

**SECTION 28.**  
**“ARD” ANNEXATION RESERVE DISTRICT**

**SUBSECTION 1. PURPOSE**

- A.** To identify land uses and development standards for properties located in Bridgewater Township and designated for possible annexation to the City of Dundas as governed by the Annexation Agreement dated July 12, 2004.
- B.** To implement selected policies of the Dundas Comprehensive Plan related to supporting orderly growth, planning land uses to minimize land use conflicts, strengthening the distinction between the urban city and rural countryside, residential and urban growth area land use and growth management areas.
- C.** To maintain the rural character of the landscape by allowing agricultural operations and limited single family residential uses.
- D.** To defer urban development in areas around the City of Dundas until extension or provision of the required public facilities and services is provided. When public services are available and a landowner/developer makes application for development and annexation of the land is within the guidelines of the Annexation Agreement, the City will consider annexing the land, and then rezoning and subdividing it consistent with its designation in the Comprehensive Plan and in accordance with the Dundas Zoning Ordinance.
- E.** To restrict land uses that have the potential to interfere with the orderly urban expansion and subdivision at urban densities or designated land use plan.

**SUBSECTION 2. AUTHORITY** This Section is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes Sections 462.351 to 462.364 and 414.0325, and the Annexation Agreement between the City of Dundas and Bridgewater Township dated July 12, 2004.

**SUBSECTION 3. DEFINITIONS** The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

**Abut.** Physically touching or bordering upon; or to share a common property line but not overlap. See ADJOINING LAND.

**Accessory structure or facility.** Any building or improvement clearly subordinate to a principal use such as garages, sheds, or storage buildings located on the same parcel as the principal structure.

**Accessory Use.** A use that is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same parcel as the principal use to which it is related. An accessory use includes, but is not limited to, the following:

1. Residential accommodations for servants or caretakers.
2. Swimming pools and private recreational facilities for the use of the occupants of a residence or their guests.
3. Residential – or agricultural – related storage in a barn, shed, tool room, or similar accessory building.
4. Interior storage of merchandise normally carried in-stock in connection with a business or industrial use unless such storage is excluded in the applicable district’s regulations.
5. Accessory off-street parking spaces, open or enclosed.
6. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.

**Addition.** (1) A structure added to the original structure at some time after the completion of the original structure; or (2) an extension or increase in floor area or height of a building or structure.

**Administrative Review.** Review of a zoning or planning application by the Zoning Administrator to ensure compliance with the ARD Ordinance and the Comprehensive Plan.

**Adjoining Land.** A lot or parcel that shares all or part of a common lot line with another lot or parcel of land. SEE ABUT.

**Agricultural Sales and Service.** An establishment primarily engaged in the sale or rental of farm tools and small implements, feed, seed, and grain, tack, animal care products, farm supplies and the like, excluding large implements, and including accessory food sales and machinery repair services.

**Agricultural Use.** Real or personal property used for the production of crops, tillage, husbandry or farming, including fruit and vegetable production, tree farming, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products.

**Alteration.** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the move of a building or structure from one location to another. This excludes normal repairs and maintenance, such as painting or roof replacements. (See STRUCTURAL ALTERATIONS.)

**Animal Kennel.** Any structure or premises in which animals are boarded, groomed, bred, or trained for commercial gain other than horses, cattle, poultry, swine, sheep, or goats. (See KENNEL.)

**Animal, Farm.** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses, and other animals commonly accepted as farm animals in the State of Minnesota.

**Animals, Food.** Fish, fowl, cattle, swine, llamas, sheep and other non-human members of the earth's ecological system raised for the purposes of food consumption.

**Animals, Fur.** Mammals that are raised for their pelts.

**Animal Unit.** A unit of measure used to compare differences in the production of animal waste that, as a standard, uses the amount of waste produced on a regular basis by a slaughter steer or heifer. For animals not listed in the following chart, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds. This chart shall be amended from time to time to be consistent with Minnesota Rules Chapter 7020.

<u>Animals</u>	<u>Equivalent</u>
Calves (150-500 lbs.)	0.5 animal units
Feeder Cattle (500-1200 lbs)	1.0 animal units
Beef Cows	1.0 animal units
Young Dairy Stock (500 – 1000 lbs)	0.75 animal units
Replacement Heifers	1.0 animal units
Dairy Cows	1.4 animal units
Nursery Pigs (up to 50 lbs)	0.05 animal units
Grower/Feeder Pigs (50 – 100 lbs)	0.4 animal units
Finishing Hogs (100 lbs – market wt.)	0.4 animal units
Sows	0.4 animal units
Boars	0.4 animal units
Sheep	0.1 animal units
Turkeys	0.018 animal units
Layer Chickens	0.01 animal units
Broiler Chickens	0.01 animal units
Horses	1.0 animal units
Ostriches	0.4 animal units

**Annexation.** The incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

**Annexation Agreement.** The duly executed document between the City of Dundas and Bridgewater Township, dated July 12, 2004, that establishes the orderly annexation for the Annexation Reserve District.

**Annexation Reserve District.** The annexation area as described in Exhibit A of the Annexation Agreement.

**Applicant.** A person submitting an application for land use, zoning or development approvals. (See PERSON.)

**Aquifer.** A geologic formation that is capable of supplying sufficient quantities of water to a well. Aquifers are broadly categorized into two categories: unconfined and confined. Other terms are applied to further describe characteristics of aquifers including artesian and water table aquifers. Aquifers must have the following two properties:

1. The aquifer formation must be porous, such as sand and gravel or cracks and fractures in more solid rock.
2. Water must be able to flow through and out of the formation in quantities large enough to be significant.

**Basement.** A space having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and a half feet.

**Bed and Breakfast.** An owner-occupied single-family dwelling used in part as short term lodging, providing one or more meals per day as part of the compensation.

**Berm.** A landscaped and contoured formation of land that is raised from natural grade.

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

**Bluff.** A hill, cliff or embankment typically overlooking a plain or body of water, especially on the outside of a stream or river meander, that has the following characteristics:

1. Part or all of the feature is located within 1,000 feet of a lake or 300 feet of a river or stream; and
2. The slope drains toward the water body; and
3. The slope averages at least eighteen percent (18%) over fifty (50) feet, and rises at least twenty-five (25) feet above the ordinary high water level of the water body; or the grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty percent (30%) or greater.

**Bluff, Toe.** The point of 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 toe of the bluff shall be determined to be the lower end of the lowest ten (10) foot segment that exceeds eighteen percent (18%) slope.

**Bluff, Top.** The point of a bluff where there is, as visually observed, a clearly identifiable break in the slope, from the steeper to the 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 the highest ten (10) foot segment that exceeds eighteen percent (18%) slope.

**Bluff Impact Zone.** A bluff and land located within thirty (30) feet from the top of the bluff.

**Bluffline.** A line along the top of a slope connecting the points at which the slope becomes less than twelve percent (12%). This applies to those slopes within the Wild and Scenic River District which are beyond the setback provisions from the ordinary high water level.

**Board of Adjustment.** Shall be the City Council.

**Board of Supervisors.** The Bridgewater Township Board of Supervisors; also referred to as the Town Board.

**Boathouse.** A structure designed solely for the storage of boats or boating equipment.

**Buildable Area.** That part of a lot or parcel of sufficient elevation to accommodate the principal building, a well and on-site sewer system (two locations), all of which meet applicable codes, ordinances and/or regulations.

**Building.** Any structure of any kind for the shelter, support or enclosure of persons, animals, chattel (personal property) or property of any kind.

**Building, Accessory.** A subordinate structure on the same lot as the principal or main building or use.

**Building, Principal.** A building in which is conducted the principal use of the lot on which it is located.

**Building Coverage.** The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area, expressed as a percentage.

**Building Height.** The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

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

**Building Official.** The building official of Bridgewater Township or his/her authorized representative.

**Building Permit.** Written permission issued by the proper Township authority for the construction, repair, alteration or addition to any structure governed by this Ordinance.

**Building Setback.** The minimum horizontal distance prescribed in this Ordinance between a building and a specified lot line or boundary.

**Building Setback Line.** A line parallel with the street right-of-way, private road, property line, ordinary high water mark, or access easement, at the required setback beyond which a building may not extend.

**Building, Temporary.** A structure that has no electrical or water connections, no permanent foundation, and is built to be movable when empty.

**Bulk Regulations.** Standards and controls that establish the maximum size of structures and the buildable area within which the structure can be located, including height, gross floor area, lot coverage, impervious surface coverage and yard requirements, but excluding residential density regulations.

**Campground.** An area accessible by vehicle and containing camp sites for tents and trailer camping.

**Centralized Water and Sewer Systems; Centralized Utilities.** Utility systems serving a group of buildings, lots, or an area of the ARD, with the design and construction of such utility systems as approved by the Planning Commission and/or the State of Minnesota.

**Certificate of Occupancy.** A document issued by the Building Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all the applicable codes and ordinances at the time of occupancy.

**Certificate of Survey.** A certificate of survey shall show the boundary lines of a parcel or parcels and indicate monuments set at corners (or road right-of-way when abutting roads), angle points of said parcel or parcels and also at appropriate locations along boundary lines or lines where lines cannot be seen from corner to corner and there is a need to clarify building setback requirements. The survey shall be tied into required and identified land corners. The drawing shall be prepared by or under the direct supervision of a Minnesota Registered Land Surveyor.

**Church (Place of Worship, Religious Institution).** (1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs. (2) A special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

**City Council.** The City Council of the City of Dundas.

**Clear-cutting.** The removal of a major portion (more than ninety percent (90%)) of a stand of trees and woody vegetation (see LOGGING, INTENSIVE VEGETATION and Shoreland Regulations).

**Cluster Development.** A subdivision development planned and constructed so as to group housing units into relatively compact patterns while providing a unified network of open space.

**Common Open Space.** Land use for agriculture, natural habitat, pedestrian corridors, and/or recreation purposes, that is permanently protected from future development.

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

**Commissioner, Department of Natural Resources.** The Commissioner of the Department of Natural Resources, or his or her designee within the Department.

**Commission.** See Planning Commission.

**Comprehensive Plan.** The general plan for land use, transportation, and community facilities of the City of Dundas.

**Composting.** The aerobic decomposition of organic wastes to a relatively stable humus subject to further, slower decay but sufficiently stable not to reheat or cause odor or insect infestation.

**Conditional Use.** A land use of development as defined by ordinance that would not be allowed without stipulated conditions, but may be allowed with appropriate restrictions as provided by official controls upon a finding that (1) certain conditions as detailed in the zoning ordinance exist, (2) the use or development conforms to the Comprehensive Plan; and (3) the use is compatible with the existing neighborhood.

**Conditional Use Permit.** A permit specially and individually granted for a conditional use permitted in any use district.

**Conservation Easement.** A legal agreement restricting development of farmland or natural areas. Lands subject to a conservation easement are generally restricted to farming and open space uses. A conservation easement does not imply any right of public access, except for periodic monitoring by the agency or entity holding the easement.

**Construction Debris.** Concrete, blacktop, bricks, stone facing, concrete block, stucco, glass, structural steel, and wood from demolished structures. It shall also include waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads, and any material as defined by the Minnesota Pollution Control Agency (MPCA) or permitted for deposit in construction debris disposal facilities by said agency, such as, but not limited to, foundry, sand, waste, shingles, tree waste, waste or water treatment plant lime sludge, and street sweepings.

**Contiguous.** Next to, abutting, or touching and having a common shared boundary, or portion thereof, that is coterminous. (See ABUT; ADJOINING LAND.)

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

**Contractor's Yard.** Outdoor storage of materials and vehicles associated with a contractor's office that shares the site.

**Copy.** A print or reproduction made from a drawing.

**Coterminous.** Having the same border or covering the same area.

**County.** Rice County, Minnesota.

**Crop Equivalency Rating.** The weighted average per quarter-quarter section of land that represents the relative net economic return per acre of soil as reflected by the difference in productivity between soils, as determined by the University of Minnesota and adopted by the Rice County Board of Commissioners.

**Daycare Facility.** Any facility, public or private, which for gain or otherwise, regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or development guidance on a regular basis for periods of less than 24 hours a day, in a place other than the person's own home. Daycare facilities include, but are not limited to, family daycare homes, group family daycare homes, daycare centers, day nurseries, developmental achievement centers, day treatment programs, adult daycare centers, and day services.

**Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features attached or functionally related to a principal use or site.

**Density.** The number of families, individuals, dwelling units, households or housing structures per unit of land.

**Domestic Pets.** For purposes of this Section, a domestic animal shall be defined as house pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit. In addition, this definition includes birds and rabbits normally sheltered outside the home.

**Developer.** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other person having enforceable proprietary interests in such land.

**Development.** The act of building structures and installing site improvements; a group of buildings constructed as a unified project.

**District.** A part, zone, or geographic area within which certain zoning or development regulations apply.

**Drainageway.** Any natural or artificial water course, including but not limited to streams, rivers, brooks, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines, or washes, in which water flows in a definite direction or course, either continually or intermittently; and including any area adjacent thereto which is subject to inundation by reason of interflow or floodwater.

**Dredging.** The process by which soils, mostly in the form of silt, or other surface materials which are transported by surface water as a product of erosion into a body of water are removed for the purpose of deepening the body of water.

**Driveway.** The area used for vehicular access to an off-street parking area from a street, road or alley. Driveway shall also include the area used for vehicular access to areas of the lot other than an off-street parking area.

**Dust-Free.** A minimum treatment of the native soil with a covering of asphalt, concrete, wood, masonry, gravel, oil penetration or soil-cement.

**Dwelling – Detached.** A dwelling unit that is entirely surrounded by open space on the same lot.

**Dwelling – Energy Efficient.** A dwelling meeting the specifications of the Minnesota Energy Code.

**Dwelling, Single-Family.** A free-standing (detached) residence designed for or occupied by one (1) family only, including manufactured homes that meet current federal U. S. Department of Housing and Urban Development (HUD) standards.

**Dwelling – Townhouse.** A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. (See DWELLING, SINGLE-FAMILY ATTACHED.)

**Dwelling Unit.** Two (2) or more rooms within a structure that are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall be included for each dwelling. A mobile or manufactured home, with the above accommodations, located in areas approved for mobile or manufactured homes shall be considered a dwelling unit. A house trailer, camper-trailer, camper-bus or tents are not considered dwelling units.

**Easement.** A grant by an owner of land for the specific use of said land by the public, or to a person or persons.

**Easement, Utility.** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, cable television lines, telephone poles, storm sewer or storm drainage and gas lines.

**Encroachment, Flood Plains.** Limits of obstruction flows. A method of determining the location of encroachment so that hydraulic capacity of flood plain lands on each side of a stream are increased by an equal amount when calculating the increases in flood stages.

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

**Erosion.** The process by which the ground surface is worn away by action of wind, water, ice and gravity or other outside natural forces acting on it.

**Essential and Transmission Services.** Overhead or underground electrical, gas, steam, chilled water or water transmission or distribution systems and structures, or collection, communication supply or disposal systems and structures used by public utilities or governmental departments or commissions or as required for protection of the public health, safety and welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.

**Excavation or Extraction.** Any artificial movement of the earth within the ARD, dug, excavated, or made by the removal from the natural surface of the earth of soil, sand, gravel, stone, industrial minerals or other nonmetallic minerals or other matter or made by tunneling or breaking or undermining the surface of the earth.

**Exotic Animals.** Any animal that is not normally domesticated in the United States or is wild by nature. Exotic animals include, but are not limited to, any of the following orders and families, whether bred in the wild or captivity, and also any of the hybrids with domestic species. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified.

1. Non-human primates and prosimians (monkeys, chimpanzees, baboons)
2. Felidae (lions, tigers, bobcats, cougars, leopards, jaguars, not domesticated cats)
3. Canidae (wolves, coyotes, foxes, jackals, not domesticated dogs)
4. Ursidae (all bears)
5. Reptilia (all venomous snakes, iguanas, turtles, lizards)
6. Crocodilia (alligators, crocodiles)
7. Proboscidae (elephants)
8. Artiodactyla (hippotamuses, giraffes, camels, not cattle or swine or sheep or goats)
9. Procyonidae (raccoons, coatis)
10. Hyaenidae (hyenas)
11. Marsupialia (kangaroos, opossums)
12. Perissodactylea (rhinoceroses, tapirs, not horses or donkeys or mules)
13. Edentata (anteaters, sloths, armadillos)
14. Viverridae (mongooses, civets, and genets)

**Exterior Storage (includes Open Storage).** The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

**Family.** An individual, or two (2) or more persons related by blood, marriage or adoption, or up to six (6) unrelated persons, living together as a single housekeeping unit in a dwelling unit.

**Farm.** A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock, or poultry farming.

**Feedlot.** A fenced land area or building or combination thereof of fenced land area and buildings intended for the confined feeding, breeding, raising, or holding of animals exceeding ten (10) animal units and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

**FEMA.** Federal Emergency Management Agency.

**Field Windbreak.** A strip or belt of trees or shrubs more than one hundred (100) feet in length, fifty (50) feet or less in width, adjacent to or within a field.

**Fill.** (1) A built-up piece of land, an embankment, or the material, such as earth or gravel, used for this; (2) To build up the level of an area with earth, stones, etc.

**Final Approval.** The last recommendation of the Planning Commission taken on a development plan that has been given preliminary approval, after all conditions and requirements of the preliminary approval have been met and the required improvements have either been installed or guarantees properly posted for their installation, or approved conditioned upon the posting of such guarantees.

**Final Plat.** A drawing in final form, showing a proposed subdivision containing all information and detail required by state statutes and this Ordinance to be presented to the Planning Commission for approval, and which, if approved, shall be duly filed with the County Recorder.

**Flood.** A temporary rise in stream flow or flood stages that results in inundation of the normally dry areas adjacent to the channel.

**Flood Frequency.** The average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.

**Flood Fringe.** That portion of the flood plain outside of the delineated floodway and which has been or hereafter may be covered by a regional flood. Land within a flood fringe is subject to inundation by relatively low velocity flows and shallow water depth.

**Flood Insurance Rate Map.** The Flood Insurance Rate Map (FIRM) is produced by the Federal Emergency Management Agency (FEMA). The FIRM is the most common map and most communities have this type of map. At a minimum, flood maps show flood risk zones and their boundaries, and may also show floodways and Base Flood Elevations (BFEs).

**Flood Plain.** The channel of the flood plain outside of the delineated floodway and which has been or hereafter may be covered by the regional flood. Flood plain areas within the ARD shall encompass all areas designated as Zone A on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA).

**Flood Proofing.** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of damage caused by flooding.

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

**Floor Area.** The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory structures.

**Floor Area Ratio.** The gross floor area of all buildings or structures on a lot divided by the total lot area.

**Forest Land.** Land not currently developed for nonforest use and having at least twenty percent (20%) stocking of deciduous trees. Contiguous areas of trees must have a minimum crown width of 120 feet and trees with a minimum diameter, measured at 4.5 feet above grade, of twelve (12) inches to qualify as forest land. Land within ravines, on steep slopes, below the ordinary high water level, or a flood plain, shall not constitute forest land. Unimproved roads and trails, streams or other bodies of water or clearings in forest areas will not be classified as forest land. The minimum contiguous area for classification of forest land is one (1) acre, minimum width is 120 feet and minimum canopy density is sixty percent (60%).

**Forestry.** The use and management, including logging, of a forest, woodland, or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings and fences.

**Frontage.** The boundary of a lot that abuts an existing or dedicated public street.

**Garage.** An accessory building or accessory portion of the principal building that is intended for and used exclusively to shelter private passenger vehicles of a family or those families residing on the premises.

**Garage, Repair.** A building or space for the maintenance of vehicles, but not including auto wrecking or junk yards.

**Garage Sale.** Garage sale shall include rummage sales, basement sales, yard sales, porch sales, and all other periodic sales at a residential location intended for the limited purpose of isolated or occasional sales as defined by Minn. Stat. §297A.25 for the selling of used goods or home-crafted items by the residents thereof.

**Governing Body.** The Planning Commission of the City of Dundas.

**Government Building.** A building owned by a government agency that is used for an allowed use within the ARD.

**Group Family Daycare Facility.** A state licensed daycare for no more than fourteen (14) children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

**Grade.** (1) The average elevation of the land around a building; (2) the percent of rise or descent of a sloping surface; (3) the elevation of the surface of land at any particular point.

**Grading.** Any excavating or filling of earthen materials or combination thereof, but not including normal agricultural operations.

**Hardship.** As used in connection in the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls and the plight of the landowner is due to circumstances unique to the property, not created by the landowner. Economic considerations alone shall not constitute a hardship if reasonable use for the property exists under the terms of this Ordinance.

**Hazardous Waste.** Disposal of substances or material that, by reason of its toxic, caustic, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling in the proximity of, or otherwise coming into contact with such material or substance. As categorized by the U.S. Environmental Pollution Agency (EPA), hazardous waste includes, but is not limited to, inorganic mineral acids of sulphur, fluorine, chlorine, nitrogen, chromium, phosphorus, selenium, arsenic, and their common salts; lead, nickel and mercury and their inorganic salts, or metallo-organic derivatives; coals, tar acids, such as phenol and cresols and their salts; and all radioactive materials.

**(Significant) Historic Site.** Any archeological 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 Minn. Stat. § 307.08. A historic site meets these criteria if it is presently listed on either register or it is determined to meet all the qualifications for listing after review by the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**Home Occupation – Permitted.** Any activity carried out for gain by a resident and conducted as a customary, incidental and accessory use in the resident’s dwelling unit.

**Home Occupation – Permitted with Interim Use Permit.** Any activity carried out for gain by a resident within an accessory building.

**Homeowner’s Association.** A formally constituted nonprofit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.

**Homestead, Abandoned Farm.** A site previously occupied by a farm dwelling and evidenced by a foundation, uninhabitable farm dwelling, windbreak, outbuildings or other observable physical features.

**Hunting Club.** A private noncommercial site maintained by a membership organization for the purpose of hunting and related outdoor recreation.

**Impermeable.** Not permitting the passage of water.

**Impervious Surface.** Any material that prevents absorption of stormwater into the ground.

**Incidental.** Subordinate and minor in significance and bearing a reasonable relationship with the primary use.

**Individual Septic Treatment System (ISTS).** A system for the treatment and disposal of sanitary sewage in the ground on the lot upon which the primary use is located. A septic tank and soil absorption system or other individual cluster type sewage treatment systems as described and regulated under Minnesota Rules Chapter 7080, as amended.

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

**Industrial Waste.** Any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from the development of any natural resource.

**Infectious Waste.** Laboratory waste, blood, regulated body fluids, sharps, and research animal waste that has not been decontaminated.

**Intensive Vegetation Clearing.** More than ninety percent (90%) removal of trees or shrubs in a contiguous patch, strip, row, or block (See CLEAR CUTTING, LOGGING).

**Interim Use.** Temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit the use.

**Interim Use Permit.** A temporary permit issued by the City Council granting approval of an interim use under conditions listed on said permit.

**Irrigation System.** Any structure or equipment, mechanical or otherwise, used to supply water supplement normal rainfall including, but not limited to, wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.

**Junk Yard.** Land or buildings where waste, discarded or salvaged materials are brought, purchased, sold, exchanged, stored, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles, provided further that the

storage of three (3) or more inoperative and/or unlicensed motor vehicles for a period in excess of three (3) months shall also be considered a junk yard.

**Kenel, Commercial.** Any structure or premises on which four (4) or more animals over four (4) months of age are kept for sale, breeding or profit.

**Land Alteration.** The extraction, grading or filling of land involving movement of earth and materials in excess of fifty (50) cubic yards in the Shoreland Districts and in excess of five hundred (500) cubic yards in all other areas.

**Land Reclamation.** The recovery or restoration of wasteland, wetlands, marshes, etc. by ditching, grading, filling, or similar means. Any lot or parcel of land upon which four hundred (400) cubic yards or more of fill is to be deposited shall be land reclamation.

**Landscaping.** Plantings such as trees, shrubs, and or seeding.

**Land Use Permit.** Any permit required under this ordinance, except building or structure permits.

**License.** A permit, granted by an appropriate governmental body, generally for a consideration, to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under police power.

**Licensed Architect.** A person licensed as a professional architect by the State of Minnesota.

**Licensed Daycare Facility.** Any public or private facility required to be licensed by a governmental agency that provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Licensed day care facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult daycare centers, and day services.

**Licensed Engineer.** A person licensed as a professional engineer by the State of Minnesota.

**Licensed Land Surveyor.** A person licensed as a professional surveyor by the State of Minnesota.

**Licensed Residential Care Facility.** Any public or private facility required to be licensed by a governmental agency, that provides one or more persons with a 24- hour-per-day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the care of the Commissioner of Human Services, foster homes, residential treatment centers, group homes, residential programs,

supportive living residences for functionally-impaired adults, or schools for handicapped persons.

**Livable Space.** The total area, measured in square feet, of a story or stories of a residential dwelling that is used for living space.

**Livestock Waste Storage Facility.** A diked enclosure, pit or structure for temporary disposal or storage of livestock wastes.

**Loading Berth.** An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles and for the purpose of loading and unloading goods, wares, materials and merchandise.

**Lodging Room.** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

**Logging.** The cutting of timber on any public or private land of one (1) acre or more for the major purpose of selling the timber for a profit. This shall not include the selective cutting of trees by the property owner for the purpose of removing dead or diseased trees (also see CLEAR-CUTTING).

**Lot.** A parcel of land legally described and recorded with the County Recorder.

**Lot Area.** The gross lot area is the area of a horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, flood plain zone or floodway.

**Lot, Buildable.** A separately described parcel of land, with or without buildings, used for or intended for occupancy or any use permitted under the provisions of this Ordinance, having not less than the minimum area required by this Ordinance for each use, excluding buildings to accommodate same, in the zoning district in which such lot is located and which abuts a public road, street or highway.

**Lot, Corner.** A lot situated on the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**Lot, Interior.** A lot other than a corner lot, including through lots.

**Lots, Through.** Any lot other than a corner lot that abuts more than one street.

**Lot Depth.** The average horizontal distance between the front lot line and the rear lot line or ordinary high water mark or to the most distant point on any other lot line where there is no rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

**Lot, Double Frontage.** Lots which have a front line abutting on one street and a back or rear line abutting on another street.

**Lot, Substandard.** Any lot of record that does not meet the minimum lot area, frontage, setbacks, or other dimensional standards of this Ordinance.

**Lot Line.** A property boundary line of any lot held in separate ownership except that where any portion of the lot extends into the abutting alley or street, the lot line shall be deemed to be the street or alley right-of-way line.

**Lot Line, Front.** That boundary of a lot which abuts an existing or dedicated public street. A corner lot shall be deemed to have frontage on both streets. Where a lot does not abut a public dedicated road, the front line shall be designated by the Zoning Administrator.

**Lot Line, Rear.** The lot line opposite the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten (10) feet long, lying within the lot and parallel to the front property line.

**Lot Line, Side.** Those lines of a lot that begin at the point of intersection with a public right-of-way and then run away from said right-of-way. Any boundary of a lot that is not a front lot line or rear lot line.

**Lot Width.** The lot width is the horizontal distance between the side lot lines of a lot, parallel to the front lot line and measured at the minimum required front yard setback.

**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest elevation.

**Maintenance and Minor Repairs.** Includes repair of doors, floors and eave troughs, repainting and stuccoing of exteriors, interior redecorating, foundation or basement repair, new heating, air-conditioning and plumbing equipment or repair of present equipment; each of which may be done in total, or in part, except the structure shall not be expanded in any way.

**Manufactured (Mobile) Home/Prefabricated Building.** A residential unit constructed at a factory or assembly point, designed for year round occupancy and moved to the site in one (1) or more sections. Trailers, campers, bus(es) are not included.

**Manufacturing – Light Industry.** Any enterprise that includes the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not violate the performance standards found in this Ordinance.

**Mass Gathering.** Any outdoor event, or one held in a structure or tent, attended by more than one hundred persons over any two-hour period. Non-recurring auctions and family events, such as family reunions, graduation parties, baptisms, confirmations, etc., and public community events shall not be considered a mass gathering.

**Mean Flow Level.** The average flow elevation of a stream or river computed as a mid-point between extreme low and extreme high water.

**Metes and Bounds Description.** A description of real property which is not described by reference to a lot or block shown on a map or a recorded plot, but is described by starting at a known point and describing the bearing and distances of the line forming the boundaries of the property.

**Mining.** The extraction of sand, gravel, rock, soil, peat or other material from the land in the amount of one thousand (1000) cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building or structure provided such removal is an approved item in the building permit.

**Mining Operation.** The removal of stone, sand and gravel, peat, black dirt, topsoil, or other material from the land for commercial, industrial, residential or governmental purposes.

**Mixed-Use Building.** A building that combines two or more uses, typically with nonresidential (commercial or office) uses on the ground floor and residential uses, offices or studios above.

**Motor Vehicle.** The meaning given to this term in Minn. Stat. §168.011, subd. 4, as amended, and also includes a park trailer as defined in Minn. Stat. §168.011, subd. 11, as amended, and a horse trailer as defined in Minn. Stat. §168.27, subd. 1, as amended.

**Natural Waterway.** A natural passageway on the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

**Nonconforming Structure or Nonconforming Use.** A structure or use lawfully in existence on the effective date of adoption of this Ordinance and not conforming to the new regulations for the district in which it is situated.

**Noxious Matter or Materials.** Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on physical or economic well-being of individuals.

**Nursery, Day.** A facility where care is provided for pay for three (3) or more children for periods of four (4) hours or more per day.

**Nursery, Landscape.** A business that grows, or sells trees, flowering and decorative plants and shrubs.

**Obstruction (Waterway).** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill,

structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**Office.** A room or group of rooms used for the management of affairs of an establishment or for the non-retail, non-production conduct of affairs of a service, professional, institutional, or business nature.

**Official Control.** Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of the ARD and are the means of translating into ordinances all or any part of the general objectives of the Comprehensive Plan. Such official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps.

**Open Space.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, or reserved for public or private use or enjoyment of the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**Open Space Recreational Use.** Recreation use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides parks and recreation areas.

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

**Outlot.** A parcel of land on a plat that is unbuildable with the exception of public buildings, essential services, and parks. This designation may be due to insufficient size or frontage, peculiar site characteristics, a lack of public improvements, or necessary replatting to utilize any remaining building rights. It may also delineate the area from which development rights have been taken to allow clustering on contiguous parcels to preserve open space.

**Overhang.** (1) The part of a roof or wall that extends beyond the façade of a lower wall; (2) the portion of a vehicle extending beyond the wheel stops or curb.

**Owner.** An individual, firm, association, syndicate, partnership, limited liability company, corporation, trust, or any other legal entity having a legal or equitable interest in land.

**Parcel.** See Lot.

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

**Permit.** The granting of authority by a governmental body to conduct certain activities.

**Permitted Use.** A use that is expressly permitted within a district established by this Ordinance, provided that such use conforms with all requirements, regulations, and performance standards (if any) applicable thereto.

**Person.** An individual, to include both male and female. And shall also extend and be applied to bodies political and corporate and to partnerships and other unincorporated associations.

**Planning Commission.** The duly appointed Planning Commission of the City of Dundas. District.

**Planned Unit Development.** A type of development characterized by a unified site design for a number of dwelling units, dwelling sites, or other building sites on a parcel, whether for sale, rent or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and/or mix of structure types and land uses.

**Plat.** A map or drawing which geographically delineates the boundary of land parcels for the purpose of identification and record of title. The plat is a recorded legal document and must conform to all Minnesota State laws.

**Platted Areas.** A parcel of land described by block and lot.

**Portable Building.** A structure that can be easily moved when empty and which is not on a permanent foundation i.e. sheds, fish houses, etc.

**Prefabricated Home.** A non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

**Preliminary Plat.** A map or drawing indicating the proposed layout of the subdivision to be submitted to the Planning Commission for their consideration.

**Principal Building or Structure.** A building in which is conducted the principal use of the lot on which it is located.

**Principal use.** The primary or main use of land and/or buildings upon same. Principal uses shall be generally categorized as agricultural, residential, commercial or industrial. If a use is mixed or might qualify under more than one of the general categories, the Planning Commission shall determine which category is applicable.

**Prohibited Use.** A use that is not permitted in a zoning district.

**Property.** A lot, parcel, or tract of land together with the building and structures located thereon.

**Property Line.** The legal boundaries of a parcel. For setback purposes, a road right-of-way will be considered a property line.

**Public Land.** Land owned or operated by municipal, school district, county, state, or federal governmental units.

**Public Road.** Those roads under the direct authority of the Town, the County, the State or the Federal government.

**Public Waters.** Those waters of the state identified as public waters or wetlands under Minn. Stat. §103G.005, Subd. 15 and Subd. 18, as amended.

**Publication.** Notice placed in the official newspaper stating the time, location, date of meeting and description of topic(s).

**Quarter-Quarter Section.** A square measure of approximately forty (40) acres having one quarter of a quarter section and lying wholly within a single section. Correction lines required by the Rectangular Survey System which result in a quarter-quarter section of less than forty (40) acres shall constitute a quarter-quarter section for purposes of this Ordinance.

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

**Recreational Vehicles.** Travel trailers including those that telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, and converted buses that provide temporary living quarters. A vehicle is considered recreational if it:

1. Is not used as the residence of the owner or occupant;
2. Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities;
3. Is self-propelled or towed on the public streets or highways incidental to the recreational or vacation activities; and
4. Is licensed as a motor vehicle and is maintained in road-ready condition.

**Regional Flood.** A flood that is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one-hundred (100) year recurrence interval. Regional Flood is synonymous with the one-hundred (100) year flood plain and with the term “based flood” used in the Flood Insurance Rate Map.

**Registered Land Survey.** A survey map or registered land designating the same into a tract or tracts of a Registered Land Survey Number, prepared by a licensed land surveyor in the State of Minnesota. See Minn. Stat. §508.47.

**Regulatory Flood Protection Elevation.** A point not less than one (1) foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain that result from designation of a floodway. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.

**Religious Facility (church).** An institution primarily used for the gathering of people for the practice of religious faith.

**Repairable Motor Vehicle.** A motor vehicle that can be repaired, rebuilt, or reconditioned for further use consistent with its usual functions. Must be currently licensed and insured. This term does not include a motor vehicle that has value only for its component parts.

**Residential Use.** A permanent place of residence for a family.

**Resort.** A development consisting of buildings, camping spaces, parking areas, and recreation areas, for lease or rent for short-term residence, on one tract of land, under one ownership for the purpose of vacationing, relaxation or recreation.

**Retail Sales.** Stores and shops selling personal service or goods to consumers.

**Right-of-Way.** The land covered by a public road or other land dedicated for public use or for certain private use, such as land over which a power line passes. (1) A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipelines, water line, sanitary storm sewer, and other similar uses; (2) generally, the right of one to pass over the property of another.

**Road.** A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however designated.

**Salvage Yard.** Any use that involves or includes the storing, keeping, salvaging, and/or holding for sale of all or parts of the following: unlicensed and/or inoperable motor vehicles; farm machinery and equipment unless used as part of a farm operation or unless held for sale under a permit authorized by this Ordinance; scrap iron and scrap metals; and any other item or items which no longer customarily serve the purpose for which they were designed.

**Screening.** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms or other features.

**Self-Service Storage Facility.** An establishment designed and used for the purpose of renting or leasing storage spaces to tenants who have sole access to such space for the storage of personal property.

**Semi-public Use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

**Sewage.** Any water-oriented domestic waste, exclusive of subsurface and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.

**Sewer System.** Pumping force main, pipelines, or conduits, and all other construction, devices, appliances, or appurtenances used for conducting sewage, industrial waste, or other wastes to a point of ultimate disposal.

**Sewage Treatment System.** Septic tank and soil absorption system or other individual or cluster-type sewage treatment system as described and regulated in this Ordinance.

**Shore Impact Zone.** Land located between the ordinary high water level of public water and a line parallel to it as a setback of fifty (50) percent of the normal structure setback.

**Shoreland.** Land defined on the official zoning map, and generally extending: (1) One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and (2) three hundred (300) feet from a river or stream or the landward extent of a floodplain. Shorelands may also be defined as a physical feature such as a ridgeline, change in topography, or roadway that generally parallels the shoreline, or by the boundary of an existing developed area.

**Shoreland Setback.** The minimum horizontal distance between a structure and the ordinary high water level.

**Sight Distance Triangle.** A triangular shaped portion of land established at street or driveway intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving an intersection. Such triangle shall be defined beginning at the intersection of the projected curb (or road edge) lines of two (2) intersecting streets or at the intersection of projected curb lines (or road edge) where a driveway intersects a street, measured twenty-five (25) feet along each curb line (road edge) and connected by a diagonal line.

**Sign.** A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

**Sign, Electronic.** A sign containing a display that can be changed, by electrical, electronic or computerized process.

**Sign, Off-Premise. (Billboard).** A sign that directs attention to a business commodity, service, activity or entertainment not conducted, sold or offered upon the premises where the sign is located.

**Sign, Surface Area of.** The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surfaces. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display.

**Sign, Temporary.** A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board or similar material and intended to be displayed for a limited period of time but does not include candidate advertisements.

**Site.** Any lot or parcel or combination of lots or parcels assembled for the purpose of development.

**Site Plan.** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, indication of the north direction, vegetation, drainage, flood plains wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers and screening devices; surrounding development and any other information that reasonably may be required in order that an informed decision can be made by the Planning Commission.

**Sketch Plan.** A concept drawing indicating a proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

**Soil Survey.** A soil map or inventory of the soils of an area and a report of text describing the kinds of soils shown on the map and summarizing what is known about these soils including their classification and capabilities.

**Solid Waste.** Garbage, refuse and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities. Solid waste does not include earthen fill, boulders, rock and other materials normally handled in construction operations, solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants.

**Solid Waste Management Facility.** Any tract or parcel of land, including any constructed facility used for the treatment of, or preliminary, intermediate or final disposal of solid waste, including, but not limited to, transfer station, incineration, composting, waste reduction and landfill disposal.

**Steep Slope.** Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more.

**Story.** That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for principal use.

**Story, Half.** That part of a building under the gable, hip, or gambrel roof, the wall plates of which are not more than four (4) feet above the floor.

**Street.** A public way for vehicular traffic, whether designated as a street, highway, arterial, collector, road, avenue, land, place or otherwise designated. Street classifications include the following:

1. **Arterial Street or Highway.** A street or highway designed primarily to serve as a link between various sectors of the ARD and beyond.
2. **Collector Street.** A street designed to serve the internal traffic circulation of a recognized land use area which distributes and collects traffic from local streets and connects with highways and/or arterial streets.
3. **Cul-de-sac.** A comparatively short street having but one end open to traffic and the other end being permanently terminated by a vehicular turn-around.
4. **Local Street.** A street designed for access to abutting property not intended to facilitate through traffic.
5. **Private Street.** A street serving as vehicular access to a parcel of land which is not dedicated to the public but is owned by one or more private parties.
6. **Service Road.** A minor street which is parallel and adjacent to an arterial street or highway and which provides access to abutting properties.

**Street Width.** The width of the right-of-way, measured at right angles to the center line of the street.

**Structure.** Anything constructed or erected that requires location on the ground or is attached to something having a location on the ground. See also BUILDING.

**Subdivider.** Any person commencing proceedings under this Ordinance to effect a subdivision of land whether for that person or for another.

**Subdivision.** The division of any parcel of land into two (2) or more lots, blocks, and/or sites, including the resubdivision of land.

**Surface Water-oriented Commercial Use.** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conduct of business. Marinas, resorts, bait shops, campgrounds, and restaurants with transient docking facilities are examples of such use.

**Temporary.** The use of land, or a structure, that occurs or exists for a short, limited period of time, as distinguished from uses and structures that are permanent.

**Toxic Substance.** Any single pollutant or combination of pollutants, including disease-carrying agents, that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, can cause death, mutations, deformities, or malfunctions in such organisms or their offspring and that adversely affect the environment.

**Transfer of Development Rights.** The conveyance of development rights by deed, easement or other legal instrument authorized by the County Recorder to another parcel of land, and the recordation of that conveyance in the land records of Rice County.

**Tower.** Any ground or roof mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the use of mounting an antenna, meteorological device, wind turbine or similar apparatus above grade.

**Travel Trailer.** A vehicle without motor power used for or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place and includes camp car, camp bus, camper and house car. A permanent foundation shall not change its character unless the entire structure is erected in accordance with the approved State of Minnesota Building Code.

**Use.** Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.

**Used Motor Vehicle.** A motor vehicle for which title has been transferred from the person who first acquired it from the manufacturer, distributor, or dealer. A new motor vehicle will not be considered a used motor vehicle until it has been placed in actual operation and not been held for resale by an owner who has been granted a certificate of title on the motor vehicle and has registered the motor vehicle in accordance with Minn. Stat. Chapter 168, 168A, and 297B, or the laws of the residence of the owner.

**Variance.** Written approval waiving the literal provisions of this Ordinance in instances where the strict enforcement would cause undue hardship because of physical characteristics unique to the parcel of property under consideration and that are not created by the owner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone

shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance.

**Waste.** Infectious waste, nuclear waste, pathological waste, sewage sludge, solid waste, waste water, process water, and hazardous waste.

**Water-Oriented Accessory Structure or Facility.** A small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. No bathroom, kitchen facilities or bedrooms are permitted.

**Water-Oriented Commercial Recreation.** The principal use of land or buildings in a Shoreland District for the sale, lease, rental or trade of products, goods and services that relate to a nearby body of water and could not be effective if operated away from a body of water. Examples include: fishing and bait shops, and boat and canoe rentals.

**Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have hydric soils, predominantly hydric vegetation, and display wetland hydrology. Wetlands are further defined in the Wetland Conservation Act, Minn. Stat. §103G.222-2373, as amended.

**Yard.** A required open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for such accessory buildings or such projections as are expressly permitted in this Ordinance. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and any building.

**Yard, Front.** An unoccupied and unobstructed space on the same lot with a building extending along the full width of a front lot line and situated between the front line of the building and the front lot line.

**Yard, Rear.** A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building.

**Yard, Side.** A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either front or rear yards, to the front or rear lot lines.

**Zoning Amendment.** A change recommended by the Planning Commission and authorized by the Dundas City Council either in the allowed use within a district or in the boundaries of a district.

**Zoning Administrator.** The person, regardless of job title, designated to supervise the application of this Ordinance and to enforce the provisions thereof.

**Zoning District.** An area or areas within the limits of the Annexation Reserve District for which the regulations and requirements governing use are uniform. District boundaries are shown on the official zoning map.

**Zoning Map.** That map or those maps incorporated into and being a part of this Ordinance designating zoning districts, and as amended from time to time.

**Zoning Ordinance.** Zoning regulations controlling the use of land as adopted by the Dundas Planning Commission and City Council under the Ordinance.

#### **SUBSECTION 4. ADMINISTRATION**

**A. Zoning Administrator.** The Zoning Administrator shall be responsible for review and processing of all development applications and building permit applications to ensure compliance with the standards of the Annexation Reserve District. Building permit applications for interior work and exterior maintenance (such as roofing, siding, windows, etc.) are exempt from this review.

**B. Zoning Applications Covered:** Certain applications of this Zoning District require study and action by the Planning Commission. These include proposed conditional use permits, interim use permits, variances, site plan reviews, zoning map amendments, text amendments and appeals.

**C. Cost Recovery.**

1. Purpose. The costs to the City for receiving, analyzing, processing, hearing and final processing of requests for changes, modifications or special consideration under this Ordinance such as requests for an amendment (map or text), site plan review, conditional use permits, interim use permits and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this Ordinance to provide that all costs of the City occasioned by such requests shall be borne by the applicant. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.

2. Fees. The following fees are established in accordance with Dundas City Code Title 1, Chapter 101 and listed under the following sections of Exhibit A § 101.02 Fee Schedule: SIGN PERMIT, CONSULTATION FEES and DEVELOPMENT/ZONING/BUILDING REVIEW FEES

**D. Site Plan Review.**

1. Purpose. The purpose of this section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design

and construction standards consistent with the requirements of this chapter.

2. Site Plan Review Process.

- a. Timeline. Pursuant to Minnesota Statutes 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City Council in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.
- b. Building Permits. The Building Official shall approve all plans prior to the issuance of any building permit.
- c. Presentation of the Application. The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request. Failure of the applicant or a representative of the applicant to appear at the Planning Commission may constitute grounds for rejection of the application.

4. Plans Required. In order to evaluate compliance with building performance standards, five (5) copies and one electronic file of the following plans and/or specifications, shall be submitted in fulfillment of the requirements of this Ordinance. Plans to be submitted shall be to scale and shall include:

- a. Topographic map prepared by a licensed surveyor with: contours at 1-foot intervals; property boundaries and legal description; all on-site improvements shown; adjacent streets with curb lines and spot elevations at top of curb (or edge of pavement if no curb); existing utilities and service connections; trees over 6" diameter identified or tree lines if grouped; existing telephone, gas, electric, and cable utilities identified as overhead or underground.
- b. Proposed Grading, Drainage and Erosion Control Plan with: all proposed improvements; proposed contours; proposed drainage system plan; proposed erosion control facilities. Drainage system plan design objective should be to provide controls such that post-development runoff does not exceed predevelopment runoff. Plans and specifications shall be prepared by an Architect or Engineer, as appropriate, licensed to practice in the State of Minnesota.
- c. Landscape Plans. Landscape plans shall be required in order to determine compliance with the Performance Standards in Subsection 10.I of this Ordinance. All landscape plans submitted for approval shall contain or have attached thereto the following information:
  - i. The location and dimensions of all existing and proposed structures,

parking lots and drives, roadways and right-of-ways, sidewalks, bicycle paths, ground signs, lighting, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, tot lots and other recreational facilities and other freestanding structural features.

- ii. The location, quantity, size and name, both botanical and common names, of all proposed planting materials.
  - iii. Existing and proposed grading of the site, including proposed berms, indicating contours, at one foot intervals.
  - iv. Specification of the type and boundaries of all proposed ground cover.
  - v. Irrigation plan, if proposed.
  - vi. Elevations, cross-sections of fences, and other details as determined necessary by the Zoning Administrator.
  - vii. Location, size and name of existing trees, if any, and any unique or special areas of existing vegetation.
- d. Building Plans. Building plans shall be to scale, to include: interior floor layout and usage; UBC (State Building Code) occupancy group; exterior elevation renderings identifying exterior materials and all architectural features. Plans and specifications shall be prepared by an Architect or Engineer, as appropriate, licensed to practice in the State of Minnesota.
- e. Signage Plan. A signage plan shall be submitted per Subsection 10.F of this ordinance.
- f. Lighting Plan. Exterior lighting plan to be prepared by a licensed Electrical Engineer or Electrician, as appropriate.
- g. Geotechnical investigation (if required by the Zoning Administrator).
- h. Copies of soils reports shall accompany the plans, if applicable.
5. Plan Agreements. All site and construction plans officially submitted shall be treated as a formal agreement between the Owner/Developer, Building Contractor and the Planning Commission. Once approved, no changes, modifications, or alterations shall be made to any site plan detail, standard or specification without prior submission of a plan modification request to the Building Official and the Zoning Administrator for review and approval.
6. Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Building Official, or the Zoning Administrator.
7. Lapse of Approval. Unless otherwise specified by the Zoning Administrator or the City Council as may be applicable, the site plan approval shall become null and

void one (1) year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this Section.

8. Building Code. The review and approval of site improvements pursuant to the requirements of City of Dundas adopted building and fire codes shall be in addition to the site plan review process established under this Section. The site plan approval process does not imply compliance with the requirements of these building and fire codes.

#### **E. Conditional Use Permits, Interim Use Permits, Variances and Amendments.**

1. Process. An application for a conditional use permit, interim use permit, variance or zoning text or map amendment shall be processed in accordance with the following procedure:
  - a. Timeline. Pursuant to Minnesota Statutes 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City Council in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.
  - b. Application. Applications shall be filed with the Zoning Administrator on an official form, accompanied by a fee as established by this Ordinance. The application shall also be accompanied by detailed written and graphic materials fully explaining the proposed request and a list of property owners located within 350 feet of the subject property. The number of copies to be provided and any additional data shall be determined by the Zoning Administrator. Applications must be complete before they are accepted. A complete application must include the following information and steps:
    - i. A completed application form(s) relating to the request signed by the property owner and applicant(s), if different than the property owner.
    - ii. All supporting information required by this Section and/or outlined in all pertaining sections of this Ordinance and application documents included with the application forms.
    - iii. Payment of all fees associated with the applicable applications(s).
    - iv. A pre-application meeting with the Zoning Administrator to review appropriate application procedures and requirements is strongly

encouraged.

- v. An application will be deemed complete unless the Zoning Administrator sends notice within fifteen (15) business days of submission of the application indicating that it is not complete and indicating what information is missing.
- vi. Upon receipt of a complete application, the request will be scheduled for action by the Planning Commission.
- c. Public Hearing Required. A public hearing is required for all zoning text or map amendments, conditional use permits, interim use permits, variance requests, or appeals.
- d. Notice of Hearing. After receipt of a complete application, the Zoning Administrator shall set a date for the public hearing. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request to be published at least ten (10) days prior to the hearing in the official newspaper of the City of Dundas. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available within three hundred fifty feet (350') of each parcel included in the request. Failure to send, or a property owner to receive notice, shall not invalidate any proceedings under this Section, provided that a bona fide attempt has been made to comply with the requirements of this Section.
- e. Presentation of the Application. The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request. Failure of the applicant or a representative of the applicant to appear at the Planning Commission may constitute grounds for denial of the application.
- f. The Planning Commission shall consider possible adverse affects of the proposed amendment, conditional use, interim use or variance. Its judgment shall be based upon (but not limited to) the following factors:
  - i. The proposed action shall be consistent with the policies and plans in the Comprehensive Plan adopted for the ARD.
  - ii. The proposed action shall be consistent with performance standards as outlined in Subsection 10 of this Ordinance.
  - iii. The proposed use can be accommodated with existing public services.
  - iv. Approval of a request shall require passage by a majority vote of

the City Council. Any changes to the boundaries of land designated as future industrial (see Exhibit A of this Ordinance) shall require approvals as described in the Annexation Agreement.

- g. Notice to Applicant. The Zoning Administrator shall notify the applicant of the decision of the City Council in writing, including any relevant resolutions and findings.
  - h. Filing of Notice of Action. A certified copy of any conditional use permit, interim use permit, or variance authorized under this section shall be filed with the Rice County Recorder and a copy of any action approved under this Section shall be filed with the Zoning Administrator. Filing shall be the responsibility of the applicant.
  - i. Reconsideration. Whenever an application has been considered and denied by the City Council, a similar application affecting substantially the same property shall not be considered again by the Planning Commission before the expiration of six (6) months from the date of its denial and any succeeding denials. However, a decision to reconsider such matter may be made by not less than an affirmative vote of a majority of the City Council.
  - j. Automatic Expiration. Unless otherwise specified by the City Council at the time it is authorized, a conditional use permit, interim use permit or variance approval shall be null and void and expire if the applicant fails to implement such approval and fulfill each and every condition attached thereto within one (1) year from the date of its authorization.
  - k. Building Permits Required. No person, firm, or corporation shall construct, erect, alter, demolish or move any building or structure or parts thereof within the ARD without first securing a building permit from Bridgewater Township. No building permit shall be issued by the Building Official for construction of a new building within the ARD prior to review and approval of the Zoning Administrator to ensure compliance with this Ordinance and the Comprehensive Plan.
2. Site Improvement Performance Agreement. Upon approval of a conditional use permit, interim use permit, site plan review and/or variance, the City Council may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and this Ordinance. The performance agreement shall be prepared and approved by the Attorney acting on behalf of the City Council and shall include, without limitation, the following terms and conditions:
- a. Performance Security. The applicant shall be required to provide financial

security to assure compliance with the agreement and conditions of approval. The security shall be in the form of cash escrow or irrevocable letter of credit. The security shall be in an amount determined by the Zoning Administrator under the direction and approval of the City Council to cover the estimated costs of labor and materials for the proposed improvements or development.

- b. Security Release. The City of Dundas shall hold the financial security until the proposed improvements or development are completed and a certificate of occupancy indicating compliance with the application approval and the Building Code has been issued by the Building Official.
- c. Security Forfeiture. Failure of the applicant to comply with the conditions of the application approval and/or of this Ordinance shall result in the forfeiture of the security.
- d. Hold Harmless and Indemnification of the City of Dundas and the Dundas Planning Commission. The applicant shall agree to indemnify and hold harmless the City of Dundas, its agents, representatives and consultants against any and all claims, demands, losses, damages and expenses (including attorney's fees) arising out of, related to or resulting from the applicant's negligent or intentional acts, or any violation of any safety law, regulation or code in the implementation of the performance agreement, without any regard to any inspection or review made or not made by the City of Dundas, its agents, employees, representatives or consultants or failure to take any other prudent precaution. In the event any City of Dundas agent or representative shall come under the direct or indirect control of the applicant, or the City of Dundas, upon failure of the applicant to comply with any conditions of the approval, performs said conditions pursuant to the security or the terms and conditions of the agreement, the applicant shall indemnify and hold harmless the City of Dundas, its agents, representatives and consultants for its own negligent or intentional acts in the performance of the applicant's required work under the permit.

3. Amendments to Zoning Text or Zoning Map (Rezoning)

- a. The City Council, Town Board or Planning Commission may initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the ARD may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate. No changes to the district boundaries shall be made without an amendment to the Annexation Agreement.
- b. Text amendments shall be subject to review and comment by the Bridgewater Township Town Board and final approval by the Dundas City Council.

- c. All applications to change the boundaries of any Zoning District shall include the following information:
  - i. The information requested on the Zoning Amendment form.
  - ii. A statement explaining the reason for the requested change in zoning.
  - iii. A statement regarding the compatibility of the requested change with the Comprehensive Plan.
  - iv. A map, plot plan or survey plot of the property or properties to be rezoned which illustrates the location, dimensions, zoning, existing uses, and buildings located on adjacent properties within three hundred fifty (350') feet.
- d. The Planning Commission shall not approve a petition to rezone property unless findings are made that the petition is consistent with the intent of the Annexation Agreement, Comprehensive Plan and that the new zoning district permits uses that are consistent with the trend of development in the area near the property to be rezoned.
- e. Zoning amendments shall not become effective until such time as it is adopted by the Dundas City Council and published in the official newspaper.

4. Conditional Use Permits

- a. The conditional use permit application shall be accompanied by a site plan which shall include the following information:
  - i. Location of all buildings on lots including both existing and proposed structures.
  - ii. Location and number of existing and proposed parking spaces.
  - iii. Lot dimensions and area.
  - iv. Existing and proposed setbacks of all buildings to be located on the property in question.
  - v. A legal description of property under consideration.
- b. In making its determination on a proposed conditional use, the City Council may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, and any other factor(s) the City Council deems necessary in its consideration for determining the effect of the use on the general welfare, public health, and safety.

- c. Lapse of a Conditional Use Permit
  - i. Granted conditional use permits shall become void if the applicant does not proceed substantially on the work within six (6) months, if applicable. To proceed substantially means to make visible improvement to the property. One or more extensions for not more than six (6) months each may be granted by the City Council for good cause.
  - ii. If the land does not conform to the conditions of the permit, the conditional use permit may be revoked after notice to the applicant of a public hearing for the intended revocation and passage of a resolution by the City Council to that effect.

6. Interim Use Permits.

- a. Purpose and Intent. The purpose and intent of allowing interim uses is:
  - i. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
  - ii. To allow a use that is presently judged acceptable by the Dundas Planning Commission and the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or may be replaced in the future by a permitted or conditional use allowed within the district.
  - iii. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the general character of existing uses and development.
- b. Criteria. The Planning Commission shall consider possible effects of the proposed interim use. Their judgment shall be based upon, but not limited to, consistency with the Comprehensive Plan for the ARD and the factors outlined in Subsection 4.E.1.g (i-iii) of this ordinance.
- c. General Performance Standards. As may be applicable, the evaluation of any proposed interim use permit request shall be subject to and include, without limitation:
  - i. The date or event that will terminate the use shall be identified with certainty;

- ii. The use is allowed as an interim use in the Annexation Reserve District;
  - iii. The use shall not impose additional unreasonable costs on the public; and
  - iv. The user agrees to conditions that the City of Dundas deems appropriate for permission of the use.
- d. Termination. An interim use shall terminate upon the happening of any of the following events, whichever occurs first:
- i. Upon the date or event stated in the permit.
  - ii. Upon violation of any condition under which the permit was issued.
  - iii. Upon change in this Section that renders the use non-conforming.
  - iv. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
  - v. Annexation of the land to the City of Dundas.
- e. Revocation. If an approved interim use permit is in violation the conditions of permit approval, the City Council may revoke the interim use permit. The City Council shall conduct a public hearing to consider the revocation of an interim use permit. Notifications of such hearings shall be distributed and published according to Subsection 4.E.1.d of this Ordinance.

7. Variances

- a. Establishment of Board of Adjustment. The City Council is hereby established as the Board of Adjustment and vested with such authority as is provided by Minnesota Statutes. The findings and rulings of the Board of Adjustment shall be final.
- b. Purpose. A request for variance from the literal provisions of this Ordinance may be made in instances where strict enforcement would cause undue hardship to the property owner, due to the physically unique characteristics of the property beyond the property owner's control. No variance or modification of the uses permitted within a District shall be allowed, except as an official amendment to this ordinance. Economic considerations alone shall not constitute a hardship.
- c. In acting upon the request for a variance the Planning Commission shall make the following findings of fact:

- i. The proposed variance will not impair an adequate supply of light and air to adjacent property.
  - ii. The proposed variance will not unreasonably increase the congestion in the public street.
  - iii. The proposed variance will not unreasonably diminish or impair established property values within the neighborhood, or in any other way be contrary to the intent of this Ordinance.
  - iv. The applicant's property has unique physical characteristics that are not generally similar to other properties in the same zoning district.
  - v. The applicant will experience undue hardship, other than economic hardship, if the variance is not approved.
- d. Lapse of variance:
- i. Whenever within one (1) year following the granting of a variance or appeal, the work as permitted has not been completed or substantially completed, then such variance or appeal shall become null and void.

**F. Nonconforming Buildings, Structures, and Uses**

- 1. Purpose. The purpose of this section is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. It is the intent of this section that all nonconforming uses shall be eventually brought into conformity.
- 2. General Provisions.
  - a. Any structure or use lawfully existing upon the effective date of this Ordinance may be continued through repair, replacement, restoration, maintenance or improvement at the size and in the same manner of operation existing upon such date. Furthermore, an expansion of the nonconformity may be permitted by the Board of Adjustment provided reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, and safety are included as conditions of the expansion.
  - b. If a nonconforming building, structure, or use is destroyed to the extent of more than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is

damaged, then the building and the land on which such building was located shall be subject to all the regulations specified by this zoning ordinance for the district in which it is located. If the damage is less than fifty (50) percent, the building may be restored to its former condition, if it is reconstructed within twelve (12) months after the date of said damage.

- c. Normal maintenance of a building or other structure containing or relating to a lawful nonconforming use is permitted, as long as such repairs or alterations do not physically extend or intensify the nonconforming use.
- d. In the event that a non-conforming use of any building or building and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

3. Nonconforming Uses in the Floodplain.

- a. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued, subject to the following conditions:
  - i. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
  - ii. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in the regulations of the flood plain overlay district.
  - iii. A municipality shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement or expansion of nonconforming uses and structures and setbacks according to the following:
    - A nonconforming single lot of record located within a shoreland area may be allowed as a building site without variances from lot size requirements provided that:
      - All structure and septic system setback distance requirements can be met;

A Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, can be installed or the lot is connected to a public sewer;

The impervious surface coverage does not exceed 25% of the lot;

- In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
  - The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120;
  - The lot must be connected to a public sewer, if available, or must be suitable for installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080, and local government controls;
  - Impervious surface coverage must not exceed 25% of each lot; and Development of the lot must be consistent with the adopted comprehensive plan.
- If a lot does not meet the requirements of the paragraph above, it must be combined with one or more contiguous lots so they equal one or more conforming lots as much as possible. Notwithstanding, contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
- In evaluation of all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setbacks, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

- A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the created parcel is combined with an adjacent parcel.
- iv. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
  - v. If a nonconforming building, structure, or use is destroyed to the extent of more than fifty (50) percent of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, then the building and the land on which such building was located shall be subject to all the regulations specified by this zoning ordinance for the district in which it is located. If the damage is less than fifty (50) percent, the building may be restored to its former condition, if it is reconstructed within twelve (12) months after the date of said damage.
4. Nonconforming Uses in the Cannon River Recreational District
- a. Nonconforming uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity. No structural alteration, addition or repair to a nonconforming structure shall exceed 50% of the assessed value of that structure.
  - b. Nonconforming sanitary systems inconsistent with the minimum performance standards of the Minnesota Pollution Control Agency and the Minnesota Department of Health shall be brought into conformity or discontinued within five (5) years of the date of enactment of this ordinance.
  - c. Substandard structures in existence prior to the effective date of enactment of this ordinance that do not meet the minimum setbacks or other dimensional requirements of this ordinance are substandard structures. All substandard structures shall be allowed to continue, except that any structural alteration or addition to a substandard structure that will increase the substandard dimensions shall not be allowed.
  - d. Substandard lots of record in the Office of the County Register of Deeds (or Registrar of Titles) prior to the date of enactment of this ordinance which do not meet the lot size requirements of Subsection 7.B of this ordinance may be allowed as building sites provided:

- i. Such use is permitted in the zoning district;
- ii. The lot is in separate ownership from abutting lands; and
- iii. All other sanitary and dimensional requirements of this ordinance are complied with insofar as practical.

**G. Enforcement:** This Ordinance shall be administered and enforced by the Zoning Administrator. It shall be unlawful to violate a provision of this Ordinance. The Zoning Administrator may institute in the name of the City Council appropriate actions or proceedings against a violator.

1. Enforcement Procedure. For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail, return receipt requested to the property owner of which the violation is taking place. All zoning violation notices shall contain the following information:
  - a. A description of the violation that is taking place.
  - b. A picture (if possible) of the violation that is taking place.
  - c. Location and/or address of the property at which the violation is taking place.
  - d. Identification of the section of the Zoning Ordinance that is being violated.
  - e. Date the violation was discovered.
  - f. Steps necessary to correct the violation.
  - g. Deadline in which the violation must be corrected, which shall be thirty (30) days unless an extension is granted by the Zoning Administrator.
2. Correction of the Zoning Violation. Upon correction of the violation in the manner stipulated by the zoning violation notice at any point during this enforcement process, the Zoning Administrator shall take no further enforcement activity with respect to such specific violation incident.
3. Failure to Correct Zoning Violation – Enforcement Remedies. Failure to correct the zoning violation, as evidenced by clear documentation of communication with the landowner and the prior approval of the City Council, shall result in the Zoning Administrator, on behalf of the City Council, pursuing enforcement action following notification to the property owner. The Zoning Administrator, on behalf of the City Council, shall have the authority to carry out the following enforcement remedies:

- a. Withhold Permits. The Zoning Administrator, on behalf of the City Council, shall have the authority to withhold or deny any and all permits or approvals under this section until the violation is corrected to the satisfaction of the Zoning Administrator.
- b. Stop Work Order. The Zoning Administrator shall have the authority to issue a stop work order on the property in violation.
- c. Abatement. The Zoning Administrator shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action shall not proceed until after a hearing before the City Council.
- d. Civil and Criminal Remedies. This Ordinance may be enforced by appropriate civil action including injunctive and other equitable processes to enforce the provisions of this Ordinance and, at the discretion of the civil court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation. Any person who violates any provisions of this Ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law.
- e. Cumulative Remedies. The powers and remedies of this Section shall not be individually limited and are not exclusive. The powers and remedies of this Section are cumulative and all power and remedies may apply, and any other remedies allowed under State law. Failure to exercise any remedy shall not be a waiver of that remedy.

**F. Validity:** Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Section as a whole or any part thereof other than the part so declared to be invalid.

**SUBSECTION 5. ESTABLISHMENT OF DISTRICTS**

**A. Annexation Reserve District (ARD).** The ARD is intended to develop over time as areas within the ARD are annexed into the City. As such, permitted uses in the chart in the following section are intended to allow a transition of current uses to the future desired uses as established within the Annexation Agreement.

**B. Overlay Districts.** The following overlay districts are established for the ARD:

- F Flood Plain Overlay District
- WS Wild and Scenic River District
- S Shorelands District

**C. Consistency with Comprehensive Plan and Annexation Agreement.** The zoning districts and uses in this Ordinance and the delineation of zoning boundaries on the zoning map shall be consistent with the goals, policies and objectives of the applicable sections of the Comprehensive Plan. The future land uses for the land included in the ARD shall be as shown on the Future Land Use Map within the City's Comprehensive Plan and attached to this Ordinance as Exhibit A.

**D. Establishment of Official Zoning Map.** The zoning districts established by this Ordinance are set forth on the Zoning Map, which is hereby incorporated as part of this Ordinance.

1. Corrections and updates shall be recorded on such maps by the Zoning Administrator within thirty (30) days after the official adoption of the zoning amendment by the City Council.
2. The Flood Plain Districts are based on the data contained within the Flood Insurance Study for Rice County prepared by the Federal Emergency Management Administration (FEMA) and the Flood Insurance Rate Maps (FIRM) on file in the office of the Zoning Administrator. The Flood Insurance Study and the most recent Flood Insurance Rate Maps (FIRM) provided by FEMA are hereby adopted by reference and declared to be a part of this Ordinance.
3. The Wild and Scenic River Overlay Districts are from the Cannon River Management Maps, dated January 11, 1980 and produced as part of the Cannon River Management Study and final rule (Minn. Rules, Part 6105.1680) and these maps are hereby incorporated by reference as part of this Ordinance.
4. The official zoning map shall be signed by the Mayor and City Administrator of the City of Dundas and a certified copy filed with the Rice County recorder.
5. Any unauthorized change of a zoning boundary or designation by any person or persons shall be considered a violation of this Ordinance.

**E. District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, rivers, highways or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following established municipal limits and County borders shall be construed as following such lines.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following sections, half sections, quarter sections, eighth sections and government lots shall be construed to follow such lines.
6. Where physical features, such as flood plains, are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subparts i – v above, the Zoning Administrator shall interpret the boundary.

**SUBSECTION 6. USE CHART** The following chart describes permitted, accessory, conditional and interim uses in the Annexation Reserve District.

- A. Permitted Uses. Uses permitted with a “P” are permitted as of right in the district designated, provided the use complies with all other applicable provisions of this Ordinance.
- B. Conditional Uses. Uses permitted with a “C” are allowed as a conditional use in the district designated, provided the property owner has obtained a conditional use permit.
- C. Interim Uses. Uses permitted with a “I” are allowed as an interim use in the district designated, provided the property owner has obtained an interim use permit.
- D. Prohibited Uses. Uses not listed are prohibited.
- E. Use Chart.

Use Type	P = Permitted Use C = Conditional Use I – Interim Use	Standards*
<b>A. Residential and Related Uses</b>		
Single-family detached dwelling	P	X
Facility for supervised residential program (up to 6 residents)	P	
<b>B. Agricultural and Related Uses</b>		
Farm Buildings	P	
Farm production	P	X
Feedlot, animal manure composting site, aquaculture	I	X
Forest and game management areas	P	
Commercial storage in existing Ag building	I	X
General repair and machinery setup	I	X
Ag supply, product sales, etc.	I	X

Greenhouse and nursery sales	I	X
<b>C. Commercial Recreation</b>		
Golf course, country club, driving range	C	X
Organized motor sports: off-road only	I	X
Paint ball course	I	X
Riding and boarding stable	C	X
Ski slope, snowboarding, tubing or sledding hills: private	C	X
<b>D. Civic, Educational, &amp; Institutional</b>		
Day Care Center	P	
Religious Institution	C	X
Campground (Public)	C	X
Cemetery	C	
School, public or private	C	X
Parks and recreation areas; walking and bicycle trails	P	
<b>E. Commercial and Industrial</b>		
Auto repair, auto body repair	C	X
Bed and breakfast facility	I	X
Cabinet, carpentry shops	I	X
Contractor's office	I	X
Contractor's yard with outdoor storage	I	X
Convenience fuel and goods	C	X
Kennel, commercial	C	X
Federally mandated rail facilities	P	
Small appliance repair	I	X
Temporary asphalt plant or highway construction yard and equipment placement	I	X
Upholstering, furniture repair or restoration	I	X
Veterinary clinic	I	X
<b>F. Public Service and Utility Uses</b>		
Essential public service without towers and transmission lines	P	X
Essential public service towers and transmission lines	C	
Government buildings	P	
Communications tower	C	X
Wind energy generation facilities and towers, 40 KW or greater	C	X
<b>G. Uses Accessory &amp; Temporary to Permitted Uses</b>		
Domestic pets up to 6 animals	P	
Licensed day care for up to 12 children	P	

Home occupation, permitted	P	X
Home occupation, interim	I	X
Room & board facility, max. 2 persons	I	X
Other temporary uses - yard sales, sale of one personal vehicle	P	X
<b>H. Structures Accessory to Permitted Uses</b>		
Antennas, including satellite dishes	P	
Detached garages, storage sheds, outbuildings	P	X
Farm drainage systems, flood control and watershed structures, erosion control structures	P	X
Fuel storage, containerized or bulk for use on site and under 1000 gal.	P	
Private swimming pool, tennis court, recreational facilities accessory to a dwelling	P	
Seasonal roadside stands for sales of farm products primarily produces upon the premises	I	X
Solar equipment	P	X
Temporary farm dwelling (mobile home)	I	X
Wind energy generation facilities and towers, less than 40 KW for household or business use	P	X
Other structures typically incidental and clearly subordinate to permitted use	P	
Signs meeting the Ordinance standards	P	X

\*Specific standards for this use are included in Subsection 9 of this Ordinance.

## **SUBSECTION 7: HEIGHT, YARD AND LOT REGULATIONS**

### **A. Height Regulations.**

1. There shall be a height limitation of thirty-five (35) feet on all structures within the ARD unless otherwise provided herein.
2. Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established road elevation at the property line, an allowance of one (1) story may be added to the number of stories permitted in the district in which the lot is situated provided the additional story is situated on the downhill side of the building.
3. Height Exceptions. Except in the Wild and Scenic River District, height limitations set for elsewhere in this Ordinance may be increased with no limitation when applied to the following structures:
  - a. Public monuments
  - b. Flag poles

- c. Cooling towers
- d. Grain elevators, farm drying and grain storage facilities
- e. Church spires, belfries, or domes which do not contain usable space
- f. Water towers
- g. Chimneys or smokestacks
- h. Forest fire watch towers
- i. Silos
- j. Power poles or other poles or towers upon which transmission lines are strung
- k. Radio or television transmitting towers

**B. Lot Requirements.**

1. Minimum lot area for a residential lot. The minimum lot size for a residential lot in the Annexation Reserve District is 35 acres.
  - a. A parcel with a dwelling existing as of the date of adoption of this Ordinance may be reduced in size to a lot of no less than two and ½ acres, provided that a conservation easement is recorded for the residual parcel prohibiting further development or subdivision. The terms of this conservation easement shall be those stated in the section of Development Agreements and Recording of Restrictions under the Transfer of Development Rights Regulations, except that the easement may be terminated by Rice County at such time as the property is annexed by the adjacent municipality.
2. Minimum lot area, all other uses. The minimum lot size for all other uses shall be 2.5 acres unless otherwise permitted under an approved conditional use permit.
3. Minimum lot width. The minimum lot width shall be two hundred fifty (250) feet.
4. Minimum front yard setbacks. The minimum front yard setbacks shall be measured from the center line of the road or from the property line (whichever is greater), as follows:

<b>State Highway</b>	150 feet to centerline of roadway or 100 feet from front property line, whichever is greater
<b>County Road or Township Road</b>	133 feet to centerline of roadway or 100 feet from front property line, whichever is greater

4. Minimum side yard setback. The minimum side yard setback is twenty (20) feet, with the exception of buildings containing livestock, which shall have a minimum setback of one hundred (100) feet.
5. Minimum rear yard setback. The minimum rear yard setbacks shall be as follows:
  - a. Principal buildings 100 feet
  - b. Accessory buildings 20 feet
  - c. Livestock buildings 70 feet

## **SUBSECTION 8. GENERAL REGULATIONS.**

### **A. Minimum Requirements.**

1. Permits and Certificates. The following permits and certificates are required in the ARD for land use and construction activities and may be issued by the Zoning Administrator or Building Official.
  - a. Building Permits. The following provisions shall apply to the issuance of building permits in the ARD:
    - i. A building permit shall be obtained prior to erecting, installing, altering, converting, removing or demolishing any building or structure or part thereof.
    - ii. The following structures shall be exempt from the requirement of a building permit, but must meet minimum zoning requirements:
      1. Storage buildings 120 square feet or less in size if located outside the Shoreland and Floodplain Districts.
      2. Agricultural structures that obtain an Agricultural Structures Permit as provided below.
    - iii. Must meet sewage requirements. Before a building permit for construction of a new residence, addition, or remodeling that results in increased water usage (including, but not limited to, adding a bedroom or bathroom) is issued, the provisions of the sewage and wastewater treatment ordinance shall be met. Before a building permit for any other activity is issued with a Shoreland

area, Shoreland District, or Floodplain District, the applicant must provide evidence of a conforming sewage treatment system or evidence that one will be provided if the building permit is issued.

- iv. Setbacks from Proposed Roads. A permit shall not be issued where a proposed setback does not comply with the official map for future road construction. Structure setbacks in officially mapped roadway corridors shall be equal to setback requirements for existing roads unless otherwise specified through the official mapping process.
  - v. Building Code Compliance. Activities undertaken subject to a building permit shall conform to the most current state building code as adopted by the City of Dundas.
  - vi. Site Plan. A site plan conforming to the provisions of this Section shall be submitted with all building permit applications.
- b. Agricultural Structure Permit. An Agricultural Structure Permit shall be obtained for the construction of new agricultural buildings and structures or for additions to such structures and buildings. Agricultural Structure Permits shall be issued by the Building Official. Buildings and structures must meet the following criteria to be defined as an agricultural building or structure for the purposes of this provision:
- i. The building or structure must be on a parcel of land at least ten (10) acres in size and used exclusively for storage of agricultural goods or equipment; or
  - ii. The building or structure must be used exclusively to house animals.
- c. Flood Plain District Permit. In the Flood Plain District, a permit shall be obtained prior to the use or change of use of a building, structure or land, prior to the change or extension of a nonconforming use, and prior to excavation or the placement of an obstruction within the flood plain.
- d. Administrative Review. Administrative Review by the Zoning Administrator shall be required prior to issuance of a building permit. This review will ensure that the parcel is a buildable lot, and that the use of land conforms to the requirements of this Ordinance. Failure to obtain an Administrative Review for any use, arrangement, or construction shall be deemed a violation of this Ordinance.
- e. Certificate of Occupancy. A certificate of occupancy shall be issued by the Building Official in accordance with the state building code.

2. Dwelling Units Prohibited.
  - a. Structures or portions of structures in which dwelling units are prohibited. No cellar, garage, or basement with unfinished structure above (excluding energy efficient subterranean dwellings), or accessory building, shall at any time be used as a dwelling unit or residence, except as hereinafter provided.
  - b. Camper or travel trailer on vacant property. A camper or travel trailer of the type generally used temporarily as living quarters during the hunting, fishing, or vacation season and duly licensed and registered under the laws of the State of Minnesota, may be parked on residential property provided, however, that such camper or travel trailer shall not while so parked be used as a permanent human dwelling place, living abode or living quarters. Said camper or travel trailer must be placed in a location that meets the setback standards of the underlying zoning district.
3. Camper or Trailer for Non-Resident, Guest or Visitor. No more than one (1) camper or travel trailer of the type described in subpart (b) above and owned by a nonresident, guest, or visitor, may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed one hundred twenty (120) days in the same calendar year while visiting the said property. Said camper or travel trailer must be placed in a location that meets the setback standards of the underlying zoning district.
4. Temporary dwelling during home construction. The Zoning Administrator may, upon application, grant a temporary permit for the use of a manufactured home or similar portable unit for temporary residential purposes within the ARD in conjunction with a home construction project that is underway provided, however, that a duly authorized and valid land use permit (and/or building permit) shall have been approved prior to the application for said temporary permit and subject to the following:
  - a. The applicant for said temporary trailer permit shall file an application with the Zoning Administrator setting forth the legal description of the land on which said trailer is to be located, together with a copy of the land use permit and/or building permit for the home to be constructed on said property.
  - b. The term of said trailer permit shall not exceed six (6) months or upon completion of construction of the residential home in question, whichever comes first.
  - c. Said temporary dwelling must be placed in a location that meets the setback standards of the underlying zoning district.

5. Sewer and Water Systems.
  - a. All on-site sewage disposal facilities shall be required to comply with the requirements for regulating sewage disposal systems established in Minn. Rules Chapter 7080. In addition, the standards and regulations of the Rice County Sewage and Wastewater Treatment Ordinance, dated August 28, 2001 are hereby adopted by reference.
  - b. Private wells shall be so located and constructed that they will not be contaminated by any existing or future sewage disposal systems. They shall also be constructed to minimize the possible contamination from all possible external sources within the geological strata surrounding the well. Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood proofed.
6. Preservation of Survey Monuments. All international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise location. It shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development.
7. Pre-inspections Required. A pre-inspection by the Zoning Administrator is required for any buildings, structures, or dwellings that are to be moved into the ARD. Photographs will be required. Any cost incurred for inspection shall be borne by the applicant.
8. Survey Required. Applications for a building permit on parcels of five (5) acres or less must be accompanied by a survey.
9. Compliance with State Wetland Act. Applications made under the Ordinance shall be in compliance with the State Wetland Conservation Act.
10. Site Suitability Required. Land in all districts shall be suited to the purpose for which it is to be used. Development shall not be allowed on a parcel or lot if it is not suitable for the proposed use unless remediation has been approved. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider the following factors:
  - a. Susceptibility to flooding and/or poor drainage
  - b. Existence of wetlands
  - c. Soil and rock formations with severe limitations for development
  - d. Severe erosion potential

- e. Slopes greater than eighteen percent (18%)
- f. Near-shore aquatic conditions unsuitable for water-based recreation
- g. Inadequate water supply or sewage treatment capabilities
- h. Existence of endangered or threatened species
- i. Existence of important fish and wildlife habitat
- j. Presence of significant historic sites
- k. Presence of woodlands and grasslands
- l. Any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the ARD.

**B. Essential Services.** Essential services as defined by this Ordinance may have an effect upon Township, City, County and regional land uses, highway location, park and recreation areas preservation of natural environmental areas, lakes, streams, and rivers. The proposed location of all such essential services in the ARD shall be filed with the Zoning Administrator prior to commencement of any condemnation action or construction by the owner.

1. Procedures for local distribution service. Any application for a building permit or conditional use permit for essential services, i.e. services such as power, gas or fuel for immediate local distribution to the general public within the ARD shall follow the following procedure:
  - a. The applicant shall file with the Zoning Administrator an application for such permit accompanied by maps indicating the location, alignment and type of service proposed.
  - b. Following review of the application and accompanying data, the Zoning Administrator may issue the permit after determining that the application is acceptable and in the best interest of the ARD.
  - c. The Zoning Administrator may require in conjunction with the issuance of such permit that:
    - i. The applicant submits as-built drawings of the essential service after construction.
    - ii. The applicant construct the essential service to take into consideration contemplated widening, regrading or relocation of a Town or County highway or County state aid highway.
    - iii. The cost of moving the utilities for any public roadway expansion shall be borne by the utility company.
2. Procedure for large facilities. Transmission services, i.e. utility service such as high voltage (75 KV or greater), electrical power or bulk gas or fuel being transferred from station to station and not intended for enroute consumption shall follow the following procedure:

- a. The owner shall file an application for a building permit or conditional use permit for essential services with the Zoning Administrator, including maps indicating the location, alignment and type of service proposed as well as an Environmental Assessment Worksheet indicating areas of conflict and solutions to such environmental conflicts as shall be required.
  - b. The Zoning Administrator shall forward the maps and data to the Planning Commission along with their recommendations relating to the relationship to urban growth, land uses, highways, environment, recreation and park areas.
  - c. The Planning Commission shall consider the maps and accompanying data and recommendations and shall approve, deny or request modifications to the proposal.
  - d. The Planning Commission shall act upon all applications within sixty (60) days of receipt by the Zoning Administrator.
3. Fees. A filing fee shall be charged for each application for essential services with the amount of such application fee to be determined by the City Council.

**C. Lot and Yard Controls.**

1. Area Regulations. No lot or parcel shall be reduced in size below the minimum required for the proposed use in the zoning district where the lot is located.
2. Measurement of Lot Width. Lot width for the purpose of complying with minimum lot width requirements shall be measured at the front building setback line.
3. Minimum Front Yard Setbacks from Roads. As measured from the edge of the right-of-way, or planned right-of-way, structures shall be set back from roadways according to the following:
  - a. State Highway 150 feet to centerline of roadway or 100 feet from front property line, whichever is greater.
  - b. County Road 133 feet to the centerline of roadway or 100 feet from front property line, whichever is greater.
  - c. Township Road 133 feet to the centerline of roadway or 100 feet from front property line, whichever is greater.

4. Encroachments into Yards. The following encroachments into required yards are permitted. Measurements must be taken from the nearest point of the wall of a building to a lot line in question.
  - a. Cornices, canopies or eaves may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
  - b. In structures existing as of the date of adoption of this Ordinance, the following encroachments are permitted:
    - i. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.
    - ii. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six (6) feet, if the landing place or porch has its floor no higher than the entrance floor of a building. An open railing no higher than three (3) feet, six (6) inches may be placed around such landing or porch.
    - iii. A ramp for access to the dwelling by handicapped individuals.
    - iv. The above-mentioned architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.
    - v. A wall, fence or hedge may occupy part of the required front, side or rear yard.
  - c. The required front yard of a corner lot shall not contain any retaining wall or similar structure, fence, or other structure, tree, shrub, or other growth that may cause danger to traffic on a private or public road by obscuring the view.

**D. Accessory Buildings and Structures.**

1. Attached Accessory Buildings. If an accessory building is attached to the main building, or within ten (10) feet of the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Ordinance applicable to the main building.
2. Detached Accessory Buildings. A detached accessory building shall not be located in any required setbacks, and shall be located at least ten (10) feet from the main building.
3. In a Platted Residential Subdivision.
  - a. No accessory building in a residential platted subdivision shall be located nearer the front lot line than the principal building on the lot.

- b. Accessory structures in a residential platted subdivision related to a residential use shall be constructed of materials that are similar in color to those used for the principal building and shall be constructed to include at least three (3) architectural features, such as overhangs, windows, and façade materials, that are similar to the principal building.

**E. Height Regulations.**

1. There shall be a height limitation of thirty-five (35) feet on all structures within the ARD unless otherwise provided herein.
2. Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established road elevation at the property line, an allowance of one (1) story may be added to the number of stories permitted in the district in which the lot is situated provided the additional story is situated on the downhill side of the building.

**F. Rural Business Licensing.** All existing and new businesses operating in the ARD shall be licensed for the purpose of maintaining health, safety and general welfare. The following provisions apply to rural business licensing:

1. Permitted Home Occupations. Licensing requirements do not apply to activities that meet the definition of permitted home occupations.
2. Filing Requirement. All business operations shall be required to file. Business operations are broadly defined and include any commercial, industrial, manufacturing, processing, mining, agriculturally-oriented business, educational, charitable, service, or hospitality activities regardless of business organization type. Agricultural uses as defined in this Ordinance are not subject to rural business licensing.
3. When Required. The owner of the land on which an existing business operates shall be required to file a Rural Business Licensing Form with the Zoning Administrator within twelve months from the date of adoption of this Ordinance.
4. New Businesses. Business operations that begin after the adoption of this Ordinance shall be required to file a Rural Business Licensing Form and obtain all other permits required under this Ordinance.
5. Business of Record Status. Businesses that file a complete Rural Business Licensing Form shall qualify as a Business of Record and receive the exemptions specified in the section under nonconforming that references business of record exemptions.

6. Information Required. The Rural Business Licensing Form shall be provided by the Zoning Administrator and shall require the following information:
  - a. Name, address and phone number of landowner
  - b. Name, address and phone number of business operator
  - c. Date of application
  - d. Type of business use, and date the business began operations on the property
  - e. Date business operations initially began
  - f. Structure the business occupies, including any outside storage
  - g. A site plan of the business uses and parking on the property in relation to roads and other non-business structures
  - h. Location and information about the sewage and wastewater practices
  - i. Types, amounts and location of storage of hazardous materials
  - j. Number of employees
  - k. Location and amount of off-street parking
  - l. Approximate vehicle trips generated per day, including employees, shipping and deliveries
  - m. Information about on-site signage
7. Purpose. Licensing requirements are for health, safety and general welfare informational purposes. The Zoning Administrator will work to educate business owners on current zoning, traffic control, materials handling and other health and safety requirements and best management practices.
8. Update. Information on the Rural Business License Form shall be updated annually by the business owner.
9. Conformance to Ordinance. New proposed businesses or licensed businesses that propose a change in use or propose an addition or expansion shall be required to conform to the provisions of this Ordinance.
10. Failure to File. If an owner of land on which a business operates fails to file a Rural Business License Form, the business shall be subject to all requirements of this Ordinance for rural businesses as if it were a newly proposed business.
11. Environmental Standards. Registered businesses shall comply with the environmental standards of this Ordinance within five (5) years from the date of enactment of this Ordinance.

**G. Driveway and Road Access and Standards.**

1. Permit Required. A permit shall be required for all new driveways or changes in driveway use.

2. Approval of Access on County road. The location of direct access for a driveway to a County road shall be approved by the Rice County Highway Engineer and Planning Director prior to any development of the property in question. The following standards apply to driveways on County roads:
  - a. Primary access shall be to the road of lesser classification.
  - b. Primary access shall be kept to a minimum and shared when possible.
  - c. Closure of field accesses and existing driveways may be required with a change to a more intensive use of property.
  - d. The decision of the Rice County Highway Engineer and Zoning Administrator shall be final subject to appeal to the Rice County Board of Adjustment.
3. Approval of Access on Township Road. Access to township roads shall be regulated by the Planning Commission and shall be consistent with this Ordinance.
4. Approval of Access on State Highways. No new driveway shall have direct access to any state highway without the prior approval of the State of Minnesota Highway Engineer of the District where the highway is located. The decision of the district engineer may be appealed to the Commissioner of the Department of Transportation.
5. Residential Driveway Standards. All dwellings shall provide an access driveway with all-weather surface, constructed as follows:
  - a. Driveways less than 200 feet in length. All access driveways that are less than two hundred (200) feet in length shall be constructed to provide the following:
    1. An unobstructed driving surface at least twelve (12) feet wide; and
    2. A driving surface of Class V material of one inch or less in diameter and may be comprised of crushed lime, or approved aggregate substitute, that is at least three (3) to four (4) inches thick.
  - b. Driveways that are 200 feet or more in length. All access driveways that are two hundred (200) feet in length or longer shall be constructed to provide the following:
    1. An unobstructed driving surface at least twelve (12) feet wide;
    2. A driving surface of Class V material of one inch or less in diameter and may be comprised of crushed lime, or approved

aggregate substitute, that is at least three (3) to four (4) inches thick; and

3. An unobstructed minimum forty-five (45) foot turning radius at the end of the driveway near the dwelling, or a turnaround that can accommodate a vehicle with a forty-five (45) foot turning radius, said radius to be constructed with the same driving surfaces as provided in subpart (2.) above.
- c. Construction and Maintenance. The driveway access shall be improved to the established standard to insure access for emergency vehicles and shall otherwise be continuously maintained. The driveway shall be constructed prior to the issuance of a certificate of occupancy.
6. Nonresidential Driveways and Frontage Roads. Driveways serving nonresidential properties shall be constructed in compliance with the Access Guidelines in the Rice County Transportation Plan and the following:
  - a. Development of a frontage road may be required by the Planning Commission to provide access to commercial or industrial properties. The frontage road shall be designed and constructed to accommodate future development along the roadway.
7. Driveway Separation Distances. Separation distances between driveways on County roads shall be consistent with the Access Guidelines adopted by Rice County. Separation distances between driveways on all other roads shall be consistent with this Ordinance. Driveway accesses shall be combined or shared whenever feasible in order to reduce the number of accesses to State, County or other roads. No more than three (3) accesses shall be permitted from any residential plat. Additional accesses will require the creation of an internal access street meeting County and ARD requirements.
8. New Roads. New roads serving residential plats or other development sites shall only be created under the following conditions:
  - a. Any new road shall be constructed to ARD standards at the sole cost of the subdivider.
  - b. Access points for new roads shall meet the standards in this Ordinance.

#### **H. Environmental Review Program.**

1. Purpose. The purpose of the Environmental Review Program section is to provide for the preparation and review of Environmental Assessment Worksheets (EAW), Environmental Impact Statements (EIS), and other environmental documents required under Minn. Stat. §116D.01 (1994) as amended, to implement the Environmental Review Program in accordance with Minnesota

Rules 4410, one copy of which is on file in the office of the Zoning Administrator.

2. Actions Requiring Environmental Assessment Worksheets.

- a. General. The purpose of the Environmental Assessment Worksheet (EAW) is to assess rapidly, in a worksheet format, whether a proposed action is a major action with the potential for significant environmental effects and in the case of a private action, is of more than local significance.
- b. EAW Required. An EAW shall be prepared for projects that meet or exceed threshold limits specified in Minnesota Rules 4410.4300, subparts 2 to 34 (1993), or as amended.
- c. Optional EAW. The City Council may, upon recommendation of the Zoning Administrator, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:
  - i. Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
  - ii. Is the action likely to have disruptive effects such as generating traffic and noise?
  - iii. Will the action have significant impacts on any school district located within the ARD, City or Township?
  - iv. Are there public questions of or controversy concerning the environmental effects of a proposed action?
  - v. Is the action in or near a wetland or on soils unsuitable or sensitive toward the proposed action?
  - vi. Is the action more than a local impact?

3. Action Requiring Environmental Impact Statements (EIS). An Environmental Impact Statement (EIS) shall be required whenever it is determined that an action is major and has the potential for significant environmental effect. In making this determination, projects that meet or exceed threshold limits specified in Minnesota Rules, Chapter 4410.4400, subparts 2 to 24, or as amended, indicate that an EIS should be prepared.

4. Action Not Requiring Environmental Documents. Projects exempt from preparation of an EAW or EIS are specified in Minnesota Rules, Chapter 4410.4600, subparts 2 to 26 (1993), or as amended.

5. Review Procedures and Administration.

- a. The Zoning Administrator shall be the person responsible for the administration of the Environmental Review Program.
  - b. The applicant for a permit for any action for which environmental documents are required by Minnesota Laws or regulations shall supply in the manner prescribed by the Zoning Administrator all unprivileged data or information reasonably requested by the Zoning Administrator that the applicant has in his/her possession or to which he/she has reasonable access.
  - c. The Zoning Administrator shall be responsible for determining whether an action for an EAW or EIS is required under this section. The Zoning Administrator shall also determine those proposed actions for which an optional EAW may be required under this section and shall notify the City Council of these proposed actions.
  - d. All EAW's and EIS's shall be prepared under the supervision of the Zoning Administrator, reviewed by the Planning Commission and approved by the City Council.
  - e. When reviewing an EAW or EIS, the Zoning Administrator and Planning Commission may suggest design alterations or other alternatives, including no action, that would lessen the environmental impact of the project. The City Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the project.
  - f. After an EAW is prepared, the Planning Commission shall review the EAW and recommend whether or not the City Council should require the preparation of an EIS. The City Council shall require an EIS when it finds that project thresholds are met or exceeded as specified in Minnesota Rules, Chapter 4410.4400, subparts 2 to 24 (1993), or as amended.
6. Enforcement.
- a. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Ordinance are completed.
  - b. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established in this Ordinance are fully complied with.

- c. Cost of Preparation and review. No permit for a project for which an EAW or EIS is required shall be issued until all costs of preparation and review of the EAW or EIS are paid by the applicant; all information required is supplied; the environmental review process has been completed as provided in this Ordinance; and pursuant to any written agreement entered into between the applicant and the City Council.

## **SUBSECTION 9. SPECIFIC DEVELOPMENT STANDARDS**

### **A. Standards for Residential and Related Uses.**

1. Single-family detached dwelling. The following standards apply to construction of single-family dwellings:
  - a. No dwelling shall be located upon soil that is poorly drained, structurally inadequate, or construction upon which would create erosion control problems.
  - b. The parcel shall have frontage of 250 feet on a publicly maintained road unless constructed as part of a cluster development. No access to public roads shall be placed in any hazardous locations relative to curves, hills, or vegetation that offer potential safety hazards.
  - c. All individual sewage treatment systems (ISTS) must meet Minnesota Pollution Control Agency Rules, Chapter 7080-7083, as amended, and as regulated by this Ordinance. A minimum of two suitable locations for an on-site shall be identified on a residential lot before a building permit or sewer permit is issued. One site shall be designated as a primary site and the other a secondary site. The secondary site shall be preserved and no construction shall be permitted on the secondary site nor shall the site be used for an activity that would make it unsuitable for future uses as a drainfield. An increase in the minimum lot size may be required to provide for the on-site sewage treatment system requirements.
  - d. All dwellings shall meet the minimum standards of the Minnesota Building code, as adopted.
  - e. A dwelling shall not be located on land with an existing slope greater than twelve percent (12%) except where engineering or architectural documentation is provided that satisfies the Building Official that the site can be adapted to allow construction of the dwelling unit.
  - f. Each dwelling unit, except temporary farm dwellings, shall contain a minimum of 960 square feet of livable area. Carports, overhangs, garages and such structures shall not qualify in meeting these requirements. All

dwellings must be a minimum of 22 feet in width for two-thirds of the length of the dwelling.

- g. Subdivision of any lot to facilitate residential development must comply with the requirements of this Ordinance.
  - h. If the garage doors face the road, the doors shall occupy no more than fifty percent (50%) of the front façade.
2. Residential facilities and permitted single family use. The following, by state statute, are considered permitted single family residential use of property for the purposes of zoning (Minn. Stat. § 462.357, Subd. 7):
- a. A state licensed residential facility serving six (6) or fewer persons.
  - b. A housing with services establishment register under Chapter 144D of Minn. Statutes, serving six (6) or fewer persons.
  - c. A state licensed day care facility serving twelve (12) or fewer persons.
  - d. A licensed day care facility under Minn. Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer persons.
  - e. A residential facility whose primary purpose is to treat juveniles who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use of single family residential property.

## **B. Standards for Agricultural and Related Uses.**

- 1. Farm production. For those properties that were previously zoned Rural Residential (under the Bridgewater Township or Rice County Ordinance), farm production involving livestock is limited to one (1) animal unit per acre, up to a maximum of ten (10) animal units and shall comply with the provisions of Rice County Feedlot Ordinance, and if required, the regulations of the Minnesota Pollution Control Agency.
- 2. Feedlots. All feedlots shall comply with the provisions of the Rice County Feedlot Ordinance, and if required, the regulations of the Minnesota Pollution Control Agency. An interim use permit is required for all feedlots.
  - a. The following uses are defined as a feedlot for the purpose of this ordinance and shall meet the provisions of the Rice County Feedlot Ordinance, as adopted by reference on the date of this ordinance, and if required, the regulations of the Minnesota Pollution Control Agency:

- i. Animal manure composting site that accepts manure transported from off-site. This use also requires a business license and site plan approval.
- ii. Aquaculture, fish farm, subject to the following standards:
  - All aquaculture operations shall comply with the standards set forth in Minn. Stat. § 17.46 to 17.4999 or successor statutes.
  - All aquaculture operations shall be licensed by the State according to Minnesota Rules, part 7050.0216 or successor rules.
  - To protect surface and ground water resources, aquaculture operations may be required to include wastewater treatment or to closed loops with no discharge.

3. Agricultural Businesses.

- a. Licensing and site plan approval required. The following businesses are required to obtain a rural business license, submit a request for site plan approval and must meet the general standards of subpart (b) of this section:
  - i. Commercial storage in existing agricultural buildings with an interim use permit provided the following standards are met:
    - No retail sales are allowed.
    - No storage of household goods, textiles or food stuff is permitted.
  - ii. General repair and machinery setup as a home occupation with an interim use permit.
  - iii. Agricultural product sales and supply as a home occupation with an interim use permit.
  - iv. Greenhouse and nursery sales with an interim use permit subject to the following criteria:
    - In areas previously zoned agricultural, the operator must reside at the site.
    - The retail sales shall be accessory to the principal nursery, greenhouse or tree farm.
    - No sale of product shall take place in the public right-of-

way of any federal, state, county or township road.

- All structures, including temporary structures, shall meet the minimum setback requirements of the ARD.

b. General standards for agricultural businesses.

- i. Outdoor storage. All outdoor storage related to agricultural businesses shall be screened from adjacent residences and public roads.
- ii. Parking. Adequate parking for employees and customers shall be provided on site and shall meet the parking requirements of this Ordinance.
- iii. Grounds. The grounds and all structures shall be maintained in a clean and safe manner.
- iv. Signs. All signs shall meet the requirements of this Ordinance.
- v. Access. The site shall be served by a minor collector or higher functional classification of roadway.
- vi. The use shall comply with all applicable federal, state and local regulations.
- vii. The business is of a scale that the demand for support services, such as sewer, water, police, fire protection, roads or streets, can be accommodated within the context of the service levels available in the ARD.

**C. Standards for Commercial Recreation Uses.**

1. General Standards. All commercial recreation uses shown as permitted, conditionally permitted or permitted with an interim use permit in the chart in Section 6 (E) of this Ordinance shall meet the following requirements:
  - a. Liability insurance required. Operators of commercial recreation uses shall carry liability insurance, and shall provide proof of such insurance upon request to the Zoning Administrator.
  - b. Days and hours of operation. The application for a conditional use permit or an interim use permit shall specify the days and hours of operation. The City Council may limit the days and hours of operation as a condition of the permit, and may attach reasonable requirements to the use.
  - c. Licensing and site plan required. Rural business licensing and site plan

approval shall be required to establish a commercial recreation use. Site plans shall indicate all proposed recreation areas, sanitary facilities, storage areas, parking, signs, landscaping, and other information needed to assess the impacts of operation.

- d. Vehicles. No unlicensed or inoperable vehicles or vehicles parts shall be stored outside on the site.

2. Golf course, country club, driving range. An interim use permit is required for this use and the following standards shall apply:

- a. The facility shall be located in an area the majority of which consists of forest land or land with a Crop Equivalency rating of 65 or less.
- b. The site shall have access to a paved road.
- c. Storage of pesticides and fertilizers shall follow the standards of the Minnesota Department of Agriculture. A plan shall be submitted for storage and use of pesticides and fertilizers at the facility.
- d. Golf courses shall be designed with environmental resources in mind. Performance standards to this effect include:
  - i. Water recycling and conservation through on-site storage and use facilities.
  - ii. Use of landscaped buffers and other Best Management Practices to minimize fertilizer runoff and other chemicals from entering surface water bodies.
  - iii. Use of landscaping and careful layout of the golf course to preserve and enhance wildlife habitat through preservation of existing vegetation and habitat as well as the creation of new habitat opportunities.
- e. Planted buffers may be required to screen adjacent residential land or other uses with potential conflicts with golf course activities.
- f. Parking shall meet the requirements of this Ordinance.
- g. A transportation management plan shall be submitted to address off-street parking, traffic circulation, and the impact of the facility on surrounding roadways.
- h. Signs shall meet the requirements of this Ordinance.

- i. Facilities that serve food and beverages shall be licensed by Rice County.
  - j. If the course is located in the flood plain, the criteria in the Flood Plain District regulations shall apply.
  - k. The course must be located on either a minor collector, a major collector or a minor or major arterial road.
  - l. There must be adequate fencing to deter trespassing on adjacent property.
  - m. On-site sewer must be provided that is in compliance with this Ordinance.
  - n. The course must be a minimum of nine holes.
  - o. To apply, the applicant must submit information identifying wetlands, watercourses, water bodies and wooded areas. The applicant will also state how the proposal would affect the natural features. The proposal will be reviewed to determine adverse impact on the above natural features and on areas or sites of historical or archeological significance. Conditions may be imposed to limit or prevent adverse impact on the above stated or other natural features.
  - p. Appropriate uses accessory to a golf course include but are not limited to a pro shop, a club house, locker room, restaurant and bar, private parties, tennis courts, racquetball, swimming pool, indoor track, exercise room, sauna or steam room, snowmobiling, snowshoeing, and cross country skiing.
    - i. The above are uses sometimes found in conjunction with golf courses. Those permitted under a particular interim use permit will be dependent upon additional parking capacity, the capacity of the on-site sewer system, and the water supply system.
    - ii. If these uses are to be permitted, the use must be addressed in the operational plan submitted as part of the application. Any change in use requires an amendment to the interim use permit.
3. Organized motor sports. This use category is limited to off-road vehicles only. An interim use permit is required for this use and the following standards apply:
- a. The majority of the land occupied by the use shall be land with a Crop Equivalency Rating (CER) of 65 or less.
  - b. Erosion control plans for trails will be required.
  - c. Tracks or trails shall be located at least 500 feet from existing residences.

- d. Noise shall be limited to a maximum level of 50 dB(A) at the nearest property line.
  - e. The operator must reside at the site.
  - f. The facility shall be located on a minimum of twenty (20) acres.
  - g. The facility must be located a minimum of 1,000 feet from any residence except that of the landowner and a minimum of ½ miles from ten or more homes existing prior to the application for a permit under this provision.
  - h. The facility must be located a minimum of 1,000 feet from a livestock facility.
  - i. Sufficient on-site parking shall be provided.
  - j. The Planning Commission may limit the days and hours of operation as a condition of approval.
  - k. A caretaker or attendant must be on the site during hours of operation.
4. Paintball course. An interim use permit is required for this use and the following standards apply:
- a. The operator must reside at the site.
  - b. Related equipment and structures shall be in compliance with all applicable local, state and federal regulatory standards.
  - c. The shooting areas shall be set back as follows:
    - i. From the property line – 100 feet
    - ii. From the road right-of-way – 100 feet
  - d. Noise shall be limited to a maximum level of 50 d(B)A at the nearest property line.
  - e. Paint and balls used shall be non-toxic and of a type non-harmful to the environment.
  - f. Screening of the facility from neighboring homes shall be required.
  - g. No manufactured homes or travel trailers shall be allowed on the course.

5. Riding and boarding stable. A conditional use permit is required for this use and the following standards apply:
  - a. The facility must be at least five (5) acres in size.
  - b. The majority of the land used for trails shall be forest land or land with a Crop Equivalency Rating of 65 or less.
  - c. The facility must be operated in conformance with an approved plan of operation which shall be submitted as part of the application for the conditional use permit.
  - d. The operator must reside at the site.
6. Ski slope, snowboarding, tubing or sledding hills, private. An interim use permit is required for this use; such use shall meet the general standards of this Ordinance.

**D. Civic, Educational and Institutional Uses.**

1. Day care center. A conditional use permit is required for this use and the following standards apply:
  - a. All agency permits and/or licenses shall be obtained from all applicable agencies.
  - b. When a day care facility is proposed in a church or school building originally constructed for use as a church or school, the use shall be treated as a permitted accessory use.
  - c. The building and any exterior fenced areas shall meet the setback standards for a single family residence.
  - d. For child day care facilities, at least fifty (50) square feet of outside play area shall be provided for each child under care. The play area location and fencing shall be included in the site plan application.
  - e. For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.
  - f. Any signs shall meet the requirements of this Ordinance.
2. Religious Institution. A conditional use permit is required for this use which includes churches, chapels, temples, mosques, etc., including cemeteries and normal accessory buildings. Any living quarters, commercial, and outdoor recreational uses shall meet the residential requirements of this Ordinance. The following standards shall apply:

- a. The site shall have access to an arterial or collector street of sufficient capacity to accommodate the traffic that the site will generate.
  - b. The site shall be in an area planned for municipal or centralized utilities, including water supply and sewage treatment. The design and construction of the facility shall enable connection to future municipal or centralized facilities with minimal cost to the municipality.
  - c. The parcel shall have a lot area no less than four (4) times the area of the building foot print.
3. Campground, public. A conditional use permit is required for this use and the following standards apply:
- a. The campground shall be located in an area, the majority of which consists of forest land or land with a Crop Equivalency Rating of 65 or less.
  - b. Caretaker or attendant required. A responsible attendant or caretaker shall be in charge of every recreational camping area at all times and the duties of said attendant or caretaker shall be to maintain records of the campground and keep the facilities and the equipment in a clean, orderly and sanitary condition. The caretaker or attendant shall be the owner or operator of the camping area, or an appointed representative of the same.
  - c. Limited to seasonal, primitive camping sites. Public campgrounds in the ARD shall be limited to facilities with seasonal, primitive camping sites. Only primitive accessory structures are permitted. Residential use of camping vehicles and manufactured homes in such public campgrounds shall be prohibited. Use of the campground, except for the caretaker or attendant, shall be prohibited from November 1 to April 1. Parking is limited to designated parking areas.
4. Public and private schools and related facilities. A conditional use permit is required for this use and the following standards apply:
- a. The site shall have access to an arterial or collector street of sufficient capacity to accommodate the traffic that the use will generate.
  - b. The site shall be in an area planned for municipal or centralized facilities, including water supply and sewage treatment. The design and construction of the facility shall enable connection to future municipal or centralized utilities with minimal cost to the municipality.
  - c. The use shall comply with all federal, state, county and local regulations.

- d. A transportation plan shall be submitted to address off-street parking, bus loading and unloading, traffic control and the impact of the facility on the environment.
- e. An environmental management plan, including a water and sewer management plan to address the use of water and the treatment of on-site stormwater and drainage, shall be submitted to address the impact of the facility on the environment.
- f. Parking shall meet the requirements of this Ordinance.
- g. All parking areas, bus loading and unloading areas, delivery areas and access roads shall be hard surfaced (bituminous or concrete).
- h. All accessory residential or day care uses are subject to the provisions of this Ordinance.
- i. Signs must meet the requirements of this Ordinance.

**E. Commercial and Industrial Uses.**

- 1. Bed and breakfast facility. This use requires an interim use permit and is subject to the following:
  - a. The facility shall be located in a single-family owner-occupied detached dwelling.
  - b. An application submitted for an interim use permit for a bed and breakfast facility shall identify the family members residing therein and provide at least one (1) bedroom for every two (2) family members. Bedrooms in excess of those needed by the resident family may be rented on a daily basis to guests.
  - c. No more than two (2) adult guests shall be allowed per bedroom.
  - d. All dwellings shall comply with the sewage and wastewater requirements of this Ordinance.
  - e. The facility shall maintain a guest register open to inspection from time to time by the Zoning Administrator.
  - f. Guest stay shall be limited to seven (7) days.
  - g. The applicant shall meet all applicable county, state and federal regulations.



- g. Any permit under this section is issued to the applicant for the parcel named in the permit only and is not transferable to another parcel of property.
  - h. An application for an interim use permit for a contractor's yard shall include the following information:
    - i. A plot plan showing:
      - Size of parcel
      - Location and size of all buildings on the parcel
      - Location and size of any area of outdoor storage and any type of screening used
      - Location and distance to neighboring residences
    - ii. A narrative with an in-depth description of the contracting business. At a minimum the narrative shall contain:
      - The number of employees reporting to the site
      - The type of equipment to be stored at the site
      - The type and amount of materials and supplies to be stored at the site
      - Provisions for maintenance of equipment
      - Provisions for sanitary facilities for workers
      - Types of activities conducted on the site
      - Location of office
  - i. The interim use permit shall be subject to an annual administrative review as set by the permit.
  - j. The operator must reside at the site.
  - k. Security, fencing, and gate must be provided.
  - l. Security lighting shall be fully shielded.
5. Kennel, commercial, where dogs or other domestic pets are raised for the sale, boarded or trained. This use requires a interim use permit and is subject to the following:
- a. All animal kennels shall provide indoor facilities having adequate heating, ventilation, and lighting.
  - b. All animal kennels shall provide outdoor facilities having shelter from the elements, sunlight, rain, snow and cold weather.
  - c. All animal kennels shall provide proper drainage for indoor and outdoor facilities.

- d. Each large adult animal shall be provided with a separate fenced run at least thirty-six (3) square feet in size and located at least one hundred feet (100') from any property line.
  - e. Facilities shall be inspected at least once a year at the owner's expense by a doctor of veterinary medicine who shall provide a report to the Zoning Administrator describing the condition of the animals and facility, medical treatment required by the animals, and remedial actions necessary to improve the condition of the facility.
  - f. Facilities must obtain all required state and federal licenses or operational permits.
6. Small appliance repair. This use requires an interim use permit and is subject to the following standards:
- a. The operator shall reside at the site.
7. Temporary asphalt plant, highway construction yard and equipment placement. This use includes temporary operations such as a bituminous plant, sand and gravel washing plant, ready mix plant, gravel crusher or contractor's yard for highway construction. This use requires an interim use permit and is subject to the following standards:
- a. Equipment placement shall be good for a period not to exceed eight (8) months.
  - b. A performance bond shall be required for site restoration and road repair.
  - c. The application shall include the following information:
    - i. A plot plan showing the location of the temporary use and any temporary structures, parking areas, etc.
    - ii. A cross-section sketch of the proposed work, if applicable.
    - iii. A construction erosion control plan.
    - iv. A drainage and restoration plan.
    - v. A narrative with an in-depth description of the proposed operation, including at a minimum, the number of employees reporting to the site, plans for traffic control, the impact on the environment and impact to neighboring property owners and plans to mitigate any adverse impacts, and plans for provision of sanitary facilities for workers.
8. Upholstery, furniture repair or restoration. This use requires an interim use permit and is subject to the following:

- a. The operator shall reside at the site.
  - b. The facility shall comply with all applicable local, state and federal requirements.
9. Veterinary clinic. This use requires an interim use permit and is subject to the following standards:
- a. The operator shall reside at the site.
  - b. All activities shall take place within a completely enclosed building with soundproofing and odor control.

**F. Public Service and Utility Uses.**

1. Communication Towers, primary or accessory. This use requires an interim use permit and is subject to the following standards:
- a. The tower shall be a monopole structure.
  - b. The maximum height allowed, including all antennas and other attachments, shall not exceed two hundred feet (200'), except publicly-owned towers may exceed the maximum height.
  - c. Towers will be set back no less than one hundred twenty-five percent (125%) of the tower height or the tower fall zone, whichever is greater, with a minimum setback of twenty feet (20'). No guyed wires shall be allowed.
  - d. Lights and/or flashing equipment shall not be permitted unless required by state or federal agencies.
  - e. Signage shall not be allowed on the tower other than what is required for safety.
  - f. The applicant must provide proof from a professional licensed engineer to verify that the equipment will not interfere with existing communications for public safety services.
  - g. The City Council shall hire, and be reimbursed for actual costs by the applicant, a professional licensed engineer to verify that the equipment is not able to be located on any existing towers or building/utility structures within a one (1) mile radius of the proposed location for any of the following reasons:
    - i. The necessary equipment would exceed the structural capacity of

the existing tower or building.

- ii. The necessary equipment would cause interference as to significantly impact the usability of the existing tower or building.
  - iii. The existing towers or building/utility structures within a one (1) mile search radius cannot or will not accommodate the planned equipment at a height necessary to function reasonably.
  - iv. The applicant, after a good faith effort, is unable to lease space on an existing or approved tower or building.
  - h. The tower must be constructed to accommodate co-location antennas being placed at varying heights on the tower.
  - i. The tower shall have an exterior finish that minimizes off site visibility and is corrosive resistant.
  - j. The site shall be surrounded by a security fence six feet (6') in height with a lockable gate.
  - k. Equipment and structures shall be designed or screened from view by suitable landscaping as to reflect and complement the architectural character of the surrounding neighborhood.
  - l. All obsolete or unused towers and accompanying accessory facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is granted by the City Council. After the facilities are removed, the site shall be restored to its original or an approved state. The user of the tower and/or accompanying accessory facilities and the landowner shall be responsible for the removal of the facilities and restoration of the site.
  - m. The applicant shall submit a plan illustrating all anticipated future location sites for communication towers and/or communication devices/apparatus.
  - n. The applicant must verify through testing by a professional licensed engineer that the emissions from the tower meet FCC (Federal Communications Commission) regulations. This will be certified by the Planning Commission within one (1) year of commencement of the operation of the tower.
2. Wind energy generation facilities and towers, primary or accessory. This use requires a conditional use permit and is subject to the following:

- a. Towers and all related equipment shall be in compliance with all applicable local, state and federal regulatory standards.
- b. Permitted accessory wind generation facilities and towers shall have a rated capacity of no more than 10 Kilowatts and shall be of a height no greater than fifty feet (50’).
- c. The tower shall be set back as follows:

	Permitted towers	CUP towers
i. Non-owned residence	500 feet	750 feet
ii. Property line	200 feet	200 feet
iii. Road right-of-way	300 feet	300 feet

- d. Setbacks shall be increased to the tower fall zone if it is greater than any of the above.
- e. Noise shall be limited to a maximum level of 50dB(A) at the nearest property line.
- f. All towers supporting generation units with a rated capacity of more than 40 Kilowatts shall be of a monopole type (self-supporting, tubular) and shall be no more than 300 feet in height.
- g. Rotor blades shall not exceed a height of 500 feet from the ground.
- h. No lighting shall be permitted other than that required by Federal requirements.
- i. All connecting power lines shall be buried underground.
- j. Tower and facilities shall be designed to minimize their visual impact.

**G. Residential Uses, Accessory**

- 1. Home occupations, permitted. A home occupation may be permitted in the ARD subject to the following:
  - a. The occupation shall be conducted only by person(s) residing in the dwelling.
  - b. The home occupation shall be incidental and subordinate to the use of the property for residential purposes.
  - c. No traffic shall be generated by the home occupation beyond that which is

reasonable and normal for the area in which it is located.

- d. One non-illuminated sign no more than four (4) square feet in size and attached to the principal dwelling may be provided.
  - e. Entrance to the home occupation is from within the structure, and no exterior evidence of the business is evident.
  - f. The home occupation shall not result in increased usage of the septic system.
  - g. One (1) additional parking space shall be provided for the use of clients, deliveries, etc.
2. Home occupation, with interim use permit. A home occupation that exceeds any of the standards for permitted home occupations may be allowed as an interim use in any district where residential uses are permitted, if the home occupation meets the following:
- a. No more than one (1) person other than person(s) residing in the dwelling shall be employed in conjunction with the home occupation.
  - b. The home occupation may be conducted in an accessory building or attached garage not exceeding a 2,000 square feet of gross floor area.
  - c. An outside entrance may be provided.
  - d. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
  - e. One non-illuminated sign no more than sixteen (16) square feet in size may be provided.
  - f. No equipment or processes used in the home occupation shall create noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.
  - g. Rural business licensing shall be required for home occupations that require an interim use permit.
3. Room and board facilities. Facilities shall be located within a principal residence and shall serve a maximum of two (2) individuals; a separate kitchen for this purpose is prohibited.

## **H. Structures Accessory and Temporary to Permitted Uses.**

1. Antennas. Satellite dish antennas and other antenna devices are permitted subject to the following:
  - a. Antennas shall be in compliance with all state and local building and electrical code requirements.
  - b. Verification that the structural design and installation has been approved by a professional engineer shall be provided to the Building Official upon request.
  - c. Antennas shall be limited to one per building or, if more than one antenna is proposed, the antenna shall be clustered in a single, screened fashion.
  - d. No advertising message shall be on the antenna structure.
  - e. Antennas shall comply with the setback requirements for principal structures and shall be located between the principal structure and a public street.
  - f. No antenna shall be located within a shore impact zone or a bluff impact zone.
  - g. Antennas shall be screened to the greatest extent practicable to minimize visual impacts on surrounding properties. Screening shall include landscape materials for ground-mounted antennas and materials compatible with those utilized on the exterior of the building for roof-mounted antennas.
  - h. Antennas located closer to a property line than the height of the antenna shall be designed and engineered to collapse progressively within the distances between the antenna and the property line.
  - i. Antenna height shall be no more than sixty feet (60') as measured from the ground at the base of the structure.
2. Detached garages and storage sheds. Detached garages and storage sheds shall conform to the ARD setback requirements.
3. Seasonal roadside stands for sale of farm products are allowed with an interim use permit, subject to the following:
  - a. No more than one stand per farm shall be permitted.
  - b. Adequate off-street parking shall be provided.

- c. Merchandise shall be limited to agricultural products or manufactured goods produced by individuals having a residence or farm within the ARD.
  - d. No electronic signs shall be permitted.
4. Temporary farm dwelling. The purpose of a temporary farm dwelling is to provide living accommodations for farm workers, health care workers assisting farm residents, or ailing parents or children. Temporary farm dwellings are allowed with an interim use permit, subject to the following standards:
- a. The applicant shall provide either a signed statement identifying that the farming activity requires additional farm workers or a signed doctor's certificate that verifies that the persons needing care suffer from health problems that would necessitate constant supervised care and attention.
  - b. The interim use permit shall be issued for a three (3) year term subject to renewal if a verified statement or doctor's certificate has been filed with the Zoning Administrator and approved by the Planning Commission.
  - c. The dwelling shall be limited to a manufactured home, which shall be maintained as highway ready, and shall be removed when no longer needed as a residence. Highway ready shall mean having the manufactured home on wheels of having the internal jacking system attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks. The manufactured home shall have no permanent structural additions attached.
  - d. The dwelling shall be accessory to the primary residence on the farm.
  - e. The dwelling shall be deemed the second dwelling unit for the quarter-quarter section.
  - f. The dwelling shall be a minimum of fourteen feet (14') wide and a minimum of 672 square feet in area and shall meet current Department of Housing and Urban Development Code for manufactured homes, or bear a seal and a compliance certificate and data plate evidencing the manufacturer's certification of code compliance.
  - g. The dwelling shall meet all minimum building setbacks, shall be properly anchored, and shall be setback a minimum of fifty feet (50') from the primary residence on the parcel.
  - h. The interim use permit shall automatically terminate and the unit shall be removed when title transfers or a Contract for Deed is recorded unless the transfer occurred between family members.

- i. The dwelling shall comply with the sewage and wastewater treatment regulations of this Ordinance.
5. Other structures – storage shed. Storage sheds shall conform to the requirements set forth in the district in which they are located.

## **SUBSECTION 10. PERFORMANCE STANDARDS**

### **A. Nuisance Standards.**

1. Noise. Any use established shall be so operated that no undue noise resulting from said use is perceptible beyond the boundaries of the property on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction, farming or maintenance operations.
2. Vibration. Any use creating periodic earth-shaking vibration shall be prohibited if undue vibrations are perceptible beyond the boundaries of the property on which the use is located. This standard shall not apply to vibrations created during periods of construction.
3. Glare and Heat. Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.
4. Smoke and Particulate Matter. Any use established, enlarged, or remodeled after the effective date of this Ordinance shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke and particulate matter.
5. Toxic or Noxious Matter. No use shall discharge into the atmosphere, water or subsoil, any toxic or noxious matter. All discharges shall be in conformity to the regulations and standards adopted by the Minnesota Pollution Control Agency.
6. Light. Lighting shall be shielded and directed away from the public right-of-way and adjacent properties, and shall not exceed one (1) foot candle of illumination at the property line unless specifically approved.
7. Compliance. In order to insure compliance with the performance standards set forth above, the Zoning Administrator may require the owner or operator of any permitted, conditional or interim use to conduct investigations and tests needed to demonstrate compliance with the performance standards. Such investigations and tests shall be performed by an independent testing organization selected by the City Council. All costs shall be borne by the owner or operator.

8. Use of fertilizer, pesticides or animal wastes. Use must be done in a way as to minimize impact on the shore impact zone or a public water by proper application or use of earth or vegetation.

**B. Storage Standards.**

1. All materials and equipment shall be stored within a building or screened from adjoining properties, except for the following:
  - a. Laundry drying and recreational equipment
  - b. Construction and landscaping materials and equipment being currently used for construction of the premises; and
  - c. Off-street parking, except as otherwise regulated herein.
2. Boats and travel trailers and motor homes, less than thirty-five feet (35') in length, are permissible, if stored in the side or rear yard not less than ten feet (10') distant from any property line. Existing uses shall comply with this provision within twelve (12) months of the effective date of this Ordinance.
3. In a residential platted subdivision, wood piles must be neatly stacked, a maximum of eight feet (8') in height, and must not take up more than ten percent (10 %) of the total open space of a yard.
4. Bulk Storage (liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall comply with the requirements of any applicable federal or state law, rules or regulations and must have documents from those offices stating that the use is in compliance. Fuel tanks may be permitted as accessory use only and shall be subject to setback requirements. All existing, above-ground liquid storage tanks shall comply with the requirements of the Minnesota State Fire Marshal's office.

**C. Visual Standards.**

1. Screening. When any commercial, business or industrial use is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. The screening required shall consist of fences, trees, or shrubs or other methods as approved by the Planning Commission before the plan is implemented.
2. Fences. The following general standards apply to all fences constructed within the ARD:
  - a. Any fence in excess of six feet (6') in height shall require an interim use permit, except open fences constructed for agricultural purposes.

- b. Fences shall be located entirely upon the private property of the persons constructing the fence unless the owner of the adjacent property agrees, in writing, that such fence may be erected on the division lines of the respective properties. If adjacent neighbors cannot agree that such fence be placed on the property line, such fence must be placed one foot (1') from the property line. The Zoning Administrator may require the owner of the property with an existing fence to establish the boundary line of the property by a survey.
- c. Posts and framework shall be placed within the property lines of the owner. The actual fencing material, such as chain link, lumber, pickets, etc., shall be placed on the side of the fence which faces the street or adjacent property.
- d. Building permits are not required for fences under six feet (6') in height.
- e. No fence shall be constructed on road rights-of-way and shall not be placed in a manner that obstructs the view within the intersection and sight distance triangle or that interferes with use of the right-of-way for right-of-way purposes.
- f. Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Cloth or canvas shall not be allowed.
- g. Every fence shall be maintained in a condition of good repair and shall not be allowed to become and remain in a condition that would constitute a public nuisance or a dangerous condition.
- h. The following additional standards apply to residential fences:
  - i. The maximum height for a residential fence shall be six feet (6')
  - ii. Barbed wire is not permitted in a residential platted subdivision.
- i. The following additional standards shall apply to business and industrial fences:
  - i. Fences may be located on a lot line to a height of six feet (6'). Fences over six feet (6') in height shall require an interim use permit.
  - ii. A security arm for barbed wire shall be permitted when needed for security reasons as approved by the Planning Commission.

**D. Hazardous Elements Standards.**

1. Explosives. Any use requiring the storage, utilization or manufacturing of products that could decompose by detonation shall be located not less than four hundred feet (400') from any residence. This section shall not apply to the storage or usage of liquid petroleum or natural gas for normal residential or business purpose.
2. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.
3. Incinerators. The installation of incinerators and their use and design shall be in conformity with the regulations and standards adopted by the Minnesota Pollution Control Agency.

**E. Parking Standards.** All parking, driveway and loading areas hereafter constructed or maintained shall conform to the provisions of this Ordinance.

1. Computing requirements. In computing the number of parking spaces required, the following rules shall apply:
  - a. "Square feet" shall refer to the gross floor area of the specific use.
  - b. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature, as determined by the Zoning Administrator.
2. Minimum size regulations. Each automobile space shall contain a minimum area of not less than three hundred (300) square feet, including access drives, a width of not less than nine feet (9') and a depth of not less than eighteen feet (18'). Each space shall be adequately served by access drives. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.
3. Construction and maintenance.
  - a. On site parking areas and driveways shall be improved with a durable surface.
  - b. Parking areas and driveways shall have curbs where needed to protect required yards, direct traffic or to control surface water runoff.
  - c. Adequate areas for snow removal and storage shall be provided outside of required parking spaces.
  - d. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

e. Directional signs indicating entrances and exits to on-site parking areas are encouraged. Directional signs shall not bear any business name or be used for advertising.

4. Required number of on-site parking spaces. On-site parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as specified in the following table:

LAND USE	REQUIRED SPACES
Residential dwelling unit	2 per dwelling unit
Religious institution, place of assembly	1 per 3 seats in main seating area
Schools, grades K – 12	2 per classroom plus 1 per 3 students of legal driving age, based on capacity
Automobile service station	4 plus 2 per service bay
Commercial outdoor recreational use	As determined by the conditional or interim use permit
Commercial indoor recreational use	1 per 250 square feet of public area
Limited production and processing	1 per employee on the largest shift, or 1 per 800 square feet, whichever is greater *
Lodging	1 per guest room plus 1 per employee on largest shift
Office or service business	1 per 400 square feet *
Outdoor sales lot	1 per 2,000 square feet of outdoor sales area *
Retail business	1 per 250 square feet *
Restaurant, café	1 per 100 square feet of customer seating area *
Storage, wholesale or warehouse use	1 per employee on largest shift, or 1 per 2,000 square feet, whichever is greater *

\* The parking area will be increased by twenty percent (20 %) if parking stalls are not paved and striped.

5. Loading areas. Off-street loading space shall be provided for any nonresidential use that requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, and that have a gross floor area of five thousand (5,000) square feet or more.
  - a. Loading areas shall be provided according to the following minimum standards:
    - i. The off-street loading requirement for buildings with less than 20,000 square feet of gross floor area may be satisfied by the designation of a loading zone area on the site. This loading zone area shall be separate from any required offstreet parking area, and access to it shall not conflict with automobile or pedestrian circulation within the site.
    - ii. Buildings with 20,001 to 50,000 square feet of gross floor area shall provide a minimum of one (1) loading space.
    - iii. Buildings with 50,001 to 100,000 square feet of gross floor area shall provide a minimum of two (2) loading spaces.
    - iv. Buildings with 101,000 or more square feet of gross floor area shall provide one (1) additional loading space per each additional 30,000 square feet gross floor area.
  - b. All loading spaces and driveways shall be surfaced with asphalt or concrete.

6. Screening of parking and loading areas.

- a. All commercial or industrial parking and loading areas shall be screened from adjoining residential or agricultural uses by a wall, solid fence, or densely planted compact vegetation at least six feet (6') in height within two (2) years of planting.
- b. All parking areas adjacent to a public right-of-way shall be screened with a masonry wall, fence, berm or hedge or combination that forms a screen at least three feet (3') in height and not less than ninety percent (90 %) opaque on a year-round basis. Overstory trees shall be planted within the required setback areas at intervals of one (1) tree per forty feet (40').

- F. Sign Regulations.** All signs hereinafter erected, altered, substantially repaired, relocated and maintained, except official traffic and road or street signs, shall conform to the following standards:

1. Permit required. No sign shall be erected unless the owner of the land on which the sign will be placed obtains a sign permit.
2. Billboards prohibited. Off-premise signs, more commonly known as billboards, shall be prohibited.
3. Sign types – where allowed. Wall signs and monument signs are allowed in any zoning district.
4. Number per lot. A maximum of one (1) large sign, or two (2) small signs that combined do not exceed the maximum specified in Subpart 5 below, per lot, shall be permitted in the ARD.
5. Maximum size. The maximum size of a permitted sign is as follows:
  - a. For residential uses and permitted home occupations, four (4) square feet for each of two allowed sign faces.
  - b. For home occupations allowed with an interim use permit, sixteen (16) square feet for each of two allowed sign faces.
  - c. For all other uses, thirty-two (32) square feet for each of two allowed sign faces.
  - d. If two sign faces are proposed, they shall be immediately behind the other appearing to be two sides of a single sign and the faces shall not be at an angle to the other.
6. Maximum height.
  - a. Monument signs shall not exceed twelve feet (12') in height above the average grade at the base of the sign.
  - b. No part of a pylon sign shall exceed thirty feet (30') in height above the average grade at the base of the sign.
  - c. No building-mounted sign shall extend above the roof of the building.
  - d. Ground mounted signs are encouraged instead of building-mounted or pylon signs.
7. Illumination. If a sign is externally illuminated, the illumination shall be directed only on to the sign and the light source shall not be visible from surrounding properties. Electronic signs shall not be permitted.

8. Safe condition. No sign shall be permitted that shall in any way endanger the health or safety of the general public.
9. Clean area. All areas surrounding a permitted sign shall be kept free from unreasonable growth, debris or rubbish. Failure to correct such conditions after being so directed in writing by the Zoning Administrator shall be cause for revocation of the existing sign permit and removal of the sign.
10. Temporary signs. Signs of a temporary nature that do not exceed twelve (12) square feet in area shall be exempt from the permitting requirement. Temporary signs may be displayed for a period not to exceed thirty (30) days, on a maximum of four (4) occasions per year.
11. Removal for roadway construction. Signs shall be removed by the sign owner at no expense or claim of damage to any governmental unit, if necessary for construction, reconstruction or relocation of any public roadway.
12. Limits on location. The following limits on location apply to all signs, permitted and temporary:
  - a. No sign except as erected by an official unit of government for the direction of traffic or necessary public information shall be permitted within the right-of-way of any public road.
  - b. All permitted signs shall be located outside of the required sight triangle and shall maintain a twenty-foot (20') setback from all property lines.

**G. Environmental Performance Standards.**

1. Purpose. The purpose of this Section is to provide regulations of general applicability for property throughout the ARD, to protect the natural environment, to minimize conflicts among land uses, and to implement the natural resource goals of the Comprehensive Plan.
2. Applicability. The regulations set forth in this Section apply to all structures and all land uses, except as otherwise provided in this Ordinance. No permit shall be issued unless provisions are made for meeting applicable environmental performance standards in this Section.
3. Impervious Surface Limitation. Impervious coverage of lots must not exceed twenty-five percent (25 %) of the lot area including structures, roads, driveways and parking areas.
4. Water Supply and Sewage Treatment.

- a. Water supply standards. Any public or private water supply for domestic purposes must meet or exceed the water quality standards of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
  - b. Sewage treatment standards. Private or community sewer standards in all districts shall meet the standards for individual sewage treatment systems found in Minnesota Rules 7080.
  - c. Alternative septic site required. Each proposed use shall identify two sites approved for septic systems, and these sites shall be protected during construction and preserved in their natural state until their use as a septic system location.
  - d. Compliance inspection required. A sewage treatment compliance inspection shall be required prior to issuance of any permit or certificate relating to water usage. The compliance inspection shall determine if the sewage treatment system is in conformance with this Ordinance and state regulations.
  - e. Use of public systems required. Where available, publicly-owned systems must be used within one (1) year of the date of issuance of a permit under this Ordinance. Existing nonconforming individual septic systems may be exempted at the discretion of the publicly owned system governing body if the governing body agrees to manage and regularly inspect the individual system. A new individual system shall not be allowed where a publicly owned system is available.
5. Drainage and Stormwater Management. No land shall be developed and no use shall be permitted that results in water run-off causing flooding or erosion on adjacent property. Such run-off shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility designed to intercept and store run-off in an amount caused by a 100-year, 24 hour storm event (six inches of rain in 24 hours).
- a. Drainage plan required. A drainage plan shall be submitted and approved for all new commercial, industrial, institutional, residential and planned unit developments.
  - b. Effect on adjacent land. A proposed development shall not increase the runoff rate of stormwater so as to cause an adverse effect upon adjacent lands.
  - c. Use of natural vegetation and natural features. Erosion protection measures shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on-site as erosion control facilities.

When possible, existing natural drainageways, natural or created wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff.

- d. Disturbed area wetlands. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities and erosion potential, and that will reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- e. Constructed features standards. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds shall be required,. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities. Settling basins to intercept urban runoff shall be sized to a minimum of a 100 – year, 24 hour (six inches of rain in 24 hours) storm design.
- f. Certification by a professional. When constructed facilities are used for stormwater management, documentation must be provided by a professional engineer licensed with the State of Minnesota that they are designed and installed consistent with federal, state and local standards.
- g. Filtering and settling required. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended soils and skimming of surface debris before discharge.
- h. Easement dedications required. When a land or easement dedication is a condition of approval for a permit or subdivision, the applicant must provide easements over natural drainage or ponding areas for management of ponding areas, stormwater and significant wetlands.
- i. Management and maintenance plan required. A management and maintenance plan shall be submitted and approved for all new commercial, industrial, institutional, residential and planned unit developments. The management and maintenance plan shall include plans for ownership, management and maintenance of drainage and stormwater control features.

## **H. Erosion and Sedimentation Control Standards.**

- 1. Wetlands and water bodies. Wetlands and other water bodies shall not be used as primary sediment traps during or after construction.

2. Placement of structures. All new structures shall be located in such a manner as to minimize the removal of vegetation and alteration of natural topography.
3. Maintenance. Any and all erosion control, stormwater runoff, utility access and similar structures shall be designed to be maintained, cleaned out and otherwise operated without requiring the crossing of private lands with or by the operation of motorized heavy maintenance vehicles and equipment, such as bulldozers, trucks and backhoes on slopes in excess of eight percent (8 %). As used in this section, private lands includes any outlots.
4. Site suitability. The applicant shall demonstrate that the types and densities of land use proposed shall be suited to the site and soil conditions and shall not present a threat to the maintenance of water quality, a potential increase in maintenance cost of utilities, parking areas or roads, and shall not be subject to problems due to soil limitations including, but not limited to, soil bearing strength, shrink/swell potential and excessive frost movement.
5. Construction fencing. The applicant shall be required to furnish and to install fences wherever the Zoning Administrator determines a hazardous condition may exist or an environmentally sensitive area needs to be protected during construction. The applicant, of his/her own volitions, shall provide fencing wherever a hazardous condition may exist during construction prior to any determination made by the Zoning Administrator.
6. Construction waste handling. No cut trees, timber, debris, earth, rock, stones, rubbish, or waste materials of any kind shall be buried in any land or left or deposited on any lot or future street without the approval of the Zoning Administrator.
7. Topsoil preservation. If topsoil is removed from sites or lots during construction, it shall be stored and stockpiled for re-spreading over lots and shall not be sold or otherwise removed from the subdivision or site area unless the removal of excess topsoil is approved by the Planning Commission.
8. Topsoil replacement. Topsoil shall be re-spread so as to provide at least six (6) inches of cover originally existing on the site or a minimum of four (4) inches of cover if the original cover was less. The site shall also be stabilized by seeding and/or sodding.

- I. Landscaping requirements.** All required yards for any structure shall either be landscaped or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with natural vegetation, lawn, trees and shrubs. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any residential district shall be landscaped with buffer planting screens. Plans of such screens shall be submitted to the Zoning Administrator for approval as part of the site plan and installed prior to issuance of a Certificate of Occupancy.

**J. Steep slopes.** Slopes in excess of eighteen percent (18 %) and over fifty feet (50') in length shall not be graded, excavated, or developed. Slopes from twelve to eighteen percent (12 -18 %) natural grade shall only be grades, excavated, or developed according to an approved grading plan providing for stabilization and vegetation after grading as approved by the City Council. Additional steep slope provisions apply in the Shoreland, Wild and Scenic and Flood Plain Overlay Districts.

**K. Trees, Forest Land and Natural Vegetation Preservation.**

1. General Standards. Natural vegetation, including ground cover and trees, shall be preserved and maintained to the greatest extent possible in order to control erosion and runoff, preserve habitat, and maintain a buffer between land uses. The following restrictions shall apply to all development:
  - a. Structures should be located in such a manner that the maximum number of trees shall be preserved.
  - b. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site.
  - c. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.
  - d. The root zone of existing trees shall be preserved and protected during development including grading and contouring, so that the trees are not adversely affected by the construction work.
  - e. Notwithstanding the above, the removal of trees seriously damaged by storms or other natural causes, or diseased trees is permitted.
  - f. Residential development shall not disturb or remove trees more than one-half (1/2) acre, commercial or industrial development no more than one (1) acre of healthy trees for the building pad, out buildings, driveways, septic system, firebreak, well or for any other purpose without first providing a tree replanting plan for the site to the Zoning Administrator.
  - g. A tree inventory shall be carried out by the developer and no more than forty percent (40 %) of trees with a caliper of six (6) inches or greater at dbh shall be cleared or in any way removed from the site unless replaced with an equal number and variety of trees of at least six (6) inches at dbh (measured four and one half feet (4.5') above ground level), or an equivalent as determined by the Zoning Administrator.

- h. As a mitigating measure, where trees are to be removed, the developer shall prepare a tree planting plan to be approved by the Zoning Administrator. The plan shall be implemented as practical for the season prior to a final occupancy permit is issued.
  - i. Timing of tree removal shall be such as to minimize tree loss.
2. Forest land management standards. The harvesting of timber and associated reforestations or conversion of forested use to a nonforested use must be conducted consistent with the following standards:
- a. Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment – Forestry and the provisions of the Water Quality in Forest Management “Best Management Practices in Minnesota.”
  - b. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
    - i. Shore and bluff impact zones must not be intensively cleared of vegetation; and
    - ii. An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

**L. Wetlands preservation.** To the extent possible, all wetlands, including marshlands and swamps, shall be retained in their natural state. Alterations to wetlands shall require review from the Rice County Soil and Water Conservation District. The following provisions apply to wetlands in the ARD:

- 1. Discharges.
  - a. No part of any sewage treatment system requiring on-land or in-ground disposal of waste shall be located closer than seventy-five feet (75’) from the wetland boundary, as delineated by a certified wetland specialist, or ordinary high water level unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.
  - b. Organic waste that would normally be disposed of at a solid waste treatment site or that would normally be discharged into a sewage treatment system or sewer shall not be directly or indirectly discharged to a wetland.
  - c. Untreated stormwater runoff from construction sites may not be directed to a wetland.

2. Building Constraints.

- a. The lowest floor elevation of buildings used for living quarters or work area shall be at least three feet (3') above the ordinary high water level.
- b. Structures shall be setback twenty feet (20') from the wetland boundary, as delineated by a certified wetland specialist.

**M. Additional Requirements for Designated Trout Streams.** Any development or activity within the shoreland area of an Agricultural River tributary stream that is a designated trout stream as designated by the Department of Natural Resources shall include efforts to mitigate the impact of development on the trout stream. The mitigation shall offset the effects of the development on water quality, water quantity and water temperature. Mitigation may include, but is not limited to, planting of streambank vegetation, additional structure setbacks, or additional stormwater management controls.

## **SUBSECTION 11. FLOOD PLAIN OVERLAY DISTRICT**

**A. Statutory Authorization, Findings of Fact, and Purpose.**

1. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Minn. Stat. § 462.357 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Dundas, Minnesota, does ordain as follows:
2. Findings of Fact.
  - a. The flood hazard areas of the ARD are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
  - b. Methods Used to Analyze Flood Hazards. This Section is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the Minnesota Department of Natural Resources.

- c. National Flood Insurance Program Compliance. This Section is adopted to comply with the rules and regulations of the National Flood Insurance Program (NFIP), codified as 44 code of Federal Regulations Parts 59078, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
3. Statement of Purpose. It is the purpose of this Subsection to promote public health, safety and general welfare and to minimize those losses described in this Ordinance.

**B. General Provisions.**

1. Lands to which this Subsection applies. This Section shall apply to all lands within the Annexation Reserve District (ARD) shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts. The Flood Plain District shall be considered a zoning district overlying and superseding all existing land use regulations in the ARD. Permitted, conditional and interim uses shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Section shall apply in addition to other ARD regulations.
2. Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section. The attached material shall include the Flood Insurance Study for Bridgewater Township prepared by the Federal Emergency Management Agency and dated August 4, 1988 and the Flood Insurance Rate Map dated August 4, 1988 therein. The Official Zoning Map shall be on file in the office of the Zoning Administrator.
3. Regulatory Flood Protection Elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
4. Interpretation.
  - a. In their interpretation and application, the provisions of this Subsection shall be held to be the minimum requirements and shall be liberally construed in favor of the City of Dundas and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
  - b. The boundaries of the flood plain district shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the Flood Plain Overlay District, the Zoning Administrator shall make the necessary interpretations based on elevations

on the regional (100 year) flood profile, if available. If 100 year flood elevations are not available, the Zoning Administrator may:

- i. Require a flood plain evaluation consistent with this Subsection to determine a 100 year flood elevation for the site; or
  - ii. Base the decision on available hydraulic/hydrologic or site elevation survey data that demonstrates the likelihood the site is within or outside of the flood plain; or
  - iii. Set the 100-year flood elevation on outletted lakes at three (2) feet above the ordinary high water level.
5. **Abrogation and Greater Restrictions.** It is not intended by this Subsection to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Subsection imposes greater restrictions, the provisions of this Subsection shall prevail. All other ordinances inconsistent with this Subsection are hereby repealed to the extent of the inconsistency only.
6. **Warning and Disclaimer of Liability.** This Subsection does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Subsection shall not create liability on the part of the City of Dundas or any officer or employee thereof for any flood damages that result from reliance on this Subsection or any administrative decision lawfully made there under.
7. **Severability.** If any section, clause, provision, or portion of this Subsection is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Subsection shall not be affected thereby.
8. **Definitions.** Definitions for this Subsection shall be as found in Subsection 3 of this Ordinance.

**C. Establishment of Flood Plain Overlay District.**

1. **Districts.**
  - a. **Floodway District.** The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in this Subsection.
  - b. **Flood Fringe District.** The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Insurance Rate Map as adopted in this Subsection as being within Zone AE, AO, or Zone AH without a floodway but being located outside the floodway.
  - c. **General Flood Plain District.** The General Flood Plain District shall include those areas designated as Zone 1 or Zones AE, Zone AO, or Zone

AH without a floodway on the Flood Insurance Rate Map adopted in this Subsection.

2. Compliance. No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Subsection and other applicable regulations that apply to uses within the jurisdiction of this Ordinance. Within all Floodway and Flood Fringe Districts, and General Flood Plain Districts, all uses not listed as permitted, conditional or interim under this Subsection shall be prohibited. In addition, a caution is provided that:
  - a. New manufactured homes, replacement manufactured homes, and certain travel trailers are subject to the general provisions of this Ordinance;
  - b. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance; and
  - c. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in this Ordinance.

**D. Floodway District (FW).**

1. Permitted Uses. The following are permitted uses in the Floodway District:
  - a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - b. Industrial-commercial loading areas, parking areas, and airport landing strips.
  - c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
  - d. Residential lawns, gardens, parking areas, and play areas.
2. Standards for Floodway Permitted Uses.
  - a. The use shall have a low flood damage potential.

- b. The use shall be permissible in the underlying zoning district.
  - c. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.
3. Conditional Uses. The following uses of land or structures are considered conditional uses in the Floodway District:
- a. Structures accessory to the uses listed in subpart 1 above.
  - b. Extraction and storage of sand, gravel and other materials.
  - c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
  - d. Railroads, streets, bridges, utility transmission lines, and pipelines.
  - e. Storage yards for equipment, machinery, or materials.
  - f. Placement of fill or construction of fences.
  - g. Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of the section in this Ordinance related to Manufactured Homes, Manufactured Home Parks and Placement of Recreational Vehicles.
  - h. Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.
4. Standards for Floodway Conditional Uses.
- a. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
  - b. All floodway conditional uses shall be subject to the procedures and standards in subpart 3 above.
  - c. The conditional use shall be permissible in the underlying zoning district.
  - d. Fill:

- i. Fill, dredge, spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable material.
- ii. Dredge spoil sits and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted and approved. Such plan shall include an erosion/sedimentation prevention element to the plan.
- iii. As an alternative, and consistent with subsection (ii) immediately above, dredge spoil and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would cause an increase in the stage of the 100-year or regional flood but only after the City Council has received an appropriate plan that assures the removal of the materials from the floodway based upon the flood warning time available. A conditional use permit granted under this Subsection must be title registered with the property in the Office of the Rice County Recorder. It is the responsibility of the property owner to record a conditional use permit.

e. Accessory Structures:

- i. Accessory structures shall not be designed or used for human habitation.
- ii. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
  - Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of the flood flow; and
  - So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- iii. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with FP-1 or FP-2 flood proofing classifications in the Minnesota Building Code, As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the Minnesota Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garages, the detached garage must be used solely for the parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
  - The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and

shall be designed to equalize hydrostatic flood forces on exterior walls; and

- Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed; and
- To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

f. **Storage of Materials and Equipment.**

- i. 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.
- ii. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Planning Commission.

g. **Structural works for flood control that will not change the course, current, or cross section of protected wetlands or public waters shall be subject to the provisions of Minn. Stat., Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plan shall not be allowed in the floodway.**

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

**E. Flood Fringe District.**

1. Permitted Uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning district(s). All permitted uses shall comply with the standards for Flood Fringe Uses listed within this section.
2. Standards for Flood Fringe Permitted Uses.

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor, including the basement floor, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot above the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
  - b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with this Subsection.
  - c. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with this subpart.
  - d. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
  - e. The provisions of subpart 5 of this section shall apply.
3. Conditional Uses. Any structure that is not elevated on fill or flood proofed in accordance with subparts E.2 of this Subsection and/or any uses that do not comply with the standards of subpart E.5 of this Subsection shall only be allowable as a conditional use permit. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in subpart E.4 of this Subsection and Subsection 4.E of this Ordinance.
4. Standards for Flood Fringe Conditional Uses.
- a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc, or abovegrade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered abovegrade and not a structure's basement or lowest floor if:
    - (1) the enclosed area is above-grade on at least one side of the structure;
    - (2) it is designed to internally flood and is constructed with flood resistant materials; and
    - (3) it is used solely for the parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
      - i. Design and Certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards

of the Minnesota Building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Plain Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

- ii. Specific Standards for Above-Grade, Enclosed Areas. Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - A minimum of “automatic” openings in the wall where internal flooding is to be used as flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, entry and exit of flood waters without any form of human intervention; and
  - That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 and FP-4 classifications in the Minnesota Building Code and shall be used solely for building access, parking of vehicles or storage.
  
- b. Basements, as defined in Subsection 3, of this Ordinance, shall be subject to the following:
  - i. Residential basement construction shall not be allowed below the Regulatory Flood Plain Elevation.
  - ii. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with subpart iii below.
  - iii. All areas of non-residential structures, including basements to be placed below the Regulatory Flood Protection Elevation, shall be flood proofed in accordance with the structurally dry flood proofing classifications in the FP-1 or FP-2 flood proofing classification in the Minnesota Building Code and this shall require making the structure watertight with the walls substantially

impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 and FP-4 classification shall not be permitted.

- iv. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil, disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Planning Commission. The plan may incorporate alternative procedures for the removal of the material from the flood plain if adequate flood warning time exists.
- v. Storage of Materials and Equipment.
  - The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal or plant life is prohibited.
  - Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.
- vi. The standards in subpart 5 of this Section shall also apply.

5. Standards for all Flood Fringe Uses.

- a. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Plain Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- b. Commercial accessory land uses, such as yards, railroad tracks, and parking lots, may be at elevations lower than the Regulatory Flood Plain Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a

flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

- c. For manufacturing and industrial uses, measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses, such as yards and parking lots, may be at a lower elevation subject to the requirements set out in subpart b immediately above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- d. 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 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.
- e. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- f. Standards for recreational vehicles are contained in Subsection 11.I of this Ordinance.
- g. All manufactured homes must be securely anchored in an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not 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.

**F. General Flood Plain District.**

1. Permissible Uses.

- a. The permitted uses listed in the Floodway District—Section D.1 of this Subsection shall be permitted uses in the General Flood Plain District.

- b. All other uses shall be subject to the floodway/fringe criteria pursuant to subpart 2 immediately below. Section D of this Subsection shall apply if the proposed use is in the Floodway District and Section E shall apply if the proposed use is in the Flood Fringe District.

2. Procedures for Floodway and Flood Fringe Determination within the General Flood Plain District.

- a. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information that is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District:
  - i. Typical valley cross-sections showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
  - ii. Plan (surface view) showing elevations or contours of the ground, pertinent structures, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevation of streets.
  - iii. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
  - iv. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.
- b. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - i. Estimate the peak discharge of the regional flood.
  - ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - iii. Compute the floodway necessary to convey or store the regional flood without increasing flood states more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the

additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- c. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Commission. The Planning Commission will forward a recommendation based on the technical evaluation to the City Council. The City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources and/or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District boundaries have been determined, the City Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of this Subsection.

#### **G. Subdivisions.**

1. Review Criteria. No land shall be subdivided that is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside the Floodway District at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, including the Floodway and the 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.
2. Floodway/Flood Fringe Determination in the Flood Plain Districts. In the flood plain districts, applicants shall provide the information required in Subsection 11.F.2 of this Subsection to determine the 100-year flood elevation, the Floodway and the Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.
3. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard designation for certain structures property 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.

#### **H. Public Utilities, Railroads, Roads and Bridges.**

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

#### **I. Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles.**

1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions in Section G of this Subsection.
2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section F of this Subsection. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section E.5 of this Subsection, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Planning Commission.
  - a. 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 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.

3. Recreational vehicles that do not meet the exemption criteria specified in subpart b below shall be subject to the provisions of this Subsection and as specifically spelled out in subparts c and d below.
  - a. Exemption. Recreational vehicles are exempt from the provisions of this Subsection if they are placed in any of the areas listed in subpart 2 below and further they meet the following criteria:
    - i. Have a current license required for highway use.
    - ii. Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
    - iii. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
  - b. Areas Exempted for Placement of Recreational Vehicles.
    - i. Individual lots or parcels of record.
    - ii. Existing commercial recreational vehicle parks or campgrounds.
    - iii. Existing condominium type associations.
  - c. Recreational vehicles exempted by this section lose this exemption when development occurs on the parcel exceeding five hundred (\$ 500) dollars for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections D and E of this Subsection. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood-free location should flooding occur.
  - d. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) dwelling sites shall be subject to the following:
    - i. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and

its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section E.5 of this Subsection. No fill placed in the floodway to meet the arrangements of this Section shall increase flood stages of the 100-year or regional flood.

- ii. Any new or replacement recreational vehicles not meeting the criteria of subpart (i) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of Section D.4 of this Subsection. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100- year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section E.3 subparts (a) and (b) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as not to be impaired or contaminated during times of flooding in accordance with Section H.3 of this Subsection.

## **J. Administration.**

1. Zoning Administrator. The Zoning Administrator shall administer and enforce this Subsection. If the Zoning Administrator finds a violation of the provisions of this Subsection, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section L of this Subsection.
2. Permit Requirements.
  - a. Permit Required. A permit issued by the Zoning Administrator in conformity with the provisions of this Subsection shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure or portion thereof; prior to the use or change of use of building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a non-conforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
  - b. Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

- c. State and Federal Permits. Prior to granting a permit or processing an application for a conditional or interim use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
- d. Certificate of Zoning Compliance for a New, Altered or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- e. Construction and Use to be as provided on Application, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, variances, conditional use permits, interim use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Subsection and punishable as provided by Section K of this Subsection.
- f. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- g. Record of First Flood Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest flood (including basement) of all new structures and alterations or additions to existing structures in the flood plains. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.
- h. Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. State, Chapter 103G, this shall suffice as adequate public notice to the Commissioner of Natural Resources. A copy of said notification shall

also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

- i. Notification to FEMA when Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific report.

3. Board of Adjustment.

- a. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by state law.
- b. Administrative Review. The Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement and administration of this Ordinance.
- c. Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variances from the terms of this Subsection as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties, or circumstances unique to the property under consideration, as provided for in the municipal planning enabling legislation, In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Subsection, any other ARD zoning regulations, and in the municipal planning legislation that justified granting the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by law. The following additional variance criteria of the Federal Emergency Management Agency (FEMA) must be satisfied:
  - i. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - ii. Variances shall only be issued upon (1) showing of good and sufficient cause; (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of a variance will not result in increase flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or

victimization of the public, or conflict with existing local laws or ordinances.

iii. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

d. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

e. Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within the time required by law. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. The Board shall make its decision in writing setting forth the findings of fact and reasons for its decisions. In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards as those specified in subpart 6 of this Section, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Subsection 4.G of this Ordinance. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

f. Appeals. Appeals from any decision of the Board of Adjustment may be made as specified in this Ordinance.

g. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and (2) Such construction below the 100-year or regional flood level increases risk to life and property.. Such notification shall be maintained with a record of all variance actions. The Zoning Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report, as required, to the Administrator of the National Flood Insurance Program.

4. Conditional Uses. The City Council shall hear and decide applications for conditional uses permissible under this Subsection. Applications shall be submitted to the Zoning Administrator who shall forward the application to the City Council for consideration.
- a. Hearings. Upon filing of an application for a conditional use permit with the Zoning Administrator, the Zoning Administrator shall submit a copy of the proposed conditional use permit application by mail to the Commissioner of Natural Resources sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
- b. Decision. The City Council shall take final action on the proposed conditional use permit in the time period required by law. In granting a conditional use permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in subpart e below, that are in conformity with the provisions of this Subsection. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Subsection punishable under Section K. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- c. Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications within All Flood Plain Districts.
- i. The applicant shall furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
- Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
  - Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- ii. The Zoning Administrator shall transmit one copy of the information described above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating a proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. The cost of such review shall be borne by the applicant.

- iii. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- d. Factors upon Which the Decision of the City Council shall be based. In passing upon conditional use permit applications, the City Council shall consider all relevant factors specified in other sections of this Subsection, and the following:
- i. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - ii. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
  - iii. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - iv. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - v. The importance of the services provided by the proposed facility to the community.
  - vi. The requirements of the facility for a waterfront location.
  - vii. The availability of alternative locations not subject to flooding for the proposed use.
  - viii. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - ix. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  - x. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - xi. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - xii. Such other factors that are relevant to the purposes of this Subsection.
- e. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above the purpose of this Subsection, the City Council shall attach conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Subsection. Such conditions may include, but are not limited to, the following:
- i. Modification of waste treatment and water supply facilities.
  - ii. Limitation on period of use, occupancy, and operation.
  - iii. Imposition of operational controls, sureties, and deed restrictions.

- iv. Requirements for construction of channel modifications, compensatory storage, dikes, levees or other protective measures.
  - v. Flood proofing measures, in accordance with the State Building code and this Subsection. The applicant shall submit a plan or document certified by a registered engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.
5. Interim Use Permits. The process and procedures for interim use permits shall be the same as that for conditional use permits.

**K. Nonconforming Uses.** A structure, or the use of a structure or premises, that was lawful before the passage or amendment of this Subsection, but which it not in conformity with the provisions of this Subsection, may be continued subject to the following conditions. Historic structures, as defined in the Ordinance, shall be subject to the provisions of this Section.

1. No such use shall be expanded, enlarged or altered in a way that increases the nonconformity.
2. Any structural alteration or addition to a nonconforming structure or nonconforming use that would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e. FP-1 thru FP-4 flood proofing classification) allowable in the Minnesota Building Code, except as further restricted in subparts 3 and 4 below.
3. The cost of any structural alteration or additions to any nonconforming structure over the life of this structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this Subsection are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Township'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 manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Subsections 11.D and 11.E of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
4. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Subsection. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months, if such information is available.

5. If any nonconforming use or structure is destroyed by any means, or substantially damaged as defined in this Subsection, it shall not be reconstructed except in conformity with the provisions of this Subsection. The applicable provisions for establishing new uses or new structures in Subsection 11.D, Subsection 11.E or Subsection 11.F of this Ordinance will apply depending upon whether the use or structure is in the Floodway District, Flood Fringe District, or General Flood Plain District respectively.
6. If a substantial improvement, as defined in this Ordinance, occurs, from any combination of a building addition to the outside dimensions of an existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the nonconforming building must meet the requirement of Subsection 11.E and 11.F of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe Districts, respectively.

**L. Penalties for Violation.**

1. Violation of the provisions of this Subsection or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances, conditional use or interim use permits) shall constitute a misdemeanor and shall be punishable as defined by law.
2. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:
  - a. In responding to a suspected ordinance violation, the Zoning Administrator, under the direction of the City Council, may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fine, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community will act in good faith to enforce those official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - b. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of this Subsection. As soon as it is reasonably possible, this information shall be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office, along with the Planning Commission's plan of action to correct the violation to the degree possible.

- c. The Zoning Administrator shall notify the suspected party of the requirements of this Subsection and all other official controls and the nature and extent of the suspected violations of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the City Council. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit and/or development approval within a specified period of time not to exceed thirty (30) days.
- d. If the responsible party does not appropriately respond to the Zoning Administrator within a specified period of time, each additional day that lapses shall constitute an additional violation of this Subsection and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition that existing prior to the violation of this Subsection.

**M. Amendments.** The flood plain designation on the official zoning map shall not be removed from the flood plain unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the Regulatory Flood Protection Elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Subsection, including amendments to the official zoning map that relate to the flood plain districts, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the official zoning map that relate to the flood plain districts 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 (10) days written notice of all hearings to consider an amendment to this Subsection and said notice shall include a draft of the amendment or technical study under consideration.

**SUBSECTION 12. “WS” WILD AND SCENIC RIVER DISTRICT**

- A. **Purpose and Intent.** The purpose of the Cannon River Wild and Scenic River District is:
  - 1. Conserve and protect the natural scenic values and resources of the Cannon River and to maintain a high standard of environmental quality;

2. Regulate the area of a lot and the length of bluff land and water frontage suitable for building sites to reduce the effects of overcrowding and provide ample space on lots for sanitary facilities;
3. Regulate the setbacks of structures and sewage treatment systems from bluff lines and shorelines;
4. Regulate alterations of then natural vegetation and topography;
5. Maintain property values and prevent poorly planned development;
6. Preserve natural beauty and quietude.
7. Prevent pollution;
8. Designate land use districts along the bluff land and shoreline of the Cannon River; and
9. Protect and preserve the Cannon River, its tributaries and its adjacent land that possesses scenic values of the Cannon River by ensuring development within this river corridor is consistent with the Wild, Scenic and Recreational Statewide Standards (Minn. Rules, Parts 6105.0010 - .0250. ; Minn. Rules parts 6105.1550 -- .1700) and the Scenic Rivers Act (Minn. Stat., 103F.301 – 345.)

**B. General Provisions.**

1. Jurisdiction. The jurisdiction of this Subsection shall include all lands designated within the Cannon River land use district in the ARD based on upon the Cannon River Management Plan, Minnesota Rules, Part 6105.1680 and are delineated on the official zoning map of the ARD.
2. Compliance. The use of any land within the Cannon River Wild and Scenic River District overlay district; the size and shape of lots; the use and location of structures on lots; the installation and maintenance of water supply and sewage treatment systems; the filling, grading, dredging of any river area; the cutting of vegetation or alteration of the natural topography within the district; and the subdivision of land shall be in full compliance with the terms of this Subsection and other applicable regulations. Permits from the Zoning Administrator are required by this section and this Subsection for the construction of structures, public or private water supply and sewage treatment systems, the upgrading and filing of the natural topography and erection of signs within the Cannon River Wild and Scenic River Overlay land use district.

**C. Rules.**

1. It is not intended by this Subsection to repeal, abrogate or impair any existing easement, covenants, deed restrictions, or land use controls. Where this Subsection imposes greater restrictions, the provisions of this Subsection shall prevail. In case of conflict between a provision of the Minnesota Wild, Scenic and Recreational River Statutes and statewide standards and criteria and some other law of this state or provisions of existing ordinances, the more protective provision shall apply.
2. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, and shall not be deemed a limitation or repeal of any powers or rights granted by Minnesota statutes.
3. The provisions of this Subsection shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part. If any court of competent jurisdiction shall adjudge invalid any provision of this Subsection or the application of this Subsection to a particular property, building, or other structure, such judgment shall not affect any other provision of this Subsection or any other property, building or structure not specifically included in said judgment.
4. The word “shall” is mandatory, not permissive. All distance, unless otherwise specified, shall be measured horizontally.
5. Definitions. For the purposes of this Subsection, words and terms are as defined in Subsection 3 of this Ordinance.

**D. Overlay Land Use District Provisions.**

1. Districts.
  - a. In order to preserve and protect the Cannon River and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific and similar values, the Cannon River in Bridgewater Township has been given a Wild and Scenic Rivers Classification and the uses and classification the river and its adjacent lands are hereby designated by overlaid land use zoning districts, the boundaries of which are based on the Cannon River Management Plan and Minnesota Rules, Part 6105.1680.
  - b. The boundaries of the Cannon River Wild and Scenic Overlay District are shown on the official zoning map of the ARD, which is made a part of this Ordinance and is on file with the Zoning Administrator. In case of conflict between the map and the property descriptions in the Cannon River rule, the more restrictive shall prevail.

- c. If land is annexed, incorporated, or in any other way transferred to another jurisdiction, a moratorium shall exist on all construction, grading and filling, and vegetative cutting until this Subsection is amended. The amended Subsection shall meet the provisions of the plan that applied to the land before the transfer.
  
- 2. Purpose. The purpose of establishing standards and criteria for the management of the Cannon River Wild and Scenic River overlay district shall be to preserve and protect existing and natural, scenic, historical, scientific, and recreational values, to reduce the effect of overcrowding and poorly planned development of adjacent lands, to prevent pollution, to preserve natural beauty and quietude, to maintain proper relationships between various land use types, and to prohibit new uses that are inconsistent with the statewide standards and criteria for Wild and Scenic Rivers, Minnesota Rules, parts 6105.0010 -- .0250.
  
- 3. Permitted, Conditional and Interim Uses.
  - a. Permitted, conditional and interim uses are as specified in the table in Subsection 6 of this Ordinance. All other uses shall be considered prohibited except for the following governmental and public activities:
    - i. Governmental campgrounds subject to management plan specifications.
    - ii. Other governmental open space recreational uses subject to management plan specifications.
    - iii. Government resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; and accessory roads.
    - iv. Public access and trail access subject to management plan specifications.
    - v. Public access, road access with boat launching facilities subject to management plan specifications.
  
  - b. Permitted and conditional or interim uses may be combined on a single parcel, provided that each use meets the general, density, specific and performance standards of this Ordinance and any other applicable provisions of this Ordinance.
  
- 4. Nonconforming Uses. Uses that are prohibited but which are in existence prior to adoption of this Subsection shall be nonconforming uses. Such uses shall not be intensified, enlarged, or expanded beyond the permitted or delineated boundaries of the use or activity as stipulated in the most current permit prior to the adoption of this Ordinance.

**E. Zoning Dimensions.**

1. Minimum District Dimensional Requirements. The following chart sets forth the minimum lot size and width, setbacks, and other requirements in the Cannon River Wild and Scenic River Overlay District:

<b>Standard</b>	<b>Minimum Requirements</b>
Lot size and density * There shall be no more than one (1) dwelling unit per lot.	minimum lot size is <b>2.5 acres</b>
Lot width at building line	250 feet
Lot width at ordinary high water level	250 feet
Building setback from ordinary high water level	100 feet
Building setback from top of bluff	30 feet
On-site sewage treatment system setback from ordinary high water level	75 feet
Maximum structure height	35 feet
Controlled vegetative cutting area: Setback from ordinary high water level Setback from top of bluff	100 feet  30 feet

2. Structures shall not be located on slopes greater than twelve percent (12%) unless such structures are screened from the river view with natural vegetation where practicable, the sanitary provisions of this Ordinance are complied with, and the building permit application can prove to the Zoning Administrator that any potential erosion or sedimentation problems related to locating a structure either do not exist or that adequate measures will be taken to prevent any of these problems through special construction methods.
3. No structures shall be placed in any floodway. Structures proposed within a flood plain shall be consistent with statewide standards and criteria for the Management of Flood Plain Areas of Minnesota (Minnesota Rules, Parts 6105.500 -- .6200) and Subsection 11 of this Ordinance.

**F. Substandard Lots.**

1. Lots of record in the office of the Rice County Recorder on the effective day of enactment of this Ordinance that do not meet the dimensional requirements of this Subsection shall be allowed as building sites, provided: the proposed use is permitted in the land use district; the lot was in separate ownership on the date of enactment of this Subsection; all sanitary requirements are complied with; and dimensional provisions are complied with to the greatest extent possible.
2. If, in a group of two or more contiguous lots under a single ownership and any individual lot does not meet the minimum lot width requirements of this Subsection, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land, each meeting the lot width requirements of this Subsection.

**G. Substandard Uses.** All uses in existence prior to the effective date of enactment or amendment of this Ordinance that are permitted uses within the Cannon River land uses district, but do not meet the minimum lot area, setbacks, or other dimensional requirements of this Subsection are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:

1. Any structural alteration or addition to a substandard use that will increase the substandard dimension shall not be allowed.

**H. Sanitary Provisions.**

1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency and local administrative procedures. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

**I. Sewage Treatment.**

1. Sewage Treatment. Any premises intended for human occupancy must be provided with an adequate method of sewage treatment. Publicly-owned sewer systems must be used where available. Where public systems are not available, all private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, the Minnesota Pollution Control Agency, specifically Minnesota Rules Chapter 7080 for individual sewage treatment systems, the standards of this Subsection, and any other applicable standards of this Ordinance.
2. Nonconforming Sewage Treatment Systems. A nonconforming sewage treatment system not meeting the requirements of this Subsection must be upgraded, at a

minimum, whenever a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level. All nonconforming sewage treatment systems shall be brought into conformity or discontinued within five years of the date of enactment of this Ordinance.

## **I. Landscape Alterations.**

### **1. Vegetative Cutting.**

- a. The vegetative cutting provisions in this Section shall apply to those areas specified in Subsection 11.D.1.
- b. The following general provisions apply within designated setback areas:
  - i. Clear cutting, except for any authorized public services such as roads and utilities, shall not be permitted.
  - ii. Selective cutting of trees in excess of four (4) inches in diameter at four (4) feet in height is permitted provided cutting is spaced in several cutting operations, a continuous tree cover is maintained, and is uninterrupted by large openings.

### **2. Clear Cutting. Clear cutting anywhere in the designated Cannon River Wild and Scenic overlay district is subject to the following standards and criteria:**

- a. Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are determined by the Zoning Administrator to be fragile and subject to severe erosion and/or sedimentation.
- b. Clear cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.
- c. The size of clear-cut blocks, patches or strips shall be kept at the minimum necessary.
- d. Where feasible, all clear cuts shall be conducted between September 1 and May 1. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring, or the following spring.

## **J. Grading, Filling, Alterations of the Beds of Public Waters.**

1. Grading and filling of the natural topography that is not accessory to a permitted, conditional or interim use shall not be permitted in the land use districts.
2. Grading and filling of the natural topography that is accessory to a permitted, conditional or interim use shall not be conducted without a grading and filling permit from the Zoning Administrator. A grading and filling permit may be issued only if the following conditions are properly satisfied:
  - a. Grading and filing shall be performed in a manner that minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities.
  - b. The smallest amount of bare ground is exposed for as short a time as possible.
  - c. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
  - d. Methods to prevent erosion and trap sediment are employed.
  - e. Fill is stabilized to accepted engineering standards.
3. Excavation of material from, or filling in a Wild and Scenic River, or construction of any permanent structures or navigational obstructions therein is prohibited unless authorized by a permit from the Commissioner pursuant to Minn. Stat. 103G.245 which requires a permit from the Commissioner before any change is made in the course, current, or cross-section of public waters.
4. Drainage or filling of wetlands is not allowed within the land use districts designated by this Ordinance.

**K. Utility Transmission Crossings.**

1. All utility crossings of the Cannon River or state lands within the Cannon River land use district require a license from the Commissioner pursuant to Minn. Stat. § 84.415.
2. All utility transmission crossings constructed within the Cannon River land use district shall require a conditional use permit. The construction of such transmission services shall be subject to Minnesota Rules, Parts 6105.0170 and 6105.0180. No conditional use permit shall be required for high voltage lines under control of the Environmental Quality Board (EQB) pursuant to Minn. Stat. §116C.61.

**L. Public Roads.**

1. In addition to such permits as may be required by Minn. Stat. § 103G.245, a conditional use permit shall be required for any construction or reconstruction of public roads within the Cannon River land use district. Such construction or reconstruction shall be subject to Minnesota Rules, Part 6105.0190 and 6105.0200.
2. Public roads include township, county, and municipal roads, streets and highways that serve or are designated to serve flows of traffic between communities or other traffic generating areas. A conditional use permit is not required for minor public streets that are intended to serve primarily as an access to abutting properties.

**M. Bridges.** The development of bridges cited in Minnesota Rules, Part 6105.1450, Subp. 5, shall comply with the construction and permit requirements of Minnesota Rules, Parts 6105.0190 and 6105.0200. The reconstruction, replacement, or upgrading of existing bridge crossings shall comply with Minnesota Rules, Parts 6105.0190 and 6105.0200.

**N. Subdivisions.**

1. Land Suitability.
  - a. No land shall be subdivided that is determined by the Zoning Administrator or the Commissioner, to be unsuitable because of flooding, inadequate drainage, unique natural features, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or the community.
  - b. No plat or subdivision within the Cannon River district shall be approved by the Planning Commission until the applicant has proven, through percolation rate tests, soil boring tests, and other requirements of Minnesota Rules, Chapter 7080, that every newly platted lot found within the land use district has adequate area and a suitable location for the installation of a conforming septic tank and soil absorption system.
  - c. The provisions otherwise set forth in this Subsection and in Subsection 13 of this Ordinance shall apply to all plats.

**O. Administration.**

1. Certification Procedure.
  - a. A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider ordinances, zoning amendments, variances, or inconsistent plats under this Subsection shall be sent so as to be received by the Commissioner at least thirty (30) days

prior to such hearings or meetings to consider such requests. The notice or application shall include a copy of the proposed amendment, or a copy of the proposed inconsistent plat, or a description of the requested variances.

- b. The City Council shall notify the Commissioner of its final decision on the proposed action within ten (10) days of the decision.
- c. The Commissioner shall, no later than thirty (30) days from the time he receives notice of the final decision, communicate either certification of approval, with or without conditions, or notice of denial.
- d. The action becomes effective when and only when either:
  - i. The final decision taken by the City Council has previously received certification of approval from the Commissioner; or
  - ii. The City Council receives certification of approval after its final decision; or
  - iii. Thirty (30) days have elapsed from the day the Commissioner received notice of the final decision, and the City Council has received from the Commissioner neither certification of approval nor notice of denial; or
  - iv. The Commissioner certifies his approval after conducting a public hearing.
- e. In case the Commissioner gives notice of denial of an ordinance, amendment, variance or inconsistent plat, either the applicant or the Mayor, within thirty (30) days of said notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within thirty (30) days, the notice of denial becomes final.
  - i. The hearing will be held in an appropriate local community within sixty (60) days of the demand and at least two (2) weeks published notice.
  - ii. The hearing will be conducted in accordance with Minn. Stat. § 103G.311, Subdivisions 2, 6 and 7.
  - iii. The Commissioner shall either certify his approval or deny the proposed action within thirty (30) days of the hearing.

**P. Amendments.**

- 1. Requests for amendments of this section may be initiated by a petition of affected property owners or by action of the Planning Commission. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study. Amendments to this section shall be processed as outlined in Subsection 4.E of this Ordinance.

2. An application for an amendment shall be filed with the Zoning Administrator.
3. Upon receipt in proper form of the application and other requested materials, a public hearing shall be conducted in the manner prescribed by Minnesota Statutes. Following the public hearing and recommendation by the Planning Commission, the Dundas City Council may adopt the amendment in the manner prescribed by Minnesota Statutes and as outlined in Subsection 4.E of this Ordinance.
4. Certification from the Commissioner must be obtained as specified in subpart 3 above before the proposed amendment becomes effective.

**Q. Variances.**

1. The grant of a variance in the Cannon River Wild and Scenic overlay district requires the presence of the following conditions:
  - a. The strict enforcement of the land use controls will result in unnecessary hardship.
  - b. Granting of the variance is not contrary to the purpose and intent of this Subsection and is consistent with this Ordinance.
  - c. There are exceptional circumstances unique to the subject property that were not created by the landowner.
  - d. Granting of the variance will not allow any use which is neither permitted or permitted with a conditional or interim use permit in the land use district in which the subject property is located.
  - e. Granting of the variance will not alter the essential character of the locality.
  - f. Exceptions for lots that do not meeting the minimum lot width requirements of this Subsection. Where a setback pattern from the ordinary high water level has already been established on both sides of a proposed building site, the setback of the proposed structure may be allowed to conform to that pattern. This provision shall apply only to lots that do not meet the minimum lot width requirements of this Subsection.
2. All granted variances to the requirement of this Subsection must be certified in accordance with this Ordinance before they become effective.

**R. Plats.**

1. Copies of all plats within the Cannon River land use district shall be forwarded to the Commissioner within ten (10) days of approval by the City Council.

2. Approval of a plat that is inconsistent with this Subsection is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.
3. All inconsistent plats approved by the City Council must be certified in accordance with this Subsection.

**S. Conditional Use Permit Application Review by DNR.**

1. A copy of all notices of any public hearing, or where a public hearing is not required, a copy of the application to consider issuance of a conditional use permit shall be sent so as to be received by the Commissioner at least thirty (30) days prior to such a hearing or meeting to consider issuance of a conditional use permit. A copy of the decision shall be forwarded to the Commissioner within ten (10) days of such action.
2. Any conditional use permit for governmental campgrounds, private campgrounds, public accesses with boat launching facilities, public accesses with trail access, governmental open space recreational uses and private open space recreational uses require approval by the Commissioner.

**T. Procedures Summary.**

1. The following table summarizes permit, review, and certification procedures within the Cannon River land use district designated by this Subsection:

Types of Activities	Procedures
Building Permits	LP
Sign Construction Permits	LP
Water Supply Permits	LP
Sewage System Permits	LP
Grading, Filing Permits	LP
Conditional Use Permits	PH – FD
Amendments to Ordinance	PH – FD – CC
Variances	PH – FD – CC
Inconsistent Plats	PH – FD – CC
Planned Cluster Developments	PH – PA – FD – CC
Plats	FD

LP – Permit issued by Building Official or Zoning Administrator in accordance with this Subsection and the ARD Ordinance.

PH – Copy of public hearing notice or application sent so as to be received by the Commissioner at least thirty (30) days prior to the hearing or meeting.

CC – Action becomes effective only when the Commissioner certifies its compliance with the Act, statewide standards and criteria, and the Cannon River rules.

FD – A copy of the final determination is forwarded to the Commissioner.

PA – Preliminary plans approved by the Commissioner prior to their enactment.

**U. Enforcement.**

1. It is declared unlawful for any person to violate any of the terms and provisions of this Subsection. Violation thereof shall be a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.
2. In the event of a violation or a threatened violation of this Subsection, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, or abate such violations or threatened violations.

**SUBSECTION 13. SUBDIVISION REGULATIONS**

**A. Lot Splits.**

1. The Zoning Administrator may administratively approve applications for lot splits that do not require a variance. An application form, along with three (3) copies of a site sketch and the appropriate fee, as determined by this Ordinance, must be submitted to the Zoning Administrator. In addition, if deemed necessary to determine compliance with the standards of this Ordinance, the Zoning Administrator may request a map or sketch, drawn to scale, or a survey, showing the following:
  - a. Name and address, including telephone number, of the legal owner and/or agent of the property.
  - b. All contiguous property and all roads and their legal names.
  - c. Proposed new property lines with the dimensions noted.
  - d. Proposed driveway locations and the location of existing driveways on the same side of the road.
  - e. Location of any existing and proposed legal rights-of-way or public and private easements encumbering the property.
  - f. Proposed legal description of the parcel(s) to be subdivided.

- g. Location, purpose, and dimensions of all buildings. Location shall note the distance of those buildings closest to property lines from the existing and proposed lines.
  - h. Location of any existing tile lines, abandoned wells, drainage ways, waterways, watercourses, lakes, wetlands, and the top and toe of any bluffs present. When applicable, the ordinary high water level and the 100-year flood elevation shall be shown.
  - i. Location of a primary and alternate site for individual septic treatment systems with a copy of percolation tests and soil borings.
  - j. Location of all existing and proposed public or private easements.
2. The Zoning Administrator may require such revisions as are necessary to meet code requirements.
  3. The Zoning Administrator shall make a decision to approve or disapprove a requested lot split within ten (10) working days of submission of a completed application. The Zoning Administrator shall provide written notice of any such decision to the owner or subdivider.
  4. Any decision of the Zoning Administrator, unless appealed, shall be the final decision.
  5. Any decision of the Zoning Administrator regarding lot splits may be appealed to the Planning Commission following transmission of a written notice of appeal that specifies the subject and grounds therefore. Such notice must be received by the Zoning Administrator within ten (10) days following the issuance of the order, requirement, decision or determination that is the subject of the appeal. The Zoning Administrator will forward the appeal to the Planning Commission.
  6. Upon appeal, the Planning Commission will take action to recommend approval or denial of the lot split request request to the City Council. The City Council will take final action on the request. The Zoning Administrator shall notify the owner and subdivider in writing of the City Council's decision.

**B. Driveways.**

1. A driveway permit must be approved by the Building Official prior to construction.
2. In essence, a driveway cannot interrupt the natural or ditch line flow of drainage water. In some cases where shallow ditch lines or natural drainage courses exist, driveways may be swaled at a point beyond the road shoulder to accommodate the flow of storm water. In all other cases, driveways must have sufficiently sized

culverts installed and maintained by the homeowner or subdivider. Stabilization of the driveway in-slope must be provided as part of the final grade.

3. Final driveway acceptance shall rest with the Building Official. Any decision of the Building Official regarding driveway permits may be appealed to the Planning Commission following transmission of a written notice of appeal, which specifies the subject and grounds therefore. Such notice must be received by the Zoning Administrator within ten (10) days following the issuance of an order, requirement, decision or determination that is the subject of the appeal. The Zoning Administrator will forward the appeal to the Planning Commission.
4. Upon appeal, the Planning Commission will take action to approve or deny driveway permit appeal requests. The Zoning Administrator shall notify the owner and subdivider in writing of the Planning Commission's decision.
5. In no case shall the culvert pipe under a driveway be less than eighteen inches (18") in diameter, with aprons.
6. The cost of culverts shall be borne by the homeowner or subdivider.
7. Driveways shall intersect the roadway at a preferred angle of ninety (90) degrees but in no case shall the intersection angle be less than sixty (60) degrees.
8. An all season safe distance of two hundred feet (200') in each direction must be present for a building permit to be issued.
9. No driveway shall be constructed within fifty feet (50') of an intersecting street. One hundred feet (100') is preferable.
10. The maximum allowable driveway width shall be twenty feet (20'), not counting the flares. The desirable width shall be twelve to fifteen feet (12' – 15') and the minimum width shall be ten feet (10').

**EXHIBIT A**  
(attach Future Land Use Map)