

TITLE XV: LAND USAGE

Chapter

150. FLOOD PLAIN MANAGEMENT

151. ZONING CODE

CHAPTER 150: FLOOD PLAIN MANAGEMENT

Section

- 150.01 Authorization, findings and purpose
- 150.02 General provisions
- 150.03 Definitions
- 150.04 Conflict with pre-existing zoning regulations and general compliance
- 150.05 Permitted uses, standards and flood plain elevation criteria
- 150.06 Utilities, railroads, roads and bridges in the flood plain district
- 150.07 Subdivisions
- 150.08 Administration
- 150.09 Variances
- 150.10 Nonconformities
- 150.11 Unlawful acts
- 150.12 Amendments
- 150.13 Travel trailers and travel vehicles

§ 150.01 AUTHORIZATION, FINDINGS AND PURPOSE.

(A) *Statutory authorization.* The legislature of the state has, in M.S. Chapter 104 and Chapter 462, as they may be amended from time to time, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. M.S. Chapter 104, as it may be amended from time to time, further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program.

(B) *Statement of purpose.* The purpose of this chapter is to maintain the city's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(C) *Warning of disclaimer of liability.* This chapter does not imply that areas outside of the flood plain district or land uses permitted within the districts will be free from flooding and flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decisions lawfully made thereunder.

(Prior Code, § 9.01)

§ 150.02 GENERAL PROVISIONS.

(A) *Adoption of flood insurance rate map.* The flood insurance rate map for the city, dated November, 1990, developed by the Federal Emergency Management Agency, is hereby adopted by reference as the official flood plain zoning district map, and made a part of this chapter. This map was previously entitled the flood hazard boundary map dated November, 1990.

(B) *Lands to which this chapter applies.* This chapter shall apply to all lands designated as flood plain within the jurisdiction of the city.

(C) *Interpretation.*

(1) The boundaries of the flood plain district shall be determined by scaling distances on the official flood plain zoning district map.

(2) Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the Council shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available.

(3) If 100-year flood elevations are not available, the city shall:

(a) Require a flood plain evaluation consistent with § 150.05(C), to determine a 100-year flood evaluation for the site; and

(b) Base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.
(Prior Code, § 9.02)

§ 150.03 DEFINITIONS.

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

ACCESSORY LOT OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

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

FLOOD FRINGE. The portion of the flood plain outside of the floodway.

FLOOD PLAIN. The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood areas within the city shall encompass all areas designated as Zone A on the flood insurance rate map.

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

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

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. **REGIONAL FLOOD** is synonymous with the term **BASE FLOOD** used in the flood insurance rate map.

REGULATORY FLOOD PROTECTION ELEVATION. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified herein, and other similar items.

(Prior Code, § 9.02)

§ 150.04 CONFLICT WITH PRE-EXISTING ZONING REGULATIONS AND GENERAL COMPLIANCE.

(A) *The Flood Plain District as Overlay Zoning District.* The Floodplain Zoning District shall be considered an overlay zoning district to all existing land use regulations of the city. The uses permitted in §§ 150.05 and 150.06 shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this chapter shall apply in addition to other legally established regulations of the city and where this chapter imposes greater restrictions, the provisions of this chapter shall apply.

(B) *Compliance.* No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the

floodway and flood fringe, all uses not listed as permitted uses in § 150.05 shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically §§ 150.05 and 150.13;

(2) Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically § 150.11; and

(3) As-built elevations for elevated structures must be certified by ground surveys as stated in § 150.08.

(Prior Code, § 9.03)

§ 150.05 PERMITTED USES, STANDARDS AND FLOOD PLAIN ELEVATION CRITERIA.

(A) *Permitted uses in the flood plain.* The following uses of land are permitted uses in the Flood Plain District:

(1) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation or storage of materials or equipment;

(2) Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the floodplain. These uses shall be subject to the development standards in this section and the flood plain evaluation criteria in this section for determining floodway and flood fringe boundaries; and

(3) Travel trailers and travel vehicles as regulated by § 150.13.

(B) *Standards for flood plain permitted uses.*

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

(2) Storage of materials and equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited; and

(b) Storage of other, materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the regulatory flood protection elevation.

(3) No use shall be permitted which will adversely affect the capacity of the channels or flood ways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

(4) All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the regulatory flood protection elevation and shall extend at an elevation at least 15 feet beyond the limits of the structure constructed thereon.

(5) All uses: uses that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

(6) Commercial and manufacturing uses: accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation; however, a permit for the facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(7) On-site sewage treatment and water supply systems: where public utilities are not provided:

(a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current state-wide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

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

(C) Flood plain evaluation.

(1) Upon receipt of an application for a permit, manufactured home park development, or subdivision approval within the Flood Plain District, the Council shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the regulatory flood protection elevation for the site. Procedures consistent with Minn. Rules, 6120.5600 (*Technical Standards and Requirements for Floodplain Evaluation*) and 6120.5700 (*Minimum Floodplain Management Standards for Local Ordinances*) shall be followed during the technical evaluation and review of the development proposal.

(2) The Council shall submit one copy of all information required by division (C)(1) above, to the respective Department of Natural Resources' Area Hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development/subdivision approval by the city. The Council shall notify the respective Department of Natural Resources' Area Hydrologist within ten days after a permit or manufactured home park development/subdivision approval is granted.

(D) Zone A development. There can be no further development in Zone A without a variance. (Prior Code, § 9.04) (Ord. 10, passed 12-21-1990; Ord. 43, passed 3-26-1999)

§ 150.06 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOOD PLAIN DISTRICT.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minn. Rules parts 6120.5000 through 6120.6200. (Prior Code, § 9.05)

§ 150.07 SUBDIVISIONS.

(A) No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the Council for reason of flooding or inadequate drainage, water supply or sewage treatment facilities. The Council shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

(B) In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in § 150.05(C). The Council shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in §§ 150.05 and 150.06.

(C) For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(D) The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(Prior Code, § 9.06)

§ 150.08 ADMINISTRATION.

(A) *Permit required.* A permit issued by the City Clerk shall be secured prior to the construction, addition or alteration of any building or structure; prior to the use or change of use of a building or structure; prior to the change or extension of a nonconforming use; and prior to excavation or the placement of an obstruction within the flood plain.

(B) *State and federal permits.* Prior to granting a permit or processing an application for a variance, the City Clerk shall determine that the applicant has obtained all necessary state and federal permits.

(C) *Certification of lowest floor elevations.* The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. The City Clerk shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the Flood Plain District.

(Prior Code, § 9.07)

§ 150.09 VARIANCES.

(A) A *VARIANCE* means a modification of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the city's planning and zoning provisions.

(B) The Board may authorize, upon appeal in specific cases, such relief or variance from the terms of this chapter as will not be contrary to the public interest and only for those circumstances unique to the property under consideration, as provided for in the planning and zoning statutes and city code provisions. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

(C) Variances from the provisions of this chapter may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this chapter. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.

(D) The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten days of such action.

(E) Appeals from any decision of the Board may be made, and as specified in the city's official controls and also state statutes.

(F) The City Clerk shall notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) The construction below the 100-year or regional flood level increases risks to life and property. The notification shall be maintained with a record of all variance actions. The city shall maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(Prior Code, § 9.08)

§ 150.10 NONCONFORMITIES.

A structure or the use of a structure or premises which was lawful before the effective date of this chapter but which is not in conformity with the provisions of this chapter may be continued, subject to the following conditions.

(A) No such use shall be expanded, changed, enlarged or altered in a way which increased its nonconformity.

(B) An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

(C) The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the city's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all man power or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of § 150.05 for new structures.

(D) If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50% or more of its market value at the time of destruction, it shall not be reconstructed, except in conformity with the provisions of this chapter. The Council may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this chapter.
(Prior Code, § 9.09)

§ 150.11 UNLAWFUL ACTS.

It is unlawful for any person to violate the provisions of this chapter or fail to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances).

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

(B) When a violation is either discovered by or brought to the attention of the City Clerk, the City Clerk shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.

(C) The City Clerk shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls.

(1) If the structure and/or use is under construction or development, the City Clerk may order the construction or development immediately halted until a proper permit or approval is granted by the city.

(2) If the construction or development is already completed, then the City Clerk may either:

(a) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(b) Notify the responsible party to apply for an after-the-fact permit/ development approval within a specified period of time not to exceed 30 days.

(D) (1) If the responsible party does not appropriately respond to the City Clerk within the specified period of time, each additional day that lapses shall constitute an additional violation of this chapter and shall be prosecuted accordingly.

(2) The City Clerk shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this chapter.

(Prior Code, § 9.10) Penalty, see § 10.99

§ 150.12 AMENDMENTS.

All amendments to this chapter, including revisions to the official flood plain zoning district map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the official flood plain zoning district map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the flood plain. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days' written notice of all hearings to consider an amendment to this chapter and said notice shall include a draft of the amendment or technical study under consideration.

(Prior Code, § 9.11)

§ 150.13 TRAVEL TRAILERS AND TRAVEL VEHICLES.

Travel trailers and travel vehicles that do not meet the exemption criteria specified in division (A) below shall be subject to the provisions of this chapter and as specifically spelled out in divisions (C) and (D) below.

(A) Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any of the areas listed in division (B) below, and further they meet the following criteria:

(1) Have current licenses required for highway use;

(2) Are highway ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has not permanent structural type additions; and

(3) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(B) Areas exempted for placement of travel/recreational vehicles:

(1) Individual lots or parcels of record;

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

(3) Existing condominium type associations.

(C) Travel trailers and travel vehicles exempted in division (A) above, lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the travel trailer/travel vehicle or an accessory structure, such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in § 150.05.

(D) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following.

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts, provided the trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation determined in accordance with the provisions of § 150.05(C) and proper elevated road access to the site exists in accordance with § 150.05. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles not meeting the criteria of division (D)(1) above, may as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. The plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with § 150.05(B).

(Prior Code, § 9.12) (Ord. 10, passed 12-21-1990)

CHAPTER 151: ZONING CODE

Section

General Regulations

- 151.01 Intent and purpose
- 151.02 Planning Commission
- 151.03 Jurisdiction
- 151.04 Application
- 151.05 Compliance; permit required
- 151.06 Definitions
- 151.07 Nonconforming uses
- 151.08 Re-zoning

Zoning Districts; Regulations

- 151.20 Zoning districts
- 151.21 Permitted and conditional uses
- 151.22 Lot and yard requirements
- 151.23 Height regulations
- 151.24 Manufactured/mobile homes

General Regulations

- 151.35 Nonconforming uses
- 151.36 Accessory uses
- 151.37 Special exceptions
- 151.38 Signs
- 151.39 Off-street parking
- 151.40 Off-street loading
- 151.41 Temporary structures
- 151.42 Home occupations
- 151.43 Outdoor storage

Administration and Enforcement

- 151.55 Zoning officer
- 151.56 Certificate of occupancy
- 151.57 Unlawful act

- 151.58 Enforcement remedies
- 151.59 Amendments
- 151.60 Board of Adjustment
- 151.61 Fees
- 151.62 Reimbursement of administrative expense

GENERAL REGULATIONS

§ 151.01 INTENT AND PURPOSE.

This chapter is adopted for the purpose of:

- (A) Protecting the public health, safety, comfort, convenience and general welfare;
 - (B) Dividing the area in the city into zones and districts regulating therein the location, construction, reconstruction, alteration and use of structures and land;
 - (C) Promoting orderly development of the residential, business, industrial, recreational and public areas;
 - (D) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;
 - (E) Conserving the natural and scenic beauty and attractiveness of the city; and
 - (F) Minimizing environmental pollution.
- (Prior Code, § 10.01) (Ord. 36, passed 4-3-1998)

§ 151.02 PLANNING COMMISSION.

(A) *Establishment of Planning Commission.* A Planning Commission shall serve in an advisory capacity to the Council and shall have the duties and powers prescribed and limited by the Council in this chapter.

(B) *Composition, rules and quorum.* The Planning Commission shall consist of five members, all residents of the city, who shall be appointed for five-year terms by the Council, receive compensation as the Council may fix, and who shall serve at the pleasure of the Council. The Council shall appoint the members of the Planning Commission following the effective date of this chapter, designating one for a one-year term; one for a two-year term; one for a three-year term; one for a four-year term; and one for a five-year term. Each year thereafter, the individual who's term expires shall be replaced or

reappointed at the pleasure of the Council. The Commission shall elect its own Chairperson, and establish rules as may be necessary to carry out the prescribed duties. A quorum shall consist of three members of the Commission, and resolutions shall be adopted by a simple majority of those members in attendance at any lawful meeting.

(C) *Vacancies.* Members of the Planning Commission shall continue as such until their successors are appointed. A vacancy in any membership shall occur by the discontinued resident citizenship of the member, by motion or resolution of the Council, by resignation of the member, or by expiration of the member's term. A vacancy shall be filled by appointment of the Council for the unexpired term of the member.

(D) *Duties of the Planning Commission.* The Planning Commission shall:

- (1) Prepare, and from time to time review and/or revise the Comprehensive Plan;
- (2) Prepare and recommend a zoning map of the city;
- (3) Prepare and recommend a zoning map of the half-mile area beyond the city limits that is within the jurisdiction of the city;
- (4) Recommend the approval or rejection of all plats or registered land surveys as required in the Subdivision Regulation Chapter of the city code;
- (5) Study future developments, consisting of proposed public buildings, present and future street locations and arrangements, necessity and location of parks and playgrounds and other similar proposed future physical developments;
- (6) Prepare, approve and recommend to the Council a zoning plan, including amendments of existing and future zoning plans;
- (7) Meet quarterly, or as needed as to be decided by the Commission itself. The times and places for meetings shall be as the Commission shall determine, unless otherwise directed by the Council. A majority shall constitute a quorum, but an affirmative or negative vote of three members shall be necessary for the transaction of any business. At every meeting, the Commission shall take and keep minutes of the meeting, recording the time and place of the meeting, the names of the members present, motions and resolutions, the number voting for and against any matter, and other business procedures. As soon after any meeting as may reasonably be done, and in any event before the next regular meeting of the Council, the Commission shall deliver a copy of the minutes of the meeting to the City Clerk as soon as the meeting minutes are accepted. A Chairperson and Vice Chairperson shall be elected at the first meeting of each year; and
- (8) Have other responsibilities as may be assigned the Planning Commission elsewhere in this city code.

(E) *Dissolution of the Planning Commission.* The Planning Commission may at any time be dissolved by unanimous vote of the Council, or in any manner as may be authorized by law. (Prior Code, § 10.02) (Ord. 36, passed 4-3-1998; Ord. 61, passed 9-19-2003)

§ 151.03 JURISDICTION.

The geographic jurisdiction of this chapter includes the entire area within the corporate limits of the city.

(Prior Code, § 10.03-1) (Ord. 36, passed 4-3-1998)

§ 151.04 APPLICATION.

(A) The terms of this chapter shall apply to all structures constructed after the effective date of this chapter. In all other respects, conditions in existence prior to the effective date of this chapter, which are not in compliance with the requirements contained herein, shall be allowed to continue, except where such conditions present a danger to the health or safety of others.

(B) When the conditions of this chapter are more or less restrictive than comparable conditions imposed by any other statute, ordinance, rule or regulation, those which impose the higher standard or requirement shall prevail.

(Prior Code, § 10.03-2) (Ord. 49, passed 1-19-2001)

§ 151.05 COMPLIANCE; PERMIT REQUIRED.

No structure shall be located, erected, constructed, moved, altered, converted or enlarged, nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all building, mechanical or other permits and certificates for each such building, structure or mechanical components required by this chapter and other applicable city code provisions.

(Prior Code, § 10.03-3) Penalty, see § 10.99

§ 151.06 DEFINITIONS.

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

ACCESSORY BUILDING OR USE. Any building or use subordinate to the principal use and located on the same lot as the principal use.

ANIMAL CLINIC. Any establishment where animals are sheltered, examined and treated by veterinarians.

APPLICANT. Any person or business enterprise applying for any action under this chapter. An **APPLICANT** must own the subject property in fee, have an enforceable right to purchase the subject property pursuant to an earnest money contract, hold an enforceable option to purchase, have an equitable title to the property pursuant to a contract for deed or hold an enforceable leasehold interest continuing for more than 20 years from the date of an application.

ARTERIAL STREET. A street or highway with access restrictions designed to carry large volumes of traffic between various sectors.

BLOCK. A tract of land bounded by streets, or a combination of streets, parks, railroad rights-of-way, shorelines or corporate boundary lines of the city.

BOARDING HOUSE. A building, not a hotel or motel, where for compensation and for prearranged periods meals or lodging are provided to not more than ten unrelated persons.

BOUNDARY. The geographical limits of any tract or parcel of land or use district.

BUFFER. A strip of land attractively fenced and/or planted with trees or other vegetation and grass (or left in its natural state when existing vegetation provides sufficient screening), located between two land uses of different intensity of development (such as C-1 next to R-1); which is created and maintained for the purpose of screening or limiting the view of certain property uses from one another or from the general public, thereby lessening incompatibilities in transitions between parcels with different intensity of land use.

BUILDABLE AREA. The space remaining on a lot or parcel after minimum yard and open space requirements have been met; and also where multiple structures for dwellings or other uses are to be built on the same lot, after additional deductions for internal streets, parking, drainage systems and other features or facilities not usually contained within the building area of a lot in a subdivision.

BUILDING. Any structure intended for the shelter, support or enclosure of persons, animals or property of any kind; where separated by party walls without openings, each portion of the building is considered a separate building.

BUSINESS SERVICE. Any business activity which renders service to individuals or commercial or industrial enterprises.

CLINIC. Any establishment where human patients are examined and treated by doctors, osteopaths, chiropractors and dentists.

CLUB, PRIVATE OR LODGE. Any establishment operated for social, recreational or educational purposes, but open to members and not the general public.

CONDITIONAL USE. A use which is not incompatible with the uses authorized within a zone, but which presents special problems or control problems requiring reasonable but unusual or extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the city land use plan.

CONDITIONAL USE PERMIT. A permit, issued by the Council in accordance with procedures specified in this chapter, as a flexibility device to enable the Council to assign limitations or conditions to a proposed conditional use after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

CONDOMINIUM. A form of individual ownership within a multi-family or townhouse building which entails joint responsibility for maintenance and repairs, each apartment or townhouse is owned individually, and each occupant owns a share of the land and other common property of the building.

CONGREGATE HOUSING. Multi-unit housing for the elderly and/or handicapped, providing at least one prepared meal per day in a common dining room, and may also provide certain assisted living, medical, recreational and social services over and above what might be in a standard elderly apartment complex.

COVERAGE. The portion of a lot covered by principal and accessory use structures.

DAY CARE-GROUP NURSERY. A service provided to the public, in which six or more children of school or pre-school age are cared for during established business hours, where no overnight facilities are provided and where the children are delivered and picked up daily.

D.N.R. State Department of Natural Resources.

DRAINAGE WAY. A depression in the earth's surface such as ravines, draws and hollows in which surface waters from rain and melting snow collect but at other times are devoid of water.

DRIVE-IN ESTABLISHMENT. An establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed or business conducted in the automobile.

DWELLING. Any structure designed or used as the living quarters for one or more families. The term includes single-family dwellings, two-family dwellings, multiple dwellings and apartment houses. The term does not include hotels or motels.

DWELLING UNIT. One or more rooms including complete kitchen facilities used or intended for use as living quarters by one family.

ESSENTIAL SERVICES. Underground or overhead gas, electrical, steam, water or other transmission or distribution systems; and collection, communication, supply or disposal systems.

FAMILY UNIT. One or more persons related by blood, marriage, adoption or foster parent relation occupying a premises and living as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household and using common cooking and kitchen facilities.

FLOOR AREA (FLOOR SPACE). The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this chapter, or any other such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts. This is sometimes referred to as ***GROSS FLOOR AREA.***

GARAGE. An accessory building or accessory portion of a dwelling which is intended for parking and storage of not more than four passenger vehicles, none of which exceed 9,000 pounds gross weight.

HOME OCCUPATION. An occupation carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not change the character thereof.

HOTEL. A hotel, motel, resort, furnished apartment house or other building which is kept, used or advertised as, or held out to the public to be, a place where sleeping or housekeeping accommodations are supplied for pay to guests for transient occupancy.

HEIGHT OF BUILDING OR STRUCTURE. The vertical distance from the average of the highest and lowest point of the portion of a lot covered by a building, to the highest point of the roof.

INTENSITY OF LAND USE. The use and/or zoning of land in terms of the density of dwelling units or the nature of other uses to which the land may be put. The value will be established based upon the proposed use of the property which may or may not be based upon the actual zoning district in which the parcel is located. The assigned value will be determined by finding the zoning classification with the lowest intensity use value where the intended use is a “permitted use” and apply to them a numerical value for that zone as the assigned intensity use value. The values will not be based on conditional use permits. For purposes of this chapter, ***INTENSITY OF LAND*** use will be assigned a numerical value in ascending order of the use intensity. The numerical values shall be: C-1 = 1, R-1 = 2 and B-1 = 3. (Example: If a petitioner requests developing an office condo in an R-1 Zoning District or adjacent to an R-1 District, an intensity use value of 3 would be assigned to the new project since office facilities are first permitted as a use in the B-1 Zone, and a value of 2 would be assigned to the R-1 zoned property.)

LIGHT MANUFACTURING. The processing and fabrication of certain materials and products where no process involved will produce noise, vibrations, air pollution, fire hazard or noxious emissions which will disturb or endanger neighboring properties.

LOT. A parcel of land occupied or capable of being occupied by one or more structures or buildings having a principal frontage on a street or a proposed street approved by the Council.

LOT OF RECORD. Any lot which individually or as a part of a subdivision has been recorded in the appropriate county office.

LOT, CORNER. A lot situated at the junction of and abutting on two or more intersecting streets.

LOT, DEPTH OF. A mean horizontal distance between the front and rear lot lines.

LOT, MINIMUM AREA OF. The measurements of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

LOT, WIDTH OF. The mean width measured at right angles to the depth.

MANUFACTURED/MOBILE HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning and electrical systems contained therein, except that the term includes any structure which meets all the requirements, and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this chapter.

MODULAR HOME. A non-mobile housing unit that is fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A **MODULAR HOME** shall be congruous to a single-family dwelling and shall meet applicable building codes.

MOTOR SERVICE STATION. An establishment where gasoline, kerosene, motor oil and lubricants are sold or used in servicing motor vehicles whether or not motor vehicle repairs and services are performed on the same premises.

NONCONFORMING BUILDING STRUCTURE. A building structure designed, converted or adapted for a use prior to the adoption of provisions prohibiting such use in such location.

NONCONFORMING USE. Any use or arrangement of land or structures legally existing on the effective date of this chapter or any of its amendments which does not conform to the district regulations in which it is located.

NURSING HOME or REST HOME. A licensed establishment having accommodations for the continuous care of two or more invalid, infirm, aged convalescent patients or physically-disabled persons that are not related; the term does not include hospitals, clinics, sanitariums or similar institutions.

PARCEL. A continuous quantity of land in the possession of or owned by or recorded as the property of the same person or persons.

PARKING SPACE. An area of not less than 180 square feet exclusive of drives or aisles to be used for the storage or parking of motor vehicles.

PARKING SPACE, FULLY ENCLOSED. See **GARAGE**.

PARKING SPACE, OPEN. A parking space which is situated outdoors, as in an open lot designed and built for that purpose.

PERMITTED USE. The use of land, buildings or structures allowed under this chapter.

PRINCIPAL USE. The main use of land, buildings or structures as distinguished from an accessory use. A principal use may be either permitted or conditional.

PLANNED UNIT DEVELOPMENT (PUD). A development or subdivision designed where buildings (residential or combined residential and commercial/industrial) are clustered or grouped so as to provide for common and/or public open space.

RECREATIONAL VEHICLES. A mobile vehicle, including watercraft used for recreational purposes, capable of being towed or being self propelled.

REDUCTION OR JUNK YARD. Any place where two or more motor vehicles not in operating condition or parts thereof are stored or/and being restored to operation; or any land, building or structure used for the wrecking or storage of such motor vehicles or parts thereof; the term includes any commercial salvaging, scavenging or recycling of any other goods, articles or merchandise.

SIGN. Any name, identification, display, illustration structure or device which is publicly displayed and which is used to direct attention to a product, a person, business, institution, place or philosophy.

SPOT ZONING. Re-zoning of a small area for higher intensity use than the land surrounding it.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

STREET. Any thoroughfare or way other than a public alley dedicated to the use of the public and open to public travel, whether designated as a road, avenue, highway, boulevard, drive, lane, circle, place, court or other similar designation, or a private street open to restricted travel and at least 40 feet wide.

STRUCTURE. Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something have a fixed location on the ground, including, in addition to buildings, billboards, carports, porches and other building features, but not including sidewalks, drives, fences, ground level patios, recreational equipment. **STRUCTURE** shall also include small utility sheds which are constructed of metal or wood, such a shed shall not exceed ten feet by ten feet in dimension and must meet all standards of the State Fire Code. No structure made of canvas, tarp or tent materials will be allowed in the city, except as a temporary structure.

SUPPLY YARD. A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. The term does not include reduction yards or junk yards.

TOWNHOUSE. Single-family attached units in structures housing three or more contiguous dwelling units, sharing a common wall, each having separate and individual front and rear entrances; the structure is of a row type as distinguished from multiple dwelling apartment buildings.

USABLE OPEN SPACE. A ground area or terrace area on a lot which is graded, developed, landscaped or equipped or intended and maintained for recreation, leisure, resource protection, amenity and/or buffers; which shall be available to, adjacent to and usable by persons occupying a dwelling unit and their guests. The areas must be landscaped or covered only for recreational purposes. Roofs, required yards, driveways, drainage areas and parking do not constitute **USABLE OPEN SPACE**.

VARIANCE. The waiving by action of the Council of the literal provisions of this chapter in instances where their strict enforcement would cause undue hardship to the individual property because of unique circumstances.

WATERSHED. The area drained by a river, stream lake or other body of water.

YARD. A required open space on the front, side or rear of a lot which is unoccupied or unobstructed by use or structures from ground level upward.

ZONING DISTRICT. An area or areas for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

ZONING MAP. An official map entitled "Keewatin Zoning Map", which remains part of the permanent records of the city.

(Prior Code, § 10.03-4) (Ord. 72, passed - -; Ord. 36, passed 4-3-1998; Ord. 47, passed 5-19-2000)

§ 151.07 NONCONFORMING USES.

Any structure or use existing upon the effective date of this chapter may be continued, subject to the following provisions.

(A) No such use and structure shall be expanded or enlarged, except in conformity with the provisions of this chapter.

(B) A nonconforming use of a structure which has been discontinued for a period of six months shall not be re-established and any further use shall be in conformity with the regulations of this chapter.

(C) A nonconforming structure which is damaged by any cause to the extent of more than 50% of its market value as determined by the current records of the County Assessor, shall not be restored except in conformity with the regulations of this chapter.

(D) Normal maintenance of a nonconforming use and structure is permitted. Maintenance may include necessary nonstructural repairs and incidental alterations which do not enlarge or intensify the nonconforming use.

(E) No junk yard may continue as a nonconforming use for more than one year after the effective date of this chapter, except that it may continue as a conditional use in a commercial or industrial district if within that period it is completely enclosed within a building or within a continuous solid fence, not less than eight feet high so as to screen completely the operations of the junk yard. Plans of the building or fence shall be reviewed by the Planning Commission and approved by the Council before it is erected.

(F) If a building permit has been issued for a nonconforming building or use prior to the establishment of the zoning district in which the new building or use is located, the proposed building or use shall be permitted, provided that:

(1) Construction is begun within 30 days after the establishment of the zoning district;

(2) The construction is continuous until the building is completed; and

(3) The building permit was issued within 60 days prior to the establishment of the zoning district.

(Prior Code, § 10.04) (Ord. 36, passed 4-3-1998)

§ 151.08 RE-ZONING.

(A) *General; when allowed.*

(1) Re-zoning of a particular parcel of land may be allowed from time to time based upon a showing that the subject property is located adjacent to an alternative zoning district, or a showing that

the existing zoning status is no longer appropriate due to a change of circumstances not attributable to the owner of the subject property.

(2) Re-zoning, as specified herein, may be allowed or denied by the Council after recommendation by the Planning Commission in accordance with the criteria and provisions listed herein.

(B) *Application.* Applications for re-zoning, in an approved form, will be filed by the Applicant with the Zoning Officer and shall be accompanied by:

(1) An application fee in an amount equal to that set from time to time by resolution of the Council, plus the applicant shall be required to reimburse the city for any expenses incurred for legal and other professional consultation; and

(2) Eight copies of professionally prepared plans drawn to a scale of one inch equals 50 feet and other supporting data regarding the site and any natural and constructed features thereon, such as:

(a) Size, location and topography of the site;

(b) The use of adjacent land;

(c) The proposed size, bulk, use and location of all buildings;

(d) The location and proposed function of all yards, open spaces, loading areas, parking areas, driveways, storage areas and accessory structures;

(e) Grading, drainage and landscape plans;

(f) Elevations and floor plans of proposed buildings, structures and other improvements;

(g) Locations of proposed utilities and the plans for same; and

(h) Any other information required, in the opinion of the Zoning Officer, to evaluate the application, to determine consistency with the Comprehensive Plan, and to ensure compliance with requirements of this chapter and other applicable code provisions.

(C) *Review.*

(1) The Zoning Officer shall within ten days forward the application to the Planning Commission for review and comment and the application shall be placed on the Planning Commission agenda for the next regularly scheduled meeting.

(a) A public hearing shall be held on each application within 30 days after the date scheduled for Planning Commission review.

(b) The applicant and all property owners located within 500 feet of the subject property shall be notified of the public hearing by U.S. mail, not less than ten days prior to the date of the hearing.

(c) The notice shall include the date, time and place of the hearing and shall reasonably identify the subject property.

(2) The Council may attach conditions as they deem necessary to the approval of any re-zoning. The approved site plan and all attached conditions shall be accepted by the petitioner within 30 days of final approval. All developments, construction and use shall be in accordance with the approved zoning. Any development contrary to the approved zoning shall constitute a violation of this chapter. (Prior Code, § 10.60) (Ord. 36, passed 4-3-1998)

ZONING DISTRICTS; REGULATIONS

§ 151.20 ZONING DISTRICTS.

(A) *Zoning districts.*

(1) The zoning districts are so designed as to carry out the intent and purpose of the Comprehensive Plan.

(2) For the purposes of this chapter, the city is, or may be, divided into the following districts:

- (a) R-1 Residential;
- (b) B-1 Community Business; and
- (c) C-1 Conservation.

(B) *District requirements.* Except for planned unit developments (PUD), all buildings and uses in each district shall be subject to the requirements for use, lot, yard and height, the general regulations and conditional use provisions of this chapter. Planned unit development standards may be applied to any residential, commercial or industrial district at the discretion of the Council, after being requested by the land owner. Where PUD standards differ from those of the underlying zoning district, the PUD standards will apply.

(C) *Uses not provided.* A use not specifically designated as a permitted or conditional use anywhere in the city is considered prohibited. In those cases, the Council, the Planning Commission or a property owner may request a study by the city to determine if the use is acceptable, and if so, what zoning

district would be most appropriate for the use, and what conditions and standards, if any, should be attached to the development of the use. If found acceptable, an amendment to this chapter may be initiated by the Council or Planning Commission.

(D) *Zoning map*. A map officially entitled “Keewatin Zoning Map” is hereby adopted as part of this chapter.

(E) *District boundaries*. District boundaries shown within the lines of roads, streams and transportation rights-of-way shall be deemed to follow the centerline. The vacation of roads shall not affect the location of the district boundaries. When the Zoning Officer cannot definitely determine the location of a district boundary by the centerline, by the scale or dimensions stated on the zoning map, or by the fact that it clearly coincides with a property line, he or she shall refuse action, and the Board of Adjustment, upon appeal, shall interpret the location of the district boundary with reference to the scale of zoning map and the purposes set forth in all relevant provisions of this chapter. Where a district boundary line divides a lot of record into two or more districts, any portion of the lot within 50 feet of the division may be used for any use of either district as approved by the Board of Adjustment. (Prior Code, § 10.10)

§ 151.21 PERMITTED AND CONDITIONAL USES.

(A) *Permitted uses*. The permitted uses for each district are listed below. Accessory uses and essential services are also permitted.

(B) *Conditional uses*. The Council may authorize conditional uses as specified below and uses similar in nature which are compatible with the character of the district, if all of the conditions and provisions of this chapter are met.

(1) R-1 Residential:

(a) Permitted uses:

1. Single-family dwellings;
2. Public schools; and
3. Public parks and playgrounds.

(b) Conditional uses:

1. Nursery schools;
2. Hospitals and clinics;

3. Public utility buildings;
4. Public buildings;
5. Two-family dwellings;
6. Nurseries and greenhouses;
7. Private clubs and schools;
8. Charitable institutions;
9. Parochial schools;
10. Churches;
11. Planned unit development; and
12. Congregate housing.

(2) B-1 Community Business:

(a) Permitted uses:

1. Retail business;
2. Eating and drinking places;
3. Offices and banks;
4. Personal and professional services;
5. Public buildings;
6. Parking lots;
7. Motor service stations; and
8. Commercial schools.

(b) Conditional uses:

1. Research laboratories;

2. Public utility buildings;
3. Nursing homes;
4. Commercial recreation;
5. Hotels and motels;
6. Animal clinics;
7. Hospitals and clinics;
8. Auto sales, service and repair;
9. Funeral homes;
10. Wholesale business;
11. Drive-in establishment;
12. Planned unit development; and
13. Congregate housing.

(3) C-1 Conservation:

(a) Permitted uses:

1. Public parks and playgrounds; and
2. Open land recreation uses.

(b) Conditional uses:

1. Commercial recreation;
2. Public buildings;
3. Public utility buildings;
4. Nurseries and greenhouses; and
5. Public and parochial schools.

(Prior Code, § 10.11)

§ 151.22 LOT AND YARD REQUIREMENTS.

(A) *General requirements.* The minimum lot area, minimum width of lot, minimum depth of front yard, rear yard and minimum width of each side yard for each district shall be as shown in division (B) below.

(1) Lots or parcels which abut on more than one street shall provide the required front yards along each street.

(2) All structures and accessory buildings whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies, roof overhangs or platforms above normal grade level, shall not project into any minimum front, side or rear yard; nor into any required open space or buffer. Where multi-dwelling buildings (apartments, townhouses and the like) are to be built on one lot (or parcel) along with other buildings or structures, the required yards shall be construed to apply to each building as opposed to each dwelling unit.

(3) A buffer including appropriate screening, is hereby required on each lot boundary of a parcel where due to: re-zoning of the parcel, newly zoning the parcel, creation of a PUD on the parcel or, the granting of a conditional use or variance for the parcel; a difference in intensity of land use between the adjacent parcels will occur. On the lot or parcel where the change in intensity of land use occurs, new structures or uses shall not be located or conducted closer to any lot boundary of any other lot having a different intensity of land use value than the distance calculated by applying the following formula:

(a) Subtract the assigned intensity of land use values of the respective parcels using those prescribed in this chapter and, for the first increment the buffer shall be ten feet and an additional 15 feet of buffer will be added for each incremental change in value assigned for intensity of land use beyond the first change. The buffers shall be measured on a line perpendicular to each boundary and shall run parallel to those boundaries. This buffer, where applicable, shall be in addition to any required side or rear yards specified under this chapter and applies to a PUD.

(b) In any case nonresidential structures or uses shall not be located closer to any lot line of any other lot in any R Zoning District than the distance specified in the following schedule:

<i>Use</i>	<i>Minimum Side or Rear Yard Abutting Any Lot in an R District</i>
Churches, schools and public or semi-public structures	40 feet
Off-street parking spaces and access drives for nonresidential use	20 feet
Recreation facilities, entertainment facilities, all business uses and all industrial uses	60 feet

Keewatin - Land Usage

(4) Where adjacent structures have front yard setback different from those required, the minimum front yard setback shall be the average of these existing structures.

(5) Wherever new fencing shall be constructed, it shall meet the following requirements:

- (a) Two-foot setback in rear;
- (b) One-foot setback from city sidewalk in front or lot line;
- (c) One-foot setback on both side; and
- (d) Fencing must be put up so it is attractive on both sides.

(B) *Lot, yard and density requirements.*

(1) *Original plat, City of Keewatin; Sargent Division; Spina Addition and Hayes Addition.*

	<i>Minimum Lot Sizes</i>		<i>Minimum Yard Setbacks</i>			<i>Minimum Site Area Per Unit (sq ft)</i>
	<i>Area (sq ft)</i>	<i>Width (feet)</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
R-1 Residential						
*One and two-family dwellings	5,000	50	15	20	5	5,000
*Other uses	5,000	50	15	30	5	5,500
B-1 Community Business						
*Multi-family dwellings	5,000	50	0	15	0	2,500
*Other uses	5,000	50	0	15	0	-
C-1 Conservation						
All uses	2 acres	300	50	30	30	-
*With city water and sewer						

(2) *All other areas.*

	<i>Minimum Lot Sizes</i>		<i>Minimum Yard Setbacks</i>			<i>Minimum Site Area Per Unit (sq ft)</i>
	<i>Area (sq ft)</i>	<i>Width (feet)</i>	<i>Front</i>	<i>Rear</i>	<i>Side</i>	
R-1 Residential						
*One and two-family dwellings	7,000	75	30	20	5	7,000

*Other uses	15,000	80	30	30	15	7,500
B-1 Community Business						
*Multi-family dwellings	5,000	50	0	15	0	2,500
*Other uses	5,000	50	0	15	0	-
C-1 Conservation						
All uses	2 acres	300	50	30	30	-
*With city water and sewer						

(3) *Density requirements, all areas.*

	<i>Maximum Coverage (%)</i>	<i>Minimum Usable Open Space (%)</i>	<i>Density* (Units)</i>
R-1 Residential			
One and two-family dwellings	30	40	3.5
Other uses	30	40	3.5
B-1 Community Business			
Multi-family dwellings	30	40	-
Other uses	-	-	-
C-1 Conservation			
All uses	-	-	-
*Density, or overall maximum dwelling units per buildable acre			

(Prior Code, § 10.12) (Ord. 36, passed 4-3-1998; Ord. 49, passed 1-19-2001)

§ 151.23 HEIGHT REGULATIONS.

(A) All structures in the R-1 Suburban Residential District shall be limited to two stories, plus roof or 25 feet in height.

(B) Structures in all other districts shall not exceed 35 feet in height above ground level, unless approved by the Council.

(C) The Council may authorize a variance to the height regulations in any district if:

(1) All front, side and rear yard depths of buildings are increased one foot for each additional foot of height; or

(2) The structure is among or similar to any of the following: television and radio towers, church spires, belfries, monuments, tanks, water towers, grain elevators, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyers, flagpoles, silos, air conditioning and heating units and windmills.

(D) There is no maximum height to which the Council is limited in granting variances.
(Prior Code, § 10.13)

§ 151.24 MANUFACTURED/MOBILE HOMES.

Manufactured/mobile homes shall be permitted in the R-1 Residential or Community Business Districts provided they meet the following minimum standards.

(A) *Original Plat, City of Keewatin; Sargent Division; Spina Addition; Hayey Addition.*

(1) Exceeds 14 feet in width and has a roof with four feet by 12 feet pitch;

(2) Has a minimum floor area of 400 square feet;

(3) The dwelling is placed on a permanent concrete foundation or permanent wood basement extending below the frost line;

(4) The dwelling shall be connected to city sewer and water system; and

(5) All other requirements of state law and city code provisions are met.

(B) *All other areas.*

(1) Exceeds 18 feet in width and has a roof with four feet by 12 feet pitch;

(2) Has a minimum floor area of 700 square feet;

(3) The dwelling is placed on a permanent concrete foundation or permanent wood basement extending below the frost line;

(4) The dwelling shall be connected to city sewer and water system; and

(5) All other requirements of state law and city code provisions are met.
(Prior Code, § 10.14) (Ord. 36, passed 4-3-1998)

GENERAL REGULATIONS

§ 151.35 NONCONFORMING USES.

The following provisions shall apply to all nonconforming uses.

(A) As of the effective date of this chapter a nonconforming use may be continued but may not be extended, expanded or changed unless to a conforming use, except as permitted by the Council in accordance with the provisions of this chapter.

(B) Any nonconforming structures damaged by fire, flood, explosion or other casualty may be reconstructed for use as before if the reconstruction is performed within 12 months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty.

(C) In the event that any nonconforming use, conducted in a structure or otherwise ceases, for whatever reason, for a period of six months, the nonconforming use shall not be resumed.

(D) Normal maintenance of a nonconforming structure is acceptable including structural repairs and maintenance.

(E) A nonconforming business will cease to operate at the time of sale or transfer of real estate.
(Prior Code, § 10.50-1)

§ 151.36 ACCESSORY USES.

The following provisions shall apply to accessory uses: the exterior storage of any vehicle or recreational vehicle which does not have a current license plate shall not be permitted as an accessory use.

(Prior Code, § 10.50-2)

§ 151.37 SPECIAL EXCEPTIONS.

The following uses may be authorized with such conditions as are deemed appropriate by the Board of Adjustment:

(A) The accommodation of not more than two non-transient roomers as an accessory use to a single-family house, provided that no sign is displayed; and

(B) Directional signs of 12 square feet in connection with any legal business or industry provided they contain no information other than instructions for convenience of vehicular traffic in reaching the business or industry.

(Prior Code, § 10.50-3)

§ 151.38 SIGNS.

No sign, billboard or exterior commercial graphic display shall be permitted in any district, except as herein provided.

(A) In any district a sign not exceeding two square feet per side is permitted which announces the name, address or professional activity of the occupant of the premises on which sign is located.

(B) A bulletin board not to exceed 24 square feet per side is permitted in connection with any church, school or similar public structure.

(C) A temporary real estate sign of six square feet per side may be placed in the yard of any residential structure which advertises that particular property for sale, or for rent or for lease. The sign will be promptly removed when it has fulfilled its function.

(D) Real estate development signs, both permanent and temporary, are allowed as follows. Permanent signs may be erected and maintained at the main entrances to any subdivision, condominium project or rental apartment complex of greater than ten lots or dwelling units. The sign shall contain only the name and nature of the complex (such as rental apartments or condominium) and the area of the sign itself shall not be greater than eight feet wide by three feet high and may be part of a decorative structure designed to support the sign itself. The entire sign, including the supporting structure shall not exceed dimensions twice those of the basic sign, including the height from ground level, and shall be situated wholly on the property of the development. Division (F) below relating to business signs shall also apply to these real estate development signs.

(E) Political signs are allowed in any district on private property to a maximum size of 16 square feet per side. The signs must be removed within seven days following the date of the election to which they apply.

(F) Business signs shall be permitted in connection with any legal business or industry when located on the same premises, and if they meet the following requirements.

(1) Signs shall not contain information or advertising for any product not sold on the premises.

(2) Signs shall not have a combined aggregate surface size greater than two square feet for each foot of width of the principal structure on the premises up to a maximum of 250 square feet.

(3) Signs shall not project over the public rights-of-way except upon granting of a variance.

(4) Flashing signs and those signs giving off an intermittent or rotating beam or ray of light shall be prohibited.

(5) Illuminated signs shall be diffused so as not to direct rays of light into adjacent property or onto any public right-of-way.

(6) Signs shall be limited so as to extend not more than 25 feet above the average elevation of the public street abutting upon the lot or tract on which the sign is located.

(7) Signs shall be maintained and in good repair including all parts and supports, and neatly painted.
(Prior Code, § 10.50-4)

§ 151.39 OFF-STREET PARKING.

(A) Off-street parking spaces shall be provided and maintained in accordance with specifications herein in any district whenever any new use is established or any existing use is enlarged. For multi-family and townhouse usage, parking may be provided as exposed (outdoor or open) spaces or as totally enclosed spaces.

(B) Regardless of the number of enclosed spaces, the number of exposed spaces shall not be reduced to less than one per dwelling unit, plus any required handicapped spaces.

(C) Fractional spaces shall be rounded up to the next full number in determining all parking requirements.

<i>Use</i>	<i>Parking Spaces Required</i>
Bowling alleys	5 for each alley
Business and professional offices	1 for every 250 sq. ft. of floor space*
Churches, auditoriums and mortuaries	1 per 3 seats in principal assembly room

Keewatin - Land Usage

<i>Use</i>	<i>Parking Spaces Required</i>
Drive-in establishment	1 for every 15 sq. ft. of floor area*
Hospital and rest homes	1 per 3 beds and 1 for each employee on the maximum working shift
Hotel or motel	1 per each rental unit.*
Medical, dental and animal clinics	5 per doctor, dentist or veterinarian*
Motor service station	4 per each service stall
Multiple-family dwellings	1.5 per dwelling unit
Open sales or rental lots	1 per each 3,500 sq. ft. of sales and display area*
Restaurants, cafes, bars, taverns, nightclubs	1 per 2 seats*
Retail businesses	1 for every 150 sq. ft. of floor space*
Schools	1 per classroom plus 1 additional/each 20 students
Single-family house; two-family house; townhouse	Two per dwelling unit
Theater	1 per 3 seats
Wholesaling, manufacturing and similar uses	1 for each employee on the maximum working shift
*Plus one space per employee	

(1) *Location.* Parking spaces, with the approval of the Board of Adjustment, may be located on a lot other than that containing the principal use but said lot must be contiguous and must be located within the same zoning district, within 150 feet of the building that it serves and shall not be separated by any public street. Parking lots for more than two vehicles may be located anywhere on a lot other than a front yard or within ten feet of a side or rear lot line, plus any required buffers.

(2) *Construction.* Any off-street parking lot for five or more vehicles, and all circulation areas, shall be surfaced and maintained with a hard, all-weather, durable and dust-free surfacing material composed of bituminous asphalt or concrete installed over a well compacted sub-grade and gravel base. Except for single- and two-family residential uses, each space shall be clearly delineated by lines painted on or embedded in the surface of the parking area, and all handicapped and visitor spaces shall be marked with signs. Appropriate traffic-control signs shall be provided at entrances to and throughout the development.

(3) *Lighting.* Any lighting used to illuminate any off-street parking lot or outdoor retail area shall be so arranged as to reflect the light away from adjoining premises of residential usage.

(4) *Driveway design.*

(a) Minimum driveway width (back of curb to back of curb):

1. One-way: 12 feet; and
2. Two-way: 20 feet.

(b) All off-street parking areas shall have access driveways rather than direct access from a street and said driveways shall have a maximum width at the street of 22 feet.

(5) *Size of spaces.*

<i>Angle</i>	<i>Space Width</i>	<i>Space Length</i>	<i>Drive Aisle Width</i>
90 degrees	9 feet	20 feet	24 feet
60 degrees	10 feet	20 feet	18 feet
45 degrees	10 feet	20 feet	12 feet

(Prior Code, § 10.50-5)

§ 151.40 OFF-STREET LOADING.

One off-street loading berth of not less than 50 feet in length and 12 feet in width, plus any required access drives and turning and maneuvering space, shall be provided for every business and industrial use with a floor area of more than 10,000 square feet; with one additional berth required for each additional 25,000 square feet of floor area. Loading berths shall not occupy any yard, setback or buffer area where a parking lot is prohibited, and in no case shall loading berths occupy any front yard requirement, or be situated closer than ten feet to a side or rear lot line. All loading berths shall comply with the standards for parking areas as specified in this chapter.

(Prior Code, § 10.50-6)

§ 151.41 TEMPORARY STRUCTURES.

(A) Temporary structures and trailers used in conjunction with construction work shall be permitted only during the period that the construction work is in progress.

(B) Permits for temporary structures shall be issued initially for a six month period and may be extended to a maximum of 12 months.

(Prior Code, § 10.50-7)

§ 151.42 HOME OCCUPATIONS.

(A) Any home occupation shall be permitted as an accessory use if such use complies with the requirements herein.

(B) Prior to the time a home occupation zoning certificate is issued, property owners within 500 feet shall be notified in writing by the Zoning Officer.

(C) Notified property owners shall have 30 days following receipt of the notice to submit a petition to the Council, signed by one or more owners of at least 50% of the affected property, requesting a public hearing to determine if the home occupation complies with the stated requirements.

(1) The home occupation shall be carried on by a member of the family residing in the dwelling unit with not more than one employee who is not a part of the family.

(2) The home occupation shall be carried on wholly within the principal or accessory structures.

(3) The home occupation shall not change the character of the dwelling.
(Prior Code, § 10.50-8)

§ 151.43 OUTDOOR STORAGE.

All materials, supplies, finished or semi-finished products, motor vehicles, trailers and all equipment shall be stored within a completely enclosed structure, except:

(A) Materials and equipment used for construction or repairs may be stored outdoors on the construction site during construction;

(B) Currently licensed motor vehicles weighing less than 9,000 pounds, and recreational vehicles and other materials may be stored outdoors on lots used for residential purposes, provided they do not constitute a nuisance;

(C) Motor vehicles weighing less than 9,000 pounds may be parked outdoors for periods not to exceed 48 hours within improved parking areas on nonresidential lots;

(D) Plant materials for landscaping purposes may be stored and displayed for sale outdoors in areas zoned for those sales; and

(E) Outdoor storage and displays of merchandise may take place in commercial and industrial zones where these activities are accessory to their permitted activities.

(Prior Code, § 10.50-9) (Ord. 36, passed 4-3-1998)

ADMINISTRATION AND ENFORCEMENT

§ 151.55 ZONING OFFICER.

The Zoning Officer, who shall be appointed by the Council, shall:

(A) Administer and enforce the provisions of this chapter in accordance with its literal terms and shall not have the power to permit construction or any use or change of use which does not conform to this chapter;

(B) Receive and direct applications for certificates of occupancy, special use permits, re-zoning and building permits to the Planning Commission for study leading to a report of its findings and recommendations to the Council. Upon approval by the Council he or she shall issue certificates of occupancy, special use permits, certification of re-zoning and building permits; and

(C) Maintain a permanent file of all certificates and applications as public records.
(Prior Code, § 10.70-1)

§ 151.56 CERTIFICATE OF OCCUPANCY.

(A) A certificate of occupancy shall verify that all applicable requirements of the Building Code and/or special use conditions for the subject property have been inspected and met, and shall be obtained before any person may:

(1) Occupy or use any vacant land;

(2) Occupy or use any structure hereafter constructed, reconstructed, moved, altered or enlarged;

(3) Change the use of a structure or land to a different use; or

(4) Change a nonconforming use.

(B) Applications for a certificate of occupancy shall be accompanied by a plot plan showing clearly the location, dimensions and nature of any structure involved and other information as the Zoning Officer may require for administration of this chapter together with a filing fee in accordance with a schedule determined by resolution from time to time by the Council.

(Prior Code, § 10.70-2)

§ 151.57 UNLAWFUL ACT.

It is unlawful for any person to violate any provision of this chapter. Each day a violation is permitted to exist shall constitute a separate offense.

(Prior Code, § 10.70-3) Penalty, see § 10.99

§ 151.58 ENFORCEMENT REMEDIES.

In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Council, in addition to other remedies, may establish appropriate fines by resolution, and institute in the name of the city any appropriate action or proceeding to prevent, restrain, correct or abate the building, structure or land, or to prevent, in or about the premises, any act, conduct, business or use constituting a violation.

(Prior Code, § 10.70-4)

§ 151.59 AMENDMENTS.

The Council may amend this chapter as proposed by the Council, by the Planning Commission or by petition of a person residing or owning property within the city in accordance with the following provisions.

(A) Petition for amendment shall be filed with the Planning Commission, and the petitioner, upon filing, shall pay an advertising deposit and a filing fee in accordance with a schedule determined from time to time by the Council, shall agree in writing to reimburse the city for all expenses for attorney fees and consulting fees of others, such as registered engineers, which are associated with evaluating this petition.

(1) Amendments proposed by the Council or the Planning Commission shall be exempt from all the fees.

(2) The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to the Council and to the petitioner.

(3) The petition shall also include:

(a) Plans, specifications, data and written statements similar to those required for filing for a PUD in cases where the proposed project or development involves eight or more dwelling units or could accommodate eight or more dwelling units; or, where there is a difference of intensity of land use of two increments or more with that of an adjoining parcel; or, where the project has any difference in its intensity of land use with that of two or more adjacent parcels; or, where the property of the petitioner may be environmentally sensitive as in cases involving wetlands, shorelands or watersheds;

(b) Those items specified elsewhere in this chapter, such as those required in applying for conditional use permits and PUD approvals; and/or

(c) For situations not falling into either of the above categories the requirements for submittal shall be established by the Zoning Officer and the Planning Commission and shall be sufficient so as to provide the information necessary to evaluate the petition in relation to the requirements established by this chapter.

(B) An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and may not be acted upon by the Council until it has received the recommendation of the Planning Commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission.

(C) Before voting on the enactment of an amendment the Council shall hold a public hearing thereon pursuant to public notice. It shall be the responsibility of the Zoning Officer to:

(1) Have notice of the public hearing published in the official newspaper ten days prior to the hearing; and

(2) Give mailed notice of the public hearing to the property within the affected zone and within 300 feet of the outer boundaries of the property in question. Failure of any property owner to receive notification, when good faith effort to notify all the owners has been made, shall not invalidate the proceedings.

(D) If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it the Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

(E) The Council shall act upon the request within 45 days after the last public hearing has been held.

(F) The findings required for the approval of a proposed amendment shall be the same as those required for a PUD.

(G) Once the proposed amendment has been duly approved, the Council shall direct that the amendment to this chapter be outlined on the official zoning map and labeled accordingly.
(Prior Code, § 10.70-5)

§ 151.60 BOARD OF ADJUSTMENT.

(A) The Board of Adjustment shall be the Council. It shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, take testimony under oath and render decisions in writing.

Keewatin - Land Usage

(B) A fee shall be charged in accordance with a schedule as determined from time to time for any appeal filed with the Board of Adjustment.

(1) The Board of Adjustment shall have the power to hear and decide appeals from any other requirement, decision, grant or refusal made by the Zoning Officer in the administration of this chapter. An appeal shall be in writing and filed in duplicate with the Zoning Officer. Within ten days after filing of the appeal, the Zoning Officer shall transmit to the Board of Adjustment all papers involved in the proceedings. Upon receipt of the appeal from the Zoning officer, the Board of Adjustment shall set a hearing date and give notice by mail of the time, place and purpose thereof to the appellant and to the Zoning Officer. The Board of Adjustment may reverse or affirm wholly or in part any ruling, decision or determination and may issue or direct the issuance of a permit.

(2) The Board of Adjustment upon appeal, shall have the power to authorize variances from the requirements of this chapter, and to attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this chapter.

(3) A variance may be permitted if all the following requirements are met.

(a) Literal enforcement of this chapter would result in undue hardship because of particular physical surroundings, shape or topographic conditions of the specific parcel as distinguished from a mere inconvenience, if the regulations were to be carried out.

(b) This unnecessary hardship results from circumstances unique to the parcel of land for which the variance is sought and applicable, generally, to other property with the same zoning classification.

(c) The hardship is caused by provisions of this chapter and is not the result of actions of persons presently or formerly having an interest in the parcel of land.

(d) The proposed variance observes the spirit and intent of this chapter, produces substantial justice and will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the specific parcel of land.

(e) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase congestion of the public streets, or increase the danger of or from fire, or otherwise endanger the public health, safety or welfare, and is consistent with the city land use program.

(Prior Code, § 10.70-6)

§ 151.61 FEES.

All fees provided for under this chapter, including but not limited to re-zoning, variances, special and conditional use permits, planned unit developments and amendments, platting and waiver of platting, easement and alley vacations, shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. The fees may, from time to time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk and open to inspection during regular business hours.

(Prior Code, § 10.70-7)

§ 151.62 REIMBURSEMENT OF ADMINISTRATIVE EXPENSE.

Every applicant must reimburse the city for all expenses reasonably incurred by the city in processing each application submitted under this chapter. For the purposes of this provision, *APPLICATION* includes, but is not limited to, applications for re-zoning, variances, special and conditional use permits, planned unit developments and amendments, platting and waiver of platting, easement and alley vacations. Costs to be reimbursed include, but are not limited to, those associated with publication, mailing of notice, duplication of documents and other documented administrative expenses as well as legal, engineering and other professional fees incurred by the city in the course of processing the application. The reimbursement shall be paid by the applicant within 60 days following a written demand for reimbursement, and the applicant's obligation to reimburse shall apply, whether the application in question was approved, denied or withdrawn. If any applicant fails or refuses to reimburse the city for the expenses, the city may, upon 15 days' notice in writing mailed to the owner of the premises subject to the application at the address appearing on the tax rolls of the county, and as an additional and not alternative remedy provided herein, pay for costs and services and certify all costs to the County Auditor to be spread upon the tax rolls as a special assessment on the subject premises.

(Prior Code, § 10.70-8) (Ord. 36, passed 4-3-1998)

