;
2. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
3. Under normal circumstances support a prevalence of such vegetation.

The Wetland Inventory and Classifications, as found in the Comprehensive Plan, are incorporated into this ordinance by reference and made part thereof.

Subd. 52. Yard means the open space between a lot line and a structure on the lot.

Subd. 53. Yard, Front means a yard extending across the full width of a lot having a depth equal to the shortest distance between the front lot line and the nearest portion of a structure.

Subd. 54. Yard, Rear means the yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and any portion of a structure. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to, and at the maximum distance from, the front lot line.

Subd. 55. Yard, Side means a yard between the side lot line and a structure extending from the front yard to the rear yard and having a width equal to the shortest distance between the side lot line and any portion of the structure.

900.03 Residential Districts Established.

The City's goal in its Comprehensive Plan is a high quality of residential life. Accordingly, the use of land shall be low density residential, medium density residential, wetlands, and open water.

- (a) The entire incorporated territory of the City of Woodland is designated as a residential district.
- (b) The land in the City platted as the "Methodist Lakeside Assembly Grounds", according to the plat on file in the office of the Hennepin County Recorder, is designated as a separate residential district referred to in this Code as the "Assembly Grounds".

900.04 Uses in the Residential Districts.

Subd. 1. Structures. No structure may be erected, constructed, reconstructed, altered, enlarged, moved or used within the City except as permitted by this Chapter, and only after issuance of all necessary permits and surveys as required by Chapter 7 of this Code.

Subd. 2. Uses Permitted. The following uses are permitted within the City:

- (a) One-family dwellings.
- (b) Accessory structures, uses and equipment necessary or incidental to a one-family dwelling, including public and private ways and easements, essential services complying with Section 900.12 and 900.13.

Subd. 3. Home occupations subject to the limitations of Section 900.02, Subd. 21.

Subd. 4. Uses Prohibited. The following uses are prohibited in the City:

- (a) A trailer or tent occupied as living quarters, or a cellar or basement of an uncompleted dwelling occupied as living quarters.
- (b) Aircraft strips or ports or seaplane slips or anchorages.
- (c) Any use other than those specifically identified in Subdivisions 2 and 4 of this Section.

Subd. 5. Uses Permitted. with a Conditional Use Permit. The following uses may be permitted by conditional use permit approved by the City Council, subject to any conditions imposed in the granting of the permit:

- (a) Assembly hall, community center, park, playground, library or museum sponsored and maintained by a property-owners' association or group, or a similar community group.
- (b) Buildings for public and community uses.
- (c) Churches and parish houses.
- (d) Private school, nursery school, or child nursery, the permit for which is issued for not more than one year.
- (e) Building for essential services.
- (f) Air conditioning units and backup generators for residences with a footprint of 4,000 square feet or greater.

900.05 Non-conforming Uses.

Subd. 1. Purpose. Occasionally, lots, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming because of changes in the zoning regulations that apply to the subject property. The regulations of this section are intended to clarify the effect of such nonconforming status and avoid confusion with "illegal" buildings and uses (those established in violation of applicable zoning regulations).

- (a) Continuation
A nonconforming lot, use or structure may be continued if it was legally established in compliance with all applicable regulations in effect at the time it was established.

- (b) **Legally Established Defined**
To be considered legally established, a legal nonconforming lot, use or structure shall have been physically constructed or in existence, not merely contemplated, at the time the ordinance rendering it nonconforming was adopted. Conditional Use Permits, Variances, Building Permits, or other permits not exercised within the required time do not establish the right to legal nonconformity unless the lot, use or structure was under construction (with a valid building permit) at the time of adoption of the ordinance rendering it nonconforming.
- (c) **Burden of Proof**
Any person asserting a right to a nonconforming use or structure has the burden of proof to demonstrate that the nonconformity was legally established.
- (d) **Subdivision**
Parcels of land or portions thereof shall not be subdivided if such action results in buildings and/or uses becoming nonconforming.
- (e) **Shoreland Areas**
All legal nonconforming uses, structures, and lots within designated shoreland areas, shall be governed by applicable Minnesota statutes.
- (f) **Change of Ownership**
Nonconforming status runs with the land and is not affected by changes of ownership.

Subd. 2. Nonconforming Lots.

- (a) **Development Permitted**
A single-family dwelling and customary accessory buildings may be erected on any single lot of record that does not comply with current applicable lot area or lot width regulations.
- (b) **Conformance with Standards**
Development on legal nonconforming lots shall comply with all setback, building coverage, parking, and other standards of the applicable zoning district.
- (c) **Common Ownership Limitation**
Where two or more adjacent lots of record are under common ownership as of January 1, 1988, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division

of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

Subd. 3. Nonconforming Uses.

- (a) Relocation
A nonconforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of passage the ordinance rendering it nonconforming.
- (b) Abandonment
A nonconforming use of building or parcel of land which has been discontinued for a period of one year shall not be re-established and any future use shall be in conformity with the regulations of this Ordinance.
- (c) Change
When any nonconforming use of a building or parcel of land has been changed to a conforming use, it shall not, thereafter, be changed to a non-conforming use.

Subd. 4. Nonconforming Structures.

- (a) Expansions
No nonconforming structure may be expanded, enlarged, or extended without a variance.
- (b) Alterations
A nonconforming structure may be altered as long as the alteration does not increase the size of the nonconforming structure in dimension, size area, volume or height.
- (c) Moving
A nonconforming structure that is moved to a new location shall conform to all standards that apply in its new location.
- (d) Maintenance
Normal maintenance of a non-conforming building or structure shall be permitted.
- (e) Shoreland
When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning

or building permit to mitigate created impacts on the adjacent property or water body.

(f) Loss of Nonconforming Status

1. Damage of Destruction

In the event of damage or destruction of a nonconforming structure by fire or other peril to the extent of greater than 50 percent of its market value, the damaged or destroyed nonconforming structure shall not be restored unless a building permit is applied for within 180 days of when the property is damaged or destroyed.

2. Demolished by Owner

When a nonconforming structure is demolished or destroyed by causes within the control of the owner, the structure shall not be reestablished unless a building permit is obtained within 12 months of the date of demolition, or the new building conforms to the zoning ordinance.

900.06 Permit for Alteration of Non-Conforming Structures (deleted by Ord. No. 01-2022)

900.07 Required Lot Area. No main building shall be constructed, erected, established, or structurally altered, upon a lot containing an area of less than two acres except as provided for in Section 900.05.

900.08 Required Lot Width. Except in the Assembly Grounds and as provided for in Section 900.05, no main building may be constructed, erected or established upon a lot which is less than 100 feet in width. The lot width standards must be met at both the front building line and the ordinary high water level.

900.09 Location of Structures.

Subd. 1. General Requirements. No principal structure may be erected, constructed, reconstructed, or moved onto a lot unless located within the minimum yards required under this Section. In no event may there be more than one main building on a lot.

Subd. 2. Reductions Below Required Minimums. No lot may be reduced or diminished in area, and no structure may be enlarged or moved, so as to reduce or diminish the yards, lot area or open spaces required by this Chapter. No yard or other open space required for any structure will be considered as providing yard or open space for any other structure, and no yard or open space on a lot or parcel will be considered as providing a yard or open space on an adjoining lot unless those lots have been combined by Council resolution to form a single lot for purposes of this Code.

Subd. 3. Required Yards – Certain Lots in the Assembly Grounds and Certain Lots Less Than 16,500 Square Feet. The following minimums are required for all yards for lots in the Assembly Grounds which contain an area of less than 16,500 square feet and for any other lots which contain an area of less than 16,500 square feet and are served by City sanitary sewer and City water:

- (a) The minimum side yard and rear yard in each case is 10 feet from the lot line or 20 feet from the nearest structure on an adjoining lot, whichever creates the larger yard. The minimum side yard on the street sides of a corner lot is 15 feet.
- (b) The minimum front yard is the yard created by a straight line drawn between the fronts of the dwellings on the adjoining lots, or the front yard of the adjoining dwelling if there is only one adjoining dwelling, or 15 feet if there are no adjoining dwellings.

Subd. 4. Required Yards - Other Lots. The following minimums are required for all yards in the City other than for lots in the Assembly Grounds which contain an area of less than 16,500 square feet and for any other lots which contain an area of less than 16,500 square feet and are served by City sanitary sewer and City water:

- (a) The minimum side yard is 30 feet, and the minimum side yard on the street sides of a corner lot is 40 feet.
- (b) The minimum rear yard is 40 feet.
- (c) The minimum front yard is 50 feet.
- (d) The minimum distance between a principal structure and the shore of Lake Minnetonka is the greater of:
 - 1. 75 feet, measured from the Ordinary High Water Level.
 - 2. 75 feet, measured from the elevation of 929.4 feet above sea level.
 - 3. 70 feet, measured from any shoreline improvement, including but not limited to riprap, seawall, or retaining timber.

The measurement will be based on survey(s) submitted to the City of Woodland or Minnehaha Creek Watershed District on or after August 10, 2009. If such surveys show different locations for the Ordinary High Water Mark, elevation of 929.4 feet above sea level, or shoreline improvement(s), the survey resulting in the greatest setback shall be used.

- (e) The minimum distance between a principal structure and the shore of Shaver's Lake or Lake Marion is 50 feet measured from the ordinary high water line.
- (f) The minimum distance between a principal structure and the top of a bluff is 30 feet.
- (g) The minimum distance between a principal structure and a wetland is 25 feet.
- (h) If an existing structure is destroyed, it may be rebuilt on the existing foundation if located wholly within the lot lines, or in a location which is no closer to any lot line than was the structure destroyed, so long as in either case there is no substantial increase in the height of the structure.

Subd. 5. Bluff Impact Zone. No structures other than stairways and landings shall be placed within bluff impact zones.

Subd. 6. Steep Slopes. The Building Inspector, in consultation with a professional engineer, as necessary, will evaluate possible soil erosion impact before issuing a permit for construction on steep slopes of sewage treatment systems, roads, driveways, structures, or other improvements. When determined necessary, conditions will be attached to such permits to prevent erosion and to preserve existing vegetation which screens structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

Subd. 7. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that adversely affects the aspects of the site that give it historic significance unless adequate information about the site has been obtained or removed from the site and documented in a public repository.

900.10 Lot Coverage. This section regulates the amount of area a property can have which is covered with structures and impervious surface. For the purposes of this section, "lot" area measurements will not include land below the Ordinary High Water Level, wetlands or easements for roadways and driveways.

Subd. 1. For lots containing an area greater than 16,500 square feet, the percentage of lot area covered by the main building may not exceed 10 percent of the gross lot area, and the percentage of lot area covered by an impervious surface, including the area covered by buildings, may not exceed 25 percent of the lot area. This percentage may not be exceeded, nor properties already in excess of this percentage reconfigured without the issuance of a Variance in accordance with Section 900.14 of this code.

Subd. 2. Lots containing an area less than 16,500 square feet and serviced by municipal water and sanitary sewer, the percentage of lot area covered by an impervious surface, including the area covered by buildings, may not exceed 40 percent. This percentage may be increased to 45 percent with the issuance of a

conditional use permit. Applications for a Conditional Use Permit shall be made under Section 900.15 of this code. In granting or denying the permit, the Council may consider the following matters:

- (a) Whether the increase in the amount of lot area covered by an impervious surface maintains or enhances the general character or welfare of the community.
- (b) The magnitude and extent of the increase in lot area covered by an impervious surface.
- (c) The resulting impact on the use and enjoyment of surrounding properties or other properties in the community.
- (d) The need for the increase in lot area covered by an impervious surface in order to permit adequate use of the property.
- (e) The proximity of any proposed alteration to any structure on the adjoining property.
- (f) The effect on the light and visibility available to the adjoining property.
- (g) The extent of vegetation or other screening on the subject property and the adjoining property.
- (h) The effect on the property value of the subject property and the surrounding properties.
- (i) Any other matters which may be relevant to the increase in lot area covered by an imperious surface.

For purposes of this Section 900.10, "lot" area measurements will not include land below the ordinary high water level, wetlands or easements for roadways and driveways. No portion of any lot may be covered by any impervious surface without a building permit.

900.11 Minimum Floor Area. Except in the Assembly Grounds, no main building erected, constructed, established or structurally altered as a dwelling unit may have a first floor area (exclusive of garages or other accessory buildings) of less than 1,200 square feet for a one-story building or a first floor area of less than 800 square feet for a building one and one-half or more stories.

900.12 Additional Requirements; Structures in Yards.

900.12 Subd 1. Accessory Buildings (e.g. detached garages, boathouses, guesthouse).

A. General

1. The State Building Code requires a building permit for accessory buildings in excess of 240 square feet floor area, or for buildings that are permanently affixed to the ground by a concrete slab or foundation.
2. No accessory building shall be constructed prior to construction of the principal building to which it is accessory.
3. No accessory building shall be rented or leased for any purpose.
4. A guesthouse is not permitted on any lot less than two (2) acres.

B. Design

1. The same or similar quality exterior material shall be used for an accessory structure and the main building. All accessory buildings shall also be compatible with the main building on the lot. "Compatible" means that the exterior appearance of the accessory building, including roof pitch and style, is not materially different from the main building from an aesthetic and architectural standpoint.

C. Location

1. All minimum setback requirements shall be the same as the main buildings.
2. Accessory buildings shall be located in the rear yard, except that in the case of a lakeshore lot, they shall be located in the front yard.
3. No accessory building shall be located closer than 12 feet to the principal building.
4. An accessory building shall be considered as part of the main building if the connection between the accessory building and main building is above grade, fully enclosed with a full frost footing and has a minimum width equal to twenty five percent of the longest dimension of the accessory building to be attached. In no case shall the length of the connection exceed fifty percent of the longest dimension of the accessory building to be attached.

D. Number - No lot shall have more than one detached garage and one detached storage building. No lot shall have more than three accessory buildings.

E. Size - The aggregate footprint of all accessory buildings shall not exceed 1,000 square feet or 1,400 square feet of gross floor area.

F. Height

1. Accessory building height shall not exceed 14 feet.
2. Guesthouses shall not exceed 20 feet in height.
3. Height is measured from the lowest point of grade surrounding the structure to the peak.

Subd. 2 Accessory Structures and Uses (e.g. Gazebos, Arbors, Trash Enclosures)

1. No accessory structure or use may be constructed on a lot prior to construction of the main building on the lot.
2. Accessory structures and uses shall not exceed 14 feet in height.
3. Accessory structures and uses shall meet the following setback and location requirements:

Accessory Structures and Uses		
Accessory Structure and Use	Minimum Setback from Property Lines	Location Requirements
Generators must not exceed 60 dBL at any property line	Must meet principal structure setbacks in Sec 900.09	Prohibited in internal side yards; must be screened from view
Generators that service residences with footprints over 4,000 SF require a CUP as outlined in Sec. 900.04 Subd. 5		
Air conditioning units must not exceed 60 dBL at any property line	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Air conditioning units that service residences with footprints over 4,000 SF require a CUP as outlined in Sec. 900.04 Subd. 5		
All other items that generate noise	Must meet principal structure setbacks in in Sec 900.09	Allowed in all yards
Fireplace, fire pit, outdoor cooking/kitchen areas	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Flag poles and mail boxes	None	Allowed in all yards
Means of access such as sidewalks and steps	Must meet shore impact zone setback except as provided in 900.12 Subd. 3	Allowed in all yards
Gazebos and Arbors	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Playground equipment & playhouses	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Patios, uncovered	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Solar panel (ground-mounted)	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Sport courts	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Swimming pool aprons (in-ground & above-ground), hot tubs and pool equipment	Must meet principal structure setbacks in Sec 900.09	Prohibited in internal side yards; must be screened from view
Retaining Walls 4 feet and over	Must meet principal structure setbacks in Sec 900.09	Allowed in all yards
Retaining Walls under 4 feet in height	None	Allowed in all yards
Fences and Walls	See 900.12 Subd. 4	
Driveways	See 900.12 Subd. 5	
Pump Houses	See 900.12 Subd. 6	
Trash Enclosures	See 900.12 Subd. 7	

Subd. 3. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (a) stairways and lifts must not exceed 4 feet in width;
- (b) landings for stairways and lifts must not exceed 32 square feet in area;
- (c) canopies or roofs are not allowed on stairways, lifts, or landings;
- (d) stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (e) stairways, lifts, and landings must be located, whenever practical, in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

Subd. 4. Fences. All fences in the City shall meet the following requirements:

- (a) No fence may exceed 6 feet in height, other than a chain link or wire mesh fence for a tennis court or paddle tennis court not exceeding 10 feet in height. Any other chain link or wire mesh fence shall not exceed 3-1/2 feet in height.
 - (1) Fence height means the vertical distance between the adjoining ground level at the fence and the highest point of the fence.
 - (2) When measuring the height of a fence, separation from grade shall not exceed three inches to the bottom of a fence panel. If the separation from grade exceeds three inches to the bottom of the fence panel, the maximum permitted height will be reduced by the amount that the separation from grade exceeds three inches.
 - (3) The height of a fence post shall not exceed six inches above the top of a fence panel.
- (b) No fence shall be placed within the required setback for structures from any lakeshore. No fence may be erected within 5 feet of a lot line until a survey of the lot line and stakes placed by the surveyor showing the proposed fence have been approved by the Zoning Administrator. All fences shall be set back from the property line a distance equal to at least two-thirds of the height.

- (c) No fence shall be placed or extend into a public right-of-way.
- (d) The front or decorative side of any fence which has a front and rear side must face the abutting property.
- (e) No fence or hedge in any yard of a corner lot within 20 feet of the corner at the street intersection may be more than 3 feet above the level of the center of the roadway nearest it if the fence or hedge obstructs the view of traffic on the roadway.
- (f) All fences must be maintained by the owner in a condition of good repair and appearance.
- (g) There shall be no storage of any type between a fence and the property line abutting the fence. Any such storage in place at the time of the adoption of this ordinance must be removed so as to be in compliance with the ordinance.

Subd. 5. Driveways. All driveways in the City shall meet the following requirements:

- (a) Shall be setback at least five feet from delineated side property lines or platted drainage and utility easements.
- (b) May not be placed within bluff and shore impact zones and may not be placed in the required shoreland setback.
- (c) Any heating system located within the City's right-of-way shall require a right-of-way encroachment permit.
- (d) Any heating system shall be reviewed and approved by the City Engineer to ensure that snowmelt does not drain onto a public street.

Subd 6. Pump Houses. All pump houses in the City shall meet the following requirements:

- (a) Prohibited in internal side yards.
- (b) A pump house not exceeding 5 feet in height and 30 square feet in area may be located closer to the lake than permitted under the applicable setback from the ordinary high water line, but must be located at least 12 feet back from the ordinary high water line. Any such pump house must be treated to reduce visibility from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the City, assuming summer, leaf-on conditions.

Subd. 7. Trash enclosures. All buildings having exterior trash receptacles shall provide an enclosed area in conformance with the following:

- (a) Exterior wall treatment shall be similar to and/or complement the main building.
- (b) The enclosed trash receptacle areas shall be located in the rear or side yard.
- (c) The trash receptacles must be fully screened from view of adjacent properties and the public right-of-way.
- (d) The design and construction of the trash enclosure shall be subject to the approval of the Zoning Administrator.
- (e) The trash receptacle must meet principal building setbacks of the zoning district.

Subd. 8. Projections into Required Setbacks

Building features may extend into required setback areas as shown in the table below, subject to the requirements of the Building Code.

Projections into Required Setbacks		
Obstruction/Projection	Maximum Projection into Required Setback	Minimum Setback from Property Lines
Bay Windows, sills, fire escapes, chimneys, and similar wall projections	4 feet	N/A
Cornices, eaves, canopies, and similar roof projections	4 feet	N/A
Decks, balconies, and porches	N/A	Must meet principal structure setbacks
Steps to building entrances (except in Assembly Grounds)	12 feet into front or rear setback 6 feet into side setback	N/A
Wheelchair ramps and similar features for the disabled	None	None

900.13 Structure Elevation and Height Requirements.

Subd. 1. Structure Height Limits. No portion of a structure may exceed 35 feet in height, as measured in accordance with Section 900.02, Subd. 20. No portion of an accessory structure may exceed 14 feet in height, as measured in accordance with Section 900.04, Subd. 2(b)(6). Structure height limits do not apply to chimneys or flues.

Subd. 2. Minimum Lowest Floor Elevation. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where those controls do not exist, the lowest floor of a structure must be placed at or flood proofed to a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher.

900.14 Variances.

Subd. 1. Scope. This section applies to all exceptions to the requirements of this Code, except where the paragraph stating the requirement calls for a different permitting process, e.g., Conditional Use Permit. Any person may request variances from the literal provisions of the zoning ordinance where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration.

Subd. 2. Ordinance provisions to Which Variances May Be Granted. The City Council may consider variances from the strict application of the provisions in this Chapter and impose reasonable conditions and safeguards in the variance granted.

Subd. 3. Review Criteria. The City Council may approve a variance application only upon finding that all of the following criteria, as applicable, have been met:

- (a) The variance, and its resulting construction or project, would be in harmony with the general purposes and intent of the zoning ordinance and the would be consistent with the comprehensive plan.
- (b) The variance applicant has satisfactory established that there are practical difficulties in complying with this zoning ordinance. “Practical difficulties” means that:
 - (1) That the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

- (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner;
 - (3) The variance, if granted, will not alter the essential character of the locality.
- (c) Economic considerations alone do not constitute practical difficulties.
- (d) For existing developments, not served with municipal sewer and water, a complying sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.
- (e) In applying the statutory criteria, the Council may also consider the following factors:
- (1) The magnitude and extent of the proposed alteration;
 - (2) The resulting impact on the use and enjoyment of surrounding properties and other properties in the community;
 - (3) The proximity of the proposed alteration to any structure on the adjoining property.
 - (4) The effect of the proposed alteration on the light and visibility available to the adjoining properties.
 - (5) the extent of vegetation or other screening on the subject property and the adjoining properties;
 - (6) The variance requested is the minimum action required to address or alleviate the practical difficulties.

Subd. 4. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Violation of such conditions shall be a violation of the zoning code and subject to the enforcement provisions thereof.

Subd. 5. Application. Written application for a variance is to be made to the Clerk and accompanied by the filing fee in the amount stated in Section 305.02.

Subd. 6. Council Consideration. The Council will consider the application and hold a public hearing on the matter within 60 days after receipt of the application. The Council will by motion grant or deny the application according to the provisions of Subdivision 3 of this Section and will make a record in the minutes stating its conclusions with respect to each of the findings required under Subdivision 3.

Subd. 7. Required Vote. No variance shall be granted by the Council except upon an affirmative majority vote of the entire City Council acting as the Board of Adjustment and Appeals.

Subd. 8. Notice. The Clerk will publish notice of the Council meeting at which the variance application will be heard in the City's official newspaper at least 10 days prior to the Council meeting, and will mail such notice at least 10 days prior to the Council meeting to all persons who own property within 500 feet of the perimeter of the lot in question, to the applicant and to the Council Members. Failure of a property owner to receive notice shall not invalidate any proceedings on a variance request provided a bonafide attempt has been made to comply with the notice requirements of this ordinance.

Subd. 9. Reconsideration. Whenever an application for a variance has been considered and denied, a similar application for a variance affecting the same property by the applicant, their successors or assigns, shall not be considered a second time by the City Council, acting as the Board of Adjustments and Appeals, for at least six (6) months from the date of its denial; unless the Board of Adjustment and Appeals vote for reconsideration of the matter upon a vote of not less than four-fifths of the entire Board of Adjustments and Appeals.

Subd. 10. Recovery of Legal and Administrative Costs. In addition to the initial application fee as may be established from time to time by the City Council, the applicant in making any application for variance agrees to pay all legal fees, engineering fees, consultant fees, and other administrative costs the City may incur in conjunction with the processing of the variance application. No building permit shall be issued on a granted variance until such costs have been paid in full.

Subd. 11. Expiration. If a variance is granted for a property and the applicant does not commence the construction of the structure for which it was granted within one year after the date of the Council Resolution approving the variance, the variance will expire and will be of no further force and effect. The applicant may request an extension of the approval. The request must be submitted in writing showing a good faith attempt to complete the structure for which the approval was granted and a fee, as established in Section 305 must be paid. The request for an extension may not exceed one year and shall be subject to the review and approval of the City Council.

900.15 Conditional Use Permits.

Subd. 1. Scope. This Section applies to all conditional use permits which may be granted for specified uses delineated elsewhere in this Chapter.

Subd. 2. Evidence. The applicant is responsible for substantiating the application with authoritative evidence. In considering a request for a conditional use permit, the Council must be supplied with and consider evidence of the effect of the proposed use on the character and development of the neighborhood; the health, safety, and welfare of occupants of surrounding lands; existing and anticipated traffic conditions, including parking; and the effect on property values in the surrounding area. In addition, the Council must be supplied with such evidence and studies as it deems necessary in order to (1) conduct a thorough evaluation of the topographic, vegetation and soil conditions on the site to ensure the prevention of soil erosion or other possible pollution of public waters, roadways, and adjacent private property, both during and after construction, to ensure limiting visibility of structures and other facilities as viewed from public waters, roadways, and adjacent private property, and to ensure adequacy of the site for water supply and on-site sewage treatment, and (2) assess the types, uses, and numbers of watercraft and motor vehicles that the project will generate in relation to the suitability of public waters, roads and private lands to safely accommodate watercraft, motor vehicles and proposed structures. Insufficiency of authoritative evidence will result in denial of the application.

Subd. 3. Application. Application for a conditional use permit will be made in writing on forms provided by the Clerk, and will be filed with the Clerk together with a filing fee in the amount required under Section 305.02.

Subd. 4. Notice. The Clerk will publish notice of the Council meeting at which the application will be heard in the City's official newspaper at least 10 days before the Council hearing and will mail notice at least 10 days before the hearing to all persons who own property within 500 feet of the perimeter of the lot in question, to the applicant and to the Council Members.

Subd. 5. Council Hearing. The Council will consider the application at a public hearing at its next regular meeting held not sooner than 10 days after the notice. After the hearing, the Council will grant or deny the application by resolution which will include findings of fact and the conditions imposed in connection with the conditional use permit.

Subd. 6. Assignment. Applicants may not assign any application, evidentiary material or conditional use permit without consent of the Council.

Subd. 7. Expiration. If the applicant does not commence the authorized use or improvement within one year of the date the conditional use permit is issued the conditional use permit will expire and will be of no further force or effect. The applicant may request an extension of the approval. The request must be submitted in writing showing a good faith attempt to complete or utilize the approval permitted by the conditional use permit and a fee, as established in Section 305 must be paid. The request for an extension may not exceed one year and shall be subject to the review and approval of the City Council.

900.16 Wetland Regulations.

Subd. 1. Purposes. It is in the public interest to protect the wetlands, lowlands, watershed areas, lakes and watercourses within the City from uncoordinated and unplanned development, pollution and other damage. In addition to such general purposes, this Section is intended to:

- (a) Reduce danger to health from impure surface and ground water supplies by providing safe and sanitary drainage.
- (b) Permit and encourage land uses compatible with preservation of natural vegetation and marshes, for the purposes of maintaining constant rates of water flow and sustaining wildlife and plant growth.
- (c) Encourage a system of ponding areas to avoid fast runoff of surface waters from developed areas and to avoid drainage of pollutants into streams and lakes.
- (d) Restrict development of structures which will adversely affect wetland areas and public waters.

Subd. 2. Pollution Prohibited. It is unlawful for any person to cause pollution of wetlands or any body of water into which they drain, by depositing or discharging within wetlands, or permitting to drain into such waters, contrary to then applicable state standards, sewage, chemical wastes, pesticides, insecticides, plant fertilizers, salt, or other substances which would render the wetlands or such waters unclean, noxious, or impure according to then applicable state standards.

Subd. 3. Certain Development Prohibited. No filling, grading, dredging, excavation or construction is allowed within wetlands if such activity is incompatible with the purposes set forth in this Section or would result in the pollution prohibited in this Section.

Subd. 4. Permit for Development. There may be no filling, grading, dredging, excavation or subdivision of wetlands, and no structure or obstruction may be placed or erected within wetlands, until an appropriate permit has been issued by the City.

Subd. 5. Application for Permit. An application for a permit under this Section is to be filed with the Clerk, and paying the license fee as set forth in Section 305.02. The applicant must submit four copies of the application which include:

- (a) The name of the landowner.
- (b) The mailing address of the landowner.
- (c) The address and legal description of the land.
- (d) A description, including specific locations shown by map or survey, of any filling, grading, dredging or excavation to be done.
- (e) A description, including specific locations shown by map or survey, of any structure or obstruction to be placed or erected.
- (f) Other changes which would be made in the natural condition of the area, including loss or change of ground cover, destruction of trees and grade changes, and their effects upon the wetlands and the lakes and water courses into which they drain.
- (g) Engineering and hydrological data as required by the City.
- (h) The applicant's reasons for proceeding with the items described in (d), (e), and (f) of this Subsection.
- (i) Provisions for drainage, sediment control, pollution control, water management, maintenance of landscaped features, and any additional matters intended to improve or maintain the quality of the environment.
- (j) An explanation of why issuance of the requested permit would be consistent with each of the purposes set forth in this Section.
- (k) The name of the watershed district, or districts, in which the subject property is located.

Subd. 6. Review by Watershed Districts. Upon filing of the application, a copy will be sent by the City to the watershed district, or districts, in which the property is located, for review and comment by the watershed districts. The watershed district will file its comments and recommendations, if any, with the City within 40 days after receipt of the application unless additional time is authorized by the City. If no response is received

from a watershed district within the 40-day period, the City may assume that the district has no comments or recommendations.

Subd. 7. Hearing by Council. The Council will, at its next regular meeting after receipt of the recommendations of the watershed district, set a date for a public hearing regarding the application for permit. At least 10 days before the hearing, a notice of the date, time, place and purpose of the hearing will be published in the City's official newspaper, and will be mailed to all persons who own property within 500 feet of the property for which the permit has been requested. At the hearing, the Council will hear persons who wish to be heard in the matter. The Council will make its decision at the same meeting or at the next regularly scheduled meeting.

Subd. 8. Effect of Permit. The granting of a permit under the provisions of this Section will in no way affect the owner's responsibility to obtain all approvals required by any other ordinance of the City, or any statute, ordinance or regulation of the state or any State agency or subdivision, and any items authorized by the permit must comply with all other ordinances, statutes, and regulations.

900.17 Administration and Enforcement

Subd. 1. Voting. Voting on matters under this Chapter will be conducted as follows:

<u>Purpose</u>	<u>Votes</u>
Amendment to Chapter to change any land from a residential zoning district to commercial or industrial zoning district	Four
Any other Amendment to this Chapter	Three
Variance	Three
Conditional Use Permit and Permits Under Section 900.06	Three
Resolution	Majority of Members present
Motion	Majority of Members present

Subd. 2. Board of Appeals. The Board of Appeals consists of the Mayor and Council and will function under Section 900.14 and to hear any alleged error in any requirement or determination by the Building Inspector or other City official. Five copies of the

appeal and all necessary surveys, drawings and other information must be filed with the Clerk at least 10 days prior to the meeting at which the appeal is to be heard. The Mayor or Acting Mayor will chair the Board of Appeals which will be governed by the rules of procedure applicable to the Council.

Subd. 3. Building Permits. No person may erect, alter, wreck, or move any structure or part thereof, without first securing a building permit. Application for a building permit may be made in accordance with the building code of the City. Each application must state among other things, the dimensions of the lot to be built upon, the size and location of the structure or structures to be erected, the purpose or purposes of the structure or structures, as may be deemed necessary for the proper enforcement of this Code. The fees for building permits are provided in the building code of the City. The City will issue a building permit only after determining that the building plans together with the application comply with the applicable provisions of the building code and City Ordinance.

Subd. 4. Land Alteration Permits. No land in the City may be excavated, graded, or filled without a permit from the City Engineer and Zoning Administrator. The applicant will provide a scalable survey for the proposed alteration, showing the present and proposed elevations or contours, the existing and proposed drainage pattern including the volume and rate of runoff currently and proposed to leave the property and any other information requested by the City Engineer. The City Engineer and Zoning Administrator will consider whether the alteration and any related structures will comply with the applicable provisions of this Code, and the effects on drainage and destruction of ground cover and water holding areas.

All applications for building permit in the City must be accompanied with a land alteration permit.

- a) Except in the Assembly Grounds, any excavation, filling or grading that would increase or decrease by up to 3 feet any ground level existing as of June 14, 2010 or the date of the application, whichever ground level is lower at any point, requires written permit from the City Engineer and Zoning Administrator. Any such land increase or decrease of more than 3 feet at any point requires a variance.
- b) Any excavation, filling or grading in the Assembly Grounds that would increase or decrease by up to two feet any ground level existing as of June 14, 2010 or the date of the application, whichever ground level is lower at any point, requires written permit from the City Engineer and Zoning Administrator. Any such land increase or decrease of more than two feet at any point requires a variance.

Subd. 5. Notification to Department of Natural Resources

- (a) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses respecting the City's shoreland management controls will be sent to the commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed plats will include copies of the plats.
- (b) A copy of any approved amendment to the City's shoreland management controls, of approved plats, and final decisions granting variances or conditional uses respecting the City's shoreland management controls will be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days after final action.

900.18 Topographic Alterations. The following considerations and conditions apply to the issuance of permits involving topographic alterations, including building permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- (a) alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (b) mulches or similar materials must be used, where necessary, for temporary bare soil coverages, and a permanent vegetation cover must be established as soon as possible;
- (c) methods to minimize soil erosion and to trap sediments before they reach any lake, channel, stream, pond or wetland must be used;
- (d) altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Services;
- (e) fill or excavated material must not be placed in a manner that creates an unstable slope;
- (f) plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (g) fill or excavated material must not be placed in bluff impact zones;
- (h) any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.245;

- (i) alterations of topography will be allowed only if they are accessory to permitted or conditional uses and do not adversely affect the adjacent or nearby properties; and
- (j) placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to one foot vertical, the landward extent of the rip-rap is within 10 feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed 3 feet.

Permits for excavations where the intended purpose is connection to a public water, such as boat slips canals, lagoons, and harbors, may be issued only after the commissioner has approved the proposed connection to public waters.

900.19 Tree Removal and Vegetation Maintenance and Alterations.

Subd. 1. Purpose. The City finds that it has been established that trees and other vegetation stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, temper noise, and provide a natural habitat for wildlife. Indiscriminate removal of trees and clearing of vegetation cause deprivation of these benefits and that it is in the interests of the City and its residents to prevent the indiscriminate removal of trees and clearing of vegetation.

Subd. 2. Activities Requiring a Permit. No person shall engage in any of the following activities without first obtaining a Vegetation Alteration permit:

- (a) intensive vegetation clearing
- (b) the removal of any tree having a diameter of more than six inches.
- (c) tree and vegetation removal necessary for the construction of structures and public utilities and the construction of roads and parking areas otherwise complying with the applicable provisions of the Code; provided that any trees removed as a result of such construction shall be replaced as provided in Subd. 6 of this Section.

Subd. 3. Permit. Prior to engaging in any activity that requires a permit under Subd. 2 of this Section, an application shall be submitted to the Zoning Administrator for a Vegetation Alteration permit, which shall remain valid for eight (8) months from the date of issuance, for such activity. The application shall include a landscape plan prepared by a landscape architect or nursery designer and shall include the following information, unless waived by the Zoning Administrator:

- (a) A scale drawing based upon a survey of property lines showing location, species and size of all Significant and Landmark trees on the property.
- (b) Identify the Significant and Landmark trees proposed to be removed.
- (c) Identify the protection measures that will be used to protect the preserved trees during grading and construction.
- (d) Location, species and size of the required replacement trees.

Subd. 4. Fertilizers and Pesticides. Fertilizers and pesticides must be used in such a manner as to minimize run off into shore impact zones and public waters by use of earth, vegetation or both.

Subd. 5. Tree Preservation and Replacement.

- (a) the following trees are protected, and shall be preserved and maintained according to the standards of this Section:
 - (1) Significant trees, which are any tree (except Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm, and Prickly Ash) with a diameter at breast height (DBH) of six (6) inches or more.
 - (2) Landmark trees, which are any tree (except Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm, and Prickly Ash) with a diameter at breast height (DBH) of 30 inches or more.
- (b) no significant or landmark tree shall be removed unless a Vegetation Alteration permit is issued by the Zoning Administrator pursuant to Subd. 3 of this Section and replaced according to the standards below:
 - (1) Significant trees shall be replaced at a ratio of one (1) tree for every significant tree removed.
 - (2) Landmark trees shall be replaced at a ratio of two (2) trees for every landmark tree removed.
 - (3) Replacement trees shall be of a species similar to the trees to be replaced and shall be no less than the following sizes:
 - (i) Deciduous trees – no less than four (4) caliper inches
 - (ii) Coniferous trees – no less than 10 feet high

- (4) Replacement trees shall be planted no later than the first fall or spring following the removal of the tree to be replaced or by such later date agreed to by the Zoning Administrator if planting during such period would not be in conformance with accepted tree management practices.
 - (5) Any replacement tree that is not alive or healthy one year after the date of planting shall be removed and a new healthy tree of the same size and species planted in its place. Planting shall occur no later than the first fall or spring following the expiration of such year.
- (c) Removal of trees that are dead, diseased or pose an immediate threat to life or property are exempt from the requirements of this Section.

Subd. 6. Tree Protection Specifications.

The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

- (a) No clearing shall be allowed on a site until approval of a Vegetation Alteration permit;
- (b) An area of prohibited disturbance, generally corresponding to the dripline of the protected tree shall be protected during construction with a temporary five-foot-high chain link or plastic net fence. The fencing shall be installed prior to issuance of development permits for the site;

Subd 7. Landscaping Within Public Right-of-Way. All landscaping that is located within public right-of-way shall be maintained by the abutting property owner. The abutting property owner shall be responsible for removal of any tree or limb that is deemed hazardous to the public.

Subd. 8. Shade Tree Disease Program. It is the intention of the City to conduct a program of shade tree disease control pursuant to authority granted by Minnesota Statutes, Section 18.023. This program is directed specifically at the control and elimination within the City of Dutch elm disease fungus, elm bark beetles, emerald ash borer, and of oak wilt fungus.

- (a) The City shall have the right to order or cause the removal of any trees that are dead or diseased on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.

- (b) Unless such trees pose immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for removal and the location of said tree or trees to be removed. Removal shall be done by said owners at the owner's expense within (30) days after the date of the order to remove or a time parameter placed by the Zoning Administrator in consideration of the time of year or protection against spread of disease. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the City shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided by law in the case of special assessments.

Subd. 9. Fines. Any builder, contractor or agent who may have intentionally assisted in the commission of any such violation, shall be guilty of a separate offense. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance, and each tree removed shall constitute a separate offense. Any person violating any provision of this Section, upon conviction, will be guilty of a misdemeanor.

Subd. 10. Enforcement. The Zoning Administrator is hereby charged with the responsibility for the enforcement of this Section and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

Subd. 11. Appeals. A person aggrieved by the administration of this Section may have thirty (30) days to appeal by petitioning the Zoning Administrator in writing. The Zoning Administrator will consult the City Council at its next scheduled meeting.

900.20. Roads, Driveways, Parking Areas.

- (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve screening of view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion into public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- (b) Roads, driveways, and parking areas must meet the required lake setback for structures and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no such alternatives exist, they may be placed within these areas with the issuance of a variance, but must be designed to minimize adverse impacts.

- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Code are met. For private facilities, the grading and filling provisions of this Code must also be met.

900.21 Storm Water Management.

- (a) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge into public waters. When development density or site conditions are such that natural features are inadequate, various types of constructed facilities such as skimming devices, dikes, waterways and ponds may be used if they comply with the field office technical guide of the local soil and water conservation district. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- (b) All development must be planned and conducted in a manner that will minimize erosion.

900.22 Controlled Accesses to Public Waters. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:

- (a) Controlled access lots must meet the width and size requirements for residential lots, and be suitable for their intended uses.
- (b) Controlled access lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (c) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They may also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of such non-conflicting activities include swimming, sunbathing, and picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize

topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

900.23 Lighting.

- Subd. 1. Purpose. The purpose of this Subsection is to balance the concern for the environment with the need for safety, security, and the illumination of after-dark activities.
- Subd. 2. Applicability. The requirements of this Subsection apply to all outdoor lighting except street lighting within public rights-of-way.
- Subd. 3. General Provisions:
- (a) Sources of artificial light shall be so fixed, directed, designed and sized so that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 0.1 foot candle in or within 25 feet of a dwelling nor more than 0.5 foot candle on any part of the property.
 - (b) Decorative lighting (e.g. string lights, icicle lights, rope lighting, or seasonal decoration lighting) shall be extinguished between the hours of 11 PM and 6 AM or when people are not present, whichever is later. Decorative lighting must be installed so it is clear that it is strictly decorative in nature and not being used to circumvent the purpose of this section.
 - (c) Architectural and landscaping lighting shall be extinguished between the hours of 11 PM and 6 AM. Lighting for the United States of America flag is exempt.
 - (d) Safety lighting along walkways within 50 feet of a house, driveways, pedestrian doors, garage doors and for addresses that direct light downwards or horizontally may be lit throughout the night. With the exception of lighting addresses, safety lighting that is directed upwards shall be extinguished between the hours of 11 PM and 6 AM. Lighting for driveways and walkways shall not exceed seven (7) feet from the ground.
 - (e) Lighting, for recreational purposes (i.e., sport courts, hockey rinks, or other similar features) shall direct all lighting downward and spill must be controlled. Luminaire mounting height shall not exceed 15 feet above the ground, and shall be extinguished between 11 PM and 6 AM.

900.24 Construction Site Management

Subd 1. Purpose. The purpose of these requirements is to ensure the preparation and implementation of construction site management in order to limit the impact of construction on the immediate neighborhood.

Subd 2. General Regulations. All residential and commercial construction sites shall comply with the following:

- (a) Construction activity, as defined in Section 415.01, Subd. 2, and 900.02, Subd. 11 and commercial property maintenance activity as defined in Section 415.01, Subd. 3, and 900.02, Subd. 12, at any time other than the hours of 7:00 a.m. to 6:00 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on Saturdays and no such activity is permitted on Sundays or on the following public holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Noise from equipment used during the removal of snow and generators and equipment used during power outages or other emergencies shall be exempt from the restrictions under this subsection.
- (b) No building material, temporary sanitary facilities or equipment may be placed within 10 feet from the edge of the street. All equipment shall be stored within the confines of the construction site. If necessary, a temporary property line fence will be required to ensure that no construction vehicles, materials or other debris encroaches onto adjacent properties. Public sidewalks must be left open and unobstructed at all times. Long-term (over five days) stockpiles of building supplies is prohibited. Temporary sanitary facilities shall be located no closer than 15 feet from an adjacent house.
- (c) The permit holder must repair any damage to public streets, sidewalks, boulevards (including trees), curbs, water shutoff valves, utility services, gutters, catch basins, manholes or sewers to the satisfaction of the Department of Public Works. If damage occurs to the foregoing, it must be repaired within three (3) working days after the damage occurs, unless the permit holder has received written permission from the Zoning Administrator to delay repairs to a later specified date.

Subd. 3. Additional Regulations. Regulations for all new construction or physical alteration of the structure envelope (i.e. the alteration of the footprint or height of an existing structure), shall comply with the following:

- (a) Prior to issuance of a building permit, permit holder shall submit a signed Construction Management Agreement.
- (b) The permit holder must furnish the City a cash escrow as required by Section 305 of the City Code prior to issuance of a building permit. The city may draw on the cash escrow to pay the costs it incurs in connection with the project, including but not limited to, repair to damaged streets and boulevards and boulevard trees, to

remedy permit violations, or to reimburse the City for consultant fees. The City shall determine all of its costs, including both administrative and consulting services, at the rates normally charged by the City or its consultants according to City standards. If the City draws on the cash escrow, upon the City's demand the permit holder must deposit in escrow additional funds to restore the escrowed amount to \$5,000. The cash escrow must remain in place until the issuance of a certificate of occupancy.

- (c) The City Engineer will document the condition of the road surface in the vicinity of the access to the proposed project: 1) prior to the commencement of construction and, 2) before the refund of the escrow. A road condition inspection fee for this service shall be submitted to the City by the applicant as required by Section 305 of the City Code.
- (d) Prior to issuance of a building permit, City staff will notify all property owners within five hundred (500) feet of the proposed project, building time frame, proposed parking, building plans and contact information for the applicant.
- (e) Prior to issuance of a building permit, applicants shall provide evidence that the proper permits have been issued by the Minnehaha Creek Watershed District.
- (f) Onsite parking of construction vehicles and equipment will be provided to the extent feasible. If street parking is necessary, it must be done in coordination with the city. Parking will be limited to only those zones designated by city resolution.
- (g) All equipment shall be stored within the confines of the construction site. If necessary, a property line fence will be required to ensure that no construction vehicles, materials or other debris encroaches onto adjacent properties.
- (h) Dumpsters shall be located on site. If not possible, dumpsters on streets must be approved by Public Works. Dumpsters shall be removed only during approved construction hours.
- (i) Daily site clean up of debris and garbage is required.
- (j) Permit holder must thoroughly dampen demolition materials with water during demolition so as to prevent dust.
- (k) Daily street cleaning is required to remove all dirt, mud and debris from public streets.
- (l) The applicant shall submit a Stormwater and Construction Management Plan as outlined in Subdivision 4 of this Section.

Subd 4. Stormwater and Construction Management Plan. The Stormwater and Construction Management Plan is a stand-alone document and shall include the following:

(a) A site plan showing:

1. Site address.
2. Names, addresses and telephone numbers of persons responsible for preparing and implementing the construction site management plan.
3. Site property lines.
4. Location of proposed buildings and structures on site.
5. Identification and location of all significant natural boundaries/buffers to neighboring properties.
6. Best Management Practices (BMPs) to minimize erosion and discharge of sediment and other pollutants.
7. Location of soil stockpiling.
8. Locations of the temporary toilet, if required, and dumpster.
9. Site entrance and on-site parking areas, and/or proposed street parking plan.

(b) A document describing the following:

- 1) BMPs for dewatering activities.
- 2) Schedule and procedures for site inspections and recording of rainfall events during construction.
- 3) Schedule and procedures for maintenance of BMPs during construction.
- 4) Management procedures for solid and hazardous waste.
- 5) Schedules and procedures for final stabilization.

(c) Waiver. Specific provisions of this ordinance may be waived by City Staff based on the scope and duration of the specific construction project.

(d) Notification and Inspection. The applicant or its authorized agent shall notify

the City on completing the installation of all property line and silt fencing. The applicant shall not proceed with site activity until the City has been notified and allowed two full business days to inspect the site and, as necessary, confer with applicant.

900.25 Construction Site Runoff Control

Subd. 1 Intent

To promote the health, safety and general welfare of the citizens of Woodland, Minnesota and protecting the City's environmental resources by reducing the discharge of pollutants into receiving water bodies, by requiring a sediment & erosion control program for construction activity as required the City of Woodland Storm Water Management Program Permit (Reference permit no. or indicate permit pending as appropriate).

Subd. 2 Findings

The City of Woodland hereby finds that uncontrolled land disturbing activity at construction sites are subject to soil erosion where sediment and other pollutants enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing or permanently damaging environmental resources and otherwise hindering the ability of the City of Woodland to provide adequate water, sewage, flood control and other community services.

Subd. 3 Purpose

The purpose of the ordinance is to promote, preserve and enhance the natural resources within the City of Woodland and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing activities that would have an adverse and potentially irreversible impact on water quality, environmentally sensitive land and surface water bodies; by minimizing conflicts and encouraging construction site runoff control through proper evaluation, assessment, design and implementation of a erosion and sediment control program for site disturbance or development.

Subd. 4 Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivatives shall have the meaning stated below. When inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

1. "Applicant" any person who wishes to obtain a building permit, zoning or subdivision approval.
2. "Best Management Practices (BMPs)" means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Individual BMPs are described in the current version of Protecting Water Quality in Urban Areas, Minnesota Pollution Control Agency 2000. BMPs must be adapted to the site and can be adopted from other sources. However, they must be similar in purpose and at least as effective and stringent as MPCA's BMPs. (Other sources include manufacturers specifications, Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, U.S. Environmental Protection Agency 1992, and Erosion Control Design Manual, Minnesota Department of Transportation, et al, 1993).

3. "Commissioner" means the Commissioner of the Minnesota Pollution Control Agency or the Commissioner's designee.
4. "Common Plan of Development or Sale" means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
5. "Construction Activity" includes construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more.
6. "Dewatering" means the removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural Resources

permits to be appropriated and if contaminated may require other MPCA permits to be discharged.

7. "Energy Dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.
8. "Erosion Prevention" means measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.
9. "Final Stabilization" means that either:
 - a. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;
 - b. For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or
10. "General Contractor" means the party who signs the construction contract with the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the Co-Permittee.
11. "Impervious Surface" means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

12. "National Pollutant Discharge Elimination System (NPDES)" means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345..
13. "Normal Wetted Perimeter" means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.
14. "Notice of Termination" means notice to terminate coverage under this permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001). Notice of Termination forms are available from the MPCA.
15. "Operator" means the person (usually the general contractor), designated by the owner, who has day to day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person must be knowledgeable in those areas of the permit for which the operator is responsible, (MN R100001: Part II.B. and Part IV.) and must perform those responsibilities in a workmanlike manner.
16. "Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.
17. "Permanent Cover" means final stabilization. Examples include grass, gravel, asphalt, and concrete.
18. "Permittee" means a person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.
19. "Saturated Soil" means the highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.
20. "Sediment Control" means methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm

drain inlet protection, and temporary or permanent sedimentation basins.

21. "Small Construction Activity" means small construction activity as defined in 40 C.F.R. part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
22. "Stabilized" means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.
23. "Standard Plates" means general drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.
24. "Storm water" is defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.
25. "Storm Water Pollution Prevention Plan" means a plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.
26. "Surface Water or Waters" means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.
27. "Temporary Erosion Protection" means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.
28. "Underground Waters" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.
29. "Waters of the State" (as defined in Minn. Stat. § 115.01, subd. 22) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs,

reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

30. "Water Quality Volume" means ½ inch of runoff from the new impervious surfaces created by this project and is the volume of water to be treated in the permanent storm water management system, as required by this permit except as provided in Appendix A.C.2.
31. "Wetland" or "Wetlands" is defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:
 - a. A predominance of hydric soils;
 - b. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
 - c. Under normal circumstances support a prevalence of such vegetation.

Subd. 5 Scope and effect

- A. Applicability. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities greater than or equal to one acre or part of a larger common plan or development greater or equal to one acre or smaller area where the Zoning Administrator determines the activity poses a risk to water resources must submit a storm water pollution prevention plan to the Zoning Administrator. No building permit, Subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water pollution prevention plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of Subd. 6.B of this ordinance apply to all land, public or private. Nothing in this ordinance shall relieve the applicant of other County, State, Federal or local watershed district requirements that may be applicable to the applicants proposed activities.
- B. Exemptions. The provisions of this ordinance do not apply to:

1. Any part of a Subdivision if a plat for the Subdivision has been approved by the City Council on or before the effective date of this ordinance;
2. A lot for which a building permit has been approved on or before the effective date of this ordinance;
3. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or
4. Emergency work to protect life, limb or property.
5. Tilling, planting, or harvesting of agricultural, horticultural, or cultural (forestry) crops.
6. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs and maintenance work.
7. Additions or modifications to existing single family structure which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and/or is part of a larger common development plan.

Subd. 6 Storm water pollution prevention plan submittal procedures

- A. Application. A copy of the written application for General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001) and all supporting documentation including a copy of the proposed storm water pollution prevention plan, including evidence of the permit fee payment, and/or the application requirements of the Minnehaha Creek Watershed District as applicable shall be filed with the City and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm water pollution prevention plan, an applicant may have the storm water pollution prevention plan reviewed by the appropriate departments of the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator and shall be accompanied by a receipt from the City Clerk evidencing the payment of all required fees for processing and/or financial securities in accordance with the City. The permit letter and certification acknowledging permit coverage under General Permit MN R10001 from Minnesota Pollution Control Agency Shall also be submitted upon receipt. Drawings shall be prepared to a scale appropriate to the

site of the project and suitable for the review to be performed. At a minimum, the scale shall be 1 inch equals 100 feet.

- B. Storm water pollution prevention plan. At a minimum, the storm water pollution prevention plan shall fully comply with the requirement of Parts III and IV of General Permit Authorization to Discharge Storm Water Associated with Construction Activity, Permit No. MN R100001. All submissions and notifications required Permit No. MN R100001 shall also be submitted to the Zoning Administrator.

Subd. 7 Enforcement Procedures

- A. Right of Entry. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:
- 1) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
 - 2) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
 - 3) Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
 - 4) Inspect the storm water pollution control measures.
 - 5) Sample and monitor any items or activities pertaining to storm water pollution control measures.
 - 6) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the applicant.
- B. Warning letter. If upon inspection by the City or designated representative, the applicant fails to implement the erosion and sediment control practices outlined in the approved stormwater pollution prevention plan or minimum BMP standards outlined in Subd. 6B, the City will notify the applicant with a letter of warning which outlines the issues of noncompliance and a timeline for completion of any work to bring the site into compliance.
- C. Action Against the Financial Security. If appropriate actions by the applicant have not been completed within 7 days after notification by the City, the City

may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the City or a contractor under contract to the City and to reimburse the City for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

- 1) The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the city approved grading plan.
- 2) The applicant fails to conform to any city approved grading plan and/or the storm water pollution control plan as approved by the city, or related supplementary instructions.
- 3) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.
- 4) The applicant fails to reimburse the city for corrective action taken.
- 5) Emergency action under part D.

D. Emergency Action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city engineer, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.

Subd. 8 Penalty

Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700 and/or imprisonment not to exceed 90 days. Each day that a violation continues shall constitute a separate offense.

Subd. 9 Severability

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.