

## CHAPTER IX:

### AN ORDINANCE REGULATING THE USE OF LAND, THE LOCATION AND USE OF BUILDINGS AND MANUFACTURED HOME, THE ARRANGEMENT OF BUILDINGS AND MANUFACTURED HOMES, THE ARRANGEMENT OF BUILDINGS AND MANUFACTURED HOMES ON LOTS AND THE DENSITY OF POPULATION IN THE CITY OF HENDERSON MINNESOTA.

#### PART I: PURPOSE OF DEFINITIONS.

901.01. PURPOSES: The purposes of this Ordinance are to promote the health, safety, order, convenience and general welfare of the City of Henderson and to aid in carrying out the comprehensive plan for the community.

#### 901.02. DEFINITIONS AS USED IN THIS ORDINANCE:

1. ACCESSORY USE OR STRUCTURE: Means a subordinate use or structure on the same lot with and of a nature customarily incidental and subordinate to, the principal use or structure.
2. APARTMENT: Means a room or suite of rooms which is designed for, intended for, or occupied by one family and equipped with cooking facilities.
3. BLOCK: Means that property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or unplatted acreage.
4. BOARDING AND LODGING HOUSES: Means a building or a portion thereof where lodging is offered for compensation in one or more sleeping rooms. This specifically includes "Bed and Breakfast" establishments.
5. BUILDING, MAIN: Means a building in which is conducted the principal use of the lot upon which it is situated.
6. COURT: Means an open, unoccupied space bound on two or more sides by the exterior walls of a building or buildings on the same lot.
7. DWELLING: Means a building used exclusively for occupancy by one family.
8. DWELLING, ONE-FAMILY: Means a building used exclusively for occupancy by one family.
9. DWELLING, TWO-FAMILY: Means a building used exclusively for occupancy by two families living independently of each other.
10. DWELLING, MULTIPLE: Means a building or portion thereof used for occupancy by three or more families living independently of each other.
11. DWELLING UNIT: Means a dwelling or portion of a dwelling or of an apartment hotel used by one family for cooking, living and sleeping.
12. FAMILY: Means one or more persons occupying a premises and living as a single, nonprofit housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family includes necessary servants.
13. GARAGE, PRIVATE: Means an accessory building for the storage of self-propelled vehicles only.
14. GARAGE, PUBLIC: Means any premises, except those herein defined as a private garage, used for the storage or care of self-propelled vehicles or where any such vehicles are equipped for operation or repair, or kept for remuneration, hire or sale.
15. HEIGHT OF BUILDING: Means the vertical distance from the average level of the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.
16. HOME OCCUPATION: Means any use customarily conducted entirely within a dwelling by the occupants only, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Clinics, hospital, barber shops, beauty parlors, and animal hospitals are not home occupations.

17. HOTEL: Means any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment
18. JUNK YARD: Means land or building used for the storage or keeping of junk, including scrap metals, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery, other than the storage of materials which is incidental or accessory to any business or industrial use on the same lot.
19. LOT: Means land occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance, having not less than the minimum are required by this ordinance for a building frontage on a street.
20. LOT, CORNER: Means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
21. LOT, INTERIOR: Means a lot other than a corner lot.
22. LOT, KEY: Means the first lot to the rear of a corner lot, the front line of which is continuation of the side line of the corner lot, exclusive of the width of any alley, and fronting on the street on which the corner lot fronts.
23. MANUFACTURED HOME: Means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 230 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.
24. MANUFACTURED HOME PARK: Means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent vehicle and enclosure used or intended for use as part of the equipment of the manufactured home park. The park must be owned by a person, firm or corporation and duly licensed by the State of Minnesota Department of Health in accordance with state law.
25. NON-CONFORMING USE: Means a use lawfully in existence on the effective date of this ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is not non-conforming if it would be authorized under special use permit where located.
26. RECREATIONAL CAMPING VEHICLE: The words "recreational camping vehicle" shall mean any of the following:
  - A. TRAVEL TRAILER: Means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified as a "travel trailer" by the manufacturer.
  - B. PICK-UP COACH: Means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
  - C. MOTOR-HOME: Means a portable temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
  - D. CAMPING TRAILER: Means a folding structure, mounted on wheel and designed for travel, recreation, and vacation use.
27. RECREATIONAL CAMPING AREA: Means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for trailers, pick-up coaches, motor homes, or camping trailers and whether use of such accommodation is granted free of charge or for compensation. Provided, that nothing in this definition shall be construed to include children's camps, industrial camps, migrant labor camps, as defined in Minnesota statutes and State Board of Health regulations and also shall not include United States Forest Service Camps, state forest service camps, state wildlife management areas of state-owned private access areas which are restricted to use to picnicking the boat landing.
28. STORY: Means that portion of a building included between the surface of any floor and the surface of the next floor and the ceiling next above it.

29. STORY, HALF: Means that portion of a building under a gable, hip gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.
30. STRUCTURE: Means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
31. STRUCTURAL ALTERATIONS: Means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.
32. SWIMMING POOL: Means any permanent or semi-permanent structure built either into the ground or on its surface for the purpose of containing a large amount of water to be used for recreational wading or swimming. It does not mean a collapsible wading pool intended for use by small children.
33. USE: The purpose for which land or premises or a building thereon is designed, arranged or intended for or which it is or may be occupied or maintained.
34. USE, ACCESSORY: Means a use incidental and accessory to the principal use of a lot or a building located on the same lot as the necessary use.
35. YARD: Means an open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as otherwise provided in part VIII of this ordinance. In measuring a yard, the line of a building means a line parallel to the nearest lot line drawn through the point of a building or the point of a dwelling group nearest to such lot line, exclusive of the respective architectural features enumerated in part VIII of this ordinance as not to be considered in measuring yard dimensions or as being permitted to extend into any front, side or rear yard, respectively: and the measurement shall be taken from the line of the building to the nearest lot line.
36. YARD, FRONT: Means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest line of the building.
37. YARD, REAR: Means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.
38. YARD, SIDE: Means a yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

#### 901.03. ESTABLISHMENT OF DISTRICTS, JURISDICTION, ANNEXED LAND AND OFFICIAL MAP:

Subd. 1. REGULATIONS: The regulations herein governing the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of building and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shore lands, access to direct sunlight for solar energy systems, flood control or other purposes shall apply within the corporate limits of the City of Henderson and within the zoning jurisdiction as established by MS 462.351.

Subd. 2. ANNEXED LAND: Any land annexed to the city in the future shall be classified as to its district by the Planning Commission within 30 days of annexation.

Subd. 3. ZONING MAP: The attached zoning map entitled "Official Zoning Map," together with all material attached thereto is hereby adopted by reference and declared to be a part of this ordinance, replacing the former official zoning map. The official zoning map shall be on file in the office of the zoning administrator and county auditor.

- A. Lots 1-2, Block 104, currently zoned Residential District II (R-2) be rezoned to Commercial District II (C-2).

901.04. PROHIBITIONS IN DISTRICTS. Except as provided in Section 903.03 of this ordinance each district's land and structures shall be used only for purposes listed by this ordinance as permitted in the district. In each district every building hereafter erected or structurally altered shall be provided with the

yards specified, shall be on a lot of the area and width specified, and shall not exceed the height specified in this ordinance for the district. No open space or lot required for a building shall during existence be occupied by or counted as open space for another building. The design, construction, and materials used hereafter in each district must not be so inconsistent with the surrounding buildings and areas as to devalue property or constitute blight.

901.05. HERITAGE PRESERVATION SITES: Heritage Preservation Sites may be designated and protected by the City pursuant to the procedures set out in Sections 140 1:15 through 1401:45 and the procedures and authority outlined therein are incorporated into this zoning code by reference. Nothing in this subdivision shall, however, be construed to alter the procedure or authority provided in Sections 1601.15 through 1601:45 or to otherwise modify the jurisdiction of the Heritage Preservation Commission over such issues.

## PART II. REGULATIONS

902.01 REGULATIONS FOR RESIDENTIAL DISTRICT I: Subdivision 1. PERMITTED USE: In R-1, unless otherwise provided in this ordinance, no building or land shall be used and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

- A. One or two family dwellings and their accessory buildings, apartments, flats, and manufactured homes.
- B. Plant nurseries or greenhouses; farms or truck gardens, but no retail stand for the display or sale of agricultural products or any other commercial structure shall be located thereon without a conditional use permit.
- C. Public parks and playgrounds; golf courses or clubs.
- D. Churches, libraries, museums, schools, memorial buildings, including name plates and bulletin boards placed in back of the prescribed set back lines.
- E. Boarding and lodging houses.
- F. The following uses - but only upon securing of a conditional use permit as provided in

902.03.

1. Hospitals, clinics, and other buildings used for the treatment of human ailments.
2. Automobile courts.
3. Philanthropic and charitable institutions.
4. Home which are transportable structures and designed to be used as a dwelling but do not meet the standards of a manufactured home in some way.
5. Manufactured home parks.
6. Hotels, when located within 500 feet of the central business districts: or when located on a lot facing a public park, playground, school ground or other public institution: college, church or other semi-public institution; but no business shall be conducted therein unless it is incidental and only for guests and can be entered only from the inside of the building.

Subd. 2. HEIGHT REGULATIONS: No building in the R-1 district shall hereafter be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height.

Subd. 3. BUILDING SITE REGULATIONS: In the R-1, every building designed for the housing of one or two families, together with its accessory buildings, shall be located on a building site in one ownership having an area of not less that 7,000 square feet. Every building designed for more that two families shall be located on a building site in one ownership having not less that 3,500 square feet per

family; except that the following parcels may be used as building sites for dwellings if all other regulations for the district required by this ordinance are complied with:

A. Any parcel under one ownership at the time of adoption of this ordinance when the owner hereof owns no adjoining land.

Subd. 4. FRONT YARD REQUIREMENTS: Each lot in the R-1 district shall have a front yard of not less than 25 feet.

Subd. 5. SIDE YARD REQUIREMENTS: Each lot in the R-1 district shall have two side yards, one on each side of the building, for every dwelling hereafter erected or structurally altered which does not exceed one and a half stories, each side yard shall have a width of not less than five feet. For every such dwelling that has two stories, each side yard shall have a width of not less than eight feet. For every dwelling of two and half stories each side yard shall have a width of at least ten feet. The foregoing requirements for side yards shall be subject to the following modifications:

A. The width of each side yard may be reduced to ten percent of the width of any side yard but not less than four feet:

1. Any parcel of an average width of less than 40 feet which parcel was under one ownership at the time of the adoption of this ordinance when the owner owns no adjoining land.
2. Any parcel that includes not less than one entire lot as shown on any subdivision plat recorded in the office of the Register of Deeds, Sibley County, before adoption of this ordinance.

B. On a corner lot adjacent to a key lot the side yard on the street side of such corner lot shall have width in addition to the here in before specified so that the total width of such side yard shall be equal to not less than 500 percent of the front yard depth required for the lots to the rear of such corner lot, to a maximum width required of 12 feet for such side yards; but this regulation shall not be so applied as to reduce the build-able width after providing the required interior side yard of any such corner lot to less than 20 feet.

C. In case a dwelling is located on a lot that its front or rear faces any side lot line, the dwelling shall be not less than 25 feet from the lot line.

D. A church, library, museum, school, or memorial building shall have a side yard of 25 feet on each side adjoining a dwelling or vacant lot.

Subd. 6. REAR YARD REQUIREMENTS: Each lot in the R-1 district shall have a rear yard of a depth equal to 20 per cent of the depth of the lot to a maximum required depth of 25 feet for such yard (15' used if no alley/right of way access).

902.02. REGULATIONS FOR RESIDENTIAL DISTRICT II: Subdivision 1. PERMITTED USE: In residential district II, unless otherwise provided in this ordinance, no building or land shall be used and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

A. One or two-family dwellings and their accessory buildings.

B. One family manufactured homes built in conformance with sections 327.31 to 327.35 of the Minnesota Statutes, providing the following design standards are met to assure a favorable comparison with site-built housing and to uphold public health and safety:

1. Roofs must have at least a 3/12 pitch and be covered with shingles or tile and have eaves of not less than six (6) inches.

C. Plant nurseries or greenhouses: farms or truck gardens, but no retail stand for the display or sale of agricultural products or any commercial structure shall be located thereon without a conditional use.

D. Public parks and playgrounds: golf courses or clubs.

E. Churches, libraries, museums, schools, memorial buildings, including name plates and bulletin boards placed in back of the prescribed set back lines.

F. Boarding and Lodging houses.

G. The following uses - but only up on securing of a conditional use permit as provided in

903.03.

1. Hospitals, clinics, and other buildings used for the treatment of human ailments.
2. Automobile Courts.
3. Philanthropic and charitable institutions.
4. Homes which are transportable structures and designed to be used a dwelling but do not meet the standards of a manufactured home in some way.
5. Manufactured home parks.
6. Hotels, when located within 500 feet of the central business districts; or when located on a lot facing on public park, playground, school ground or other public institution; college, church or other semi-public institution; but no business shall be conducted therein unless it is incidental and only for guests and can be entered only from the inside of the building.
7. Apartment buildings and flats.

Subd. 2. HEIGHT REGULATIONS: No building in the R-2 district shall hereafter be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height.

Subd. 3. BUILDING SITE REGULATIONS: In the R-2 district, every building designed for the housing of one or two families, together with its accessory buildings, shall be located on a building site in one ownership having an area of not less hat 7,000 square feet. Every building designed for more than two families shall be located on a building site in one ownership having not less than 3,500 square feet per family; except that the following parcels may be used required by this ordinance are compiled with:

A. Any parcel under one ownership at the time of adoption of this ordinance when the owner thereof owns no adjoining land.

Subd. 4. FRONT YARD REQUIREMENTS: Each lot in the R-2 district shall have a front yard not less than 25 feet.

Subd. 5. SIDE YARD REQUIREMENTS: Each lot in the R-2 district shall have two side yards, one on each side of the building. For every dwelling hereafter erected or structurally altered which does not exceed one and a half stories, each side yard shall have a width of not less that five feet. For every such dwelling which has two stories, each side yard shall have a width of not less than eight feet. For every dwelling of two and half stories each side yard shall have a width of at least ten feet. The foregoing requirements for side yards shall be subject to the following modifications:

A. The width of each side yard may be reduced to ten percent of the width of any side yard be less that four feet.

1. Any parcel of an average width of less than 40 feet which parcel was under one ownership at the time of the adoption of his ordinance when the owner no adjoining land.

2. Any parcel that includes not less than one entire lot as shown on any subdivision plat recorded in the office of the Register of Deeds, Sibley County, before the adoption of this ordinance.

B. On a corner lot adjacent to a key lot the side yard on the street side of such corner lot shall have a width in addition to that here in before specified so that the total width of such side yard shall be equal to not less that 500 percent of the front yard depth required for the lots to the rear of such corner lot, to a maximum width required of 12 feet for such side yards; but this regulation shall not be so applied as

to reduce the build-able width after providing the required interior side yard of any such corner lot to less than 20 feet.

C. In case a dwelling is located on a lot that its front or rear faces any side lot line, the dwelling shall be not less than 25 feet from the lot line.

D. A church, library, museum, school, or memorial building shall have a side yard of 25 feet on each side adjoining a dwelling or vacant land.

Subd. 6. REAR YARD REQUIREMENTS: Each lot in the R-2 district shall have a rear yard of a depth equal to 20 percent of the depth of the lot to a maximum required depth of 25 feet for such yard (15' used if no alley/right of way access).

Subd. 7. FOUNDATIONS, PLACEMENT OR SITE AND SIZE REGULATIONS: Every building designed for the housing of one or two families shall be on a permanent concrete or treated wood foundations with a basement that will anchor the structure. The largest dimension of the home will be placed within the narrowest dimension of the lot. No such home shall have a width of less than twenty (20) feet in the main body of the home or a ground floor space of less than eight hundred (800) square feet.

902.03. REGULATIONS FOR RESIDENTIAL DISTRICT III: Subdivision 1. PERMITTED USE: In residential district III, unless otherwise provided in this ordinance, no building or land shall be used and no building shall hereafter be erected or structurally altered except for one or more of the following uses:

A. One or two-family dwellings and their accessory buildings.

B. Plant nurseries or greenhouses; farms or truck gardens, but not retail stand for the display or sale of agricultural products or any other commercial structure shall be located thereon without a conditional use.

C. Public parks and playgrounds; golf courses or clubs.

D. Churches. Libraries, museums, schools, memorial buildings, including name plates and bulletin boards placed in back of the prescribed set back lines.

E. Boarding and Lodging houses.

F. The following uses- but only upon securing of a conditional use permit as provided in

903.03.

1. Hospitals, clinics, and other buildings used for the treatment of human ailments.

2. Automobile courts.

3. Philanthropic and charitable institutions.

4. One family manufactured homes built in conformance with sections 327.31 to 327.35 of Minnesota Statutes, providing the following design standards are met to assure a favorable comparison with site-built housing and to up hold public health and safety:

1.) Roofs must have at least a 3/12 pitch and be covered with shingles or tile and have eaves of not less than six (6) inches.

5. Hotels, when located with in 500 feet of the central business districts; or when located on a lot facing on public park, playground, school ground or other public institution; college, church, or other semi-public institution; but no business shall be conducted therein unless it incidental and only for guests and can be entered only from the inside of the building.

6. Apartment buildings and flats.

Subd. 2. HEIGHT REGULATIONS: In the R-3 district, every building designed for the housing shall hereafter be erected or structurally altered to exceed 35 feet or 2 1/2 stories in height.

Subd. 3. BUILDING SITE REGULATIONS: In the R-3 district, every building designed for the housing of one or two families, together with its accessory buildings, shall be located on a building site in one ownership having an area of not less than 7,000 square feet. Every building designed for more than two families shall be located on a building site in one ownership having not less that 3,500 square feet per

family; except that the following parcels may be used as building sites for dwellings if all other regulations for the district required by this ordinance are complied with:

A. Any parcel under one ownership at the time of adoption of this ordinance when the owner thereof owns no adjoining land.

Subd. 4. FRONT YARD REQUIREMENTS: Each lot in the R-3 district shall have a front yard of not less than 25 feet.

Subd. 5. SIDE YARD REQUIREMENTS: Each lot in the R-3 district shall have two side yards, one on each side of the building. For every dwelling hereafter erected or structurally altered which does not exceed one and a half stories, each side yard shall have a width of not less than five feet. For every such dwelling which has two stories, each side yard shall have a width of not less than eight feet. For every dwelling of two and half stories each side yard shall have a width of at least ten feet. The foregoing requirements for side yards shall be subject to the following modifications:

A. The width of each side yard may be reduced to ten percent of the width of any side yard be less than four feet:

1. Any parcel of an average width of less than 40 feet which parcel was under one ownership at the time of the adoption of this ordinance when the owner owns no adjoining land.
2. Any parcel that includes not less than one entire lot as shown on any subdivision plat recorded in the office of the Register of Deeds, Sibley County, before the adoption of this ordinance.

B. On a corner lot adjacent to a key lot the side yard on the street side of such corner lot shall have a width in addition to that here in before specified so that the total width of such side yard shall be equal to not less than 50 percent of the front yard depth required for the lots to the rear of such corner lot, to a maximum width required of 12 feet for such side yards; but this regulation shall not be so applied as to reduce the build-able width after providing the required interior side yard of any such corner lot to less than 20 feet.

C. In case a dwelling is located on a lot that its front or rear faces any side lot line, the dwelling shall be not less than 25 feet from the lot line for dwelling purposes and does not change the character thereof. Clinic, hospitals, barber shops, beauty parlors, and animal hospitals are not home occupations.

D. A church, library, museum, school, or memorial building shall have a side yard of 25 feet on each side adjoining a dwelling or vacant lot.

Subd. 6. REAR YARD REQUIREMENTS: Each lot in the R-3 district shall have a rear yard of a depth equal to 20 percent of the depth of the lot to a maximum required depth of 25 feet for such yard (15' used if no alley/right of way access).

Subd. 7. FOUNDATIONS, PLACEMENT OR SITE AND SIZE REGULATIONS: Every building designed for the housing of one or two families shall be on a permanent concrete or treated wood foundation with a basement that will anchor the structure. The largest dimension of the home will be placed within the narrowest dimension of the lot. No such home shall have a width of less than twenty (20) feet in the main body of the home or a ground floor space of less than nine hundred (900) square feet.

902.04. REGULATIONS FOR COMMERCIAL DISTRICT 1: Subdivision 1. PERMITTED USES: In this district, unless otherwise provided in this ordinance, no building or land shall be used and no building shall be erected or structurally altered except for one or more of the following uses:

A. Retail stores and shops, restaurants and clubs.

B. Automobile stations for the sale of gasoline, oil and accessories public garages, and automobile courts.



- C. Theater, financial institutions, telephone and telegraph offices, messenger offices and professional offices.
- D. Carpenter, furniture repairing or upholstery shops, book binding shops, dress making shops, shoe repairing or dyeing shops, newspaper or job printing establishments, electrical, tin-smithing, plumbing, water, gas or steam fitting ships, paint or paper hanging shops.
- E. Self-service laundries.
- F. Other business uses which, in the opinion of the planning commission and the city council, are of the same general character as the uses enumerated in this subsection and will not be obnoxious or detrimental to the district in which located.
- G. The following uses, but only upon the securing of a condition use permit as provided in

903.03.

- 1. Undertaking establishments.
- 2. Any drive-in business where people are served in automobiles.
- 3. Out door advertising signs and structures.

Subd. 2. HEIGHT REGULATIONS: In the C-1 district no building shall be erected or structurally altered to exceed 60 feet in height.

Subd. 3. SIDE YARD REQUIREMENTS: In the C-1 district, no side yard shall be required except as follows:

- A. On a corner lot adjacent to a key lot in the residential district, there shall be a side yard adjacent to the street of a width equal to not less than one-half the depth required for front yards on the lots to the rear of such corner lots.
- B. Along that side of every lot in the C-1 district bordering upon property in the residential districts there shall be a side yard of a width not less than the width of a side yard required in the residential districts.

Subd. 4. REAR YARD REQUIREMENTS. In the C-1 district no rear yard shall be required except as follows:

- A. Buildings currently use for dwelling purposes shall comply with the rear yard regulations of the residential districts.
- B. On every lot in the C-1 district the rear of which borders on property in the residential districts, there shall be a rear yard of a depth equal to not less than twice the width of a side yard required in the residential districts.

902.05. REGULATIONS FOR THE COMMERCIAL DISTRICT II: Subdivision 1. PERMITTED USES:

In this commercial district, unless otherwise provided in this ordinance, no building or land shall be used and no building shall be erected or structurally altered except for one or more of the following uses:

- A. Retail stores and shops, restaurants and clubs.
- B. Automobile stations for the sale of gasoline, oil and accessories, public garages.
- C. Theater, financial institutions, telephone and telegraph offices, messenger offices and professional offices.
- D. Carpenter, furniture repairing or upholstery shops, book binding shops, dress making shops, shoe repairing or dyeing shops, newspapers or job printing establishments, electrical tin-smithing, plumbing, water, gas or steam fitting shops, paint or paper hanging shops.
- E. Self-service laundries.
- F. Other business uses which, in the opinion of the planning commission and the city council, are of the same general character as the uses enumerated in this subsection and will not be obnoxious or detrimental to the district in which located.
- G. All uses permitted without securing a conditional use permit in Residential District I.

H. The following uses, but only upon the securing of a conditional use permit as provided in 903.03.

1. Undertaking establishments.
2. Any drive-in business where people are served in automobiles.
3. Out door advertising signs and structures.
4. All uses listed under 902.09 Subd. F for Residential District I.

Subd. 2. HEIGHT REGULATIONS: In the C-2 district no building shall be erected or structurally altered to exceed 60 feet in height.

Subd. 3. SIDE YARD REQUIREMENTS: In the C-2 district, no side yard shall be required except as follows:

- A. On a corner lot adjacent to a key lot in the residential district, there shall be a side yard adjacent to the street of a width equal to not less than one-half the depth required for front yards on the lots to the rear of such corner lots.
- B. Along that side of every lot in the C-2 district bordering upon property in the residential districts there shall be a side yard of a width not less than the width of a side yard required in the residential districts.

Subd. 4. REAR YARD REQUIREMENTS: In the C-2 district, no rear yard shall be required except as follows:

- A. Buildings currently use for dwelling purposes shall comply with the rear yard regulations of the residential districts.
- B. On every lot in the commercial district the rear of which borders on property in the residential districts, there shall be a rear yard of a depth equal to not less than twice the width of a side yard required in the residential districts.

902.06. REGULATIONS FOR AGRICULTURAL DISTRICT (A-1): Subdivision 1. PERMITTED USES: In the agricultural district, unless otherwise provided in this ordinance, no building or land shall be used and no building shall hereafter be erected or structurally altered except for one or more of the following uses.

- A. All uses permitted without a conditional use permit in the residential districts.
- B. Agriculture, farming and truck gardening provided that no agricultural building or accessory feed lot shall be located within 100 feet of any lot line abutting residential property.
- C. Water supply facilities and cemeteries.
- D. The following uses- but only upon securing of a conditional use permit as provided in

903.03.

1. Commercial livestock and poultry feeding operations, provided they comply with the State of Minnesota minimum standards as per State Structures Section 115 and 116 and Laws 1969, Chapters 847, 931, and 1046.
2. Mineral Stone or Gravel excavation or extraction.
3. Golf Clubhouses, country clubs, and public swimming pools, provided that no principal structure shall be located within 40 feet of any lot in a residential district
4. Manufactured home parks.

Subd. 2. HEIGHT REGULATIONS: In the A-1 district the following shall apply:

- A. Agricultural Buildings: no restrictions.
- B. All other buildings hereafter erected or altered in the agricultural district shall not exceed two and one-half stories or 35 feet in height.

Subd. 3. SIDE YARD REQUIREMENTS: In the agricultural district, there shall be a side yard on each side of a building, having a width of not less than 10 feet.

Subd. 4. REAR YARD REQUIREMENTS: There shall be a rear yard having a depth of not less than 25 per cent of the depth of the lot.

Subd. 5. LOT WIDTH AND DEPTH REQUIREMENTS: Every lot or plot of land in the agricultural district on which a single family dwelling is hereafter erected shall have a minimum width lot of not less than 300 feet and a depth of not less than 300 feet.

#### 902.07 SOLAR ENERGY AND SOLAR STRUCTURES:

Subd. 1. General Practices; The general purposes of this ordinance are to protect access to direct sunlight for Solar Energy Systems and to permit use of Solar Energy Systems to help offset the projected scarcity and high cost of conventional fuels.

Subd. 2. Definitions: For the purposes of this Section, certain words and phrases are defined as follows:

A. Solar Energy System shall mean any device or a set of devices whose primary purpose is to collect solar energy and convert and/or store it for useful purposes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

B. Solar Structure shall mean any residential, commercial, industrial, or business structures directly connected to Solar Energy System. All Solar Energy Systems Shall be considered part of the principal structure which there serve and shall not be considered as accessory structures or building in an of themselves.

Subd. 3. Permitted Use: Solar Energy Systems and Solar Structures shall be permitted in all districts provided that the systems are in compliance with the established dimensional requirements and other provisions of the Henderson City Code.

Variances: Requests for variance shall be applied for and processed in the same manner as is set forth in 903.05, Subd. 4. of the Henderson City Code.

Subd. 4. Access to Direct Sunlight: In any zone, either residential, commercial, or agricultural, no owner, occupier, or person in control of property shall allow vegetation or structures to be placed thereon so as to cast a shadow on a Solar Energy System or Solar Structure which is greater or higher than the shadow cast by a hypothetical wall of ten feet located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard time on December 21st, provided, however that this standard shall not apply to vegetation or structures which cast a shadow upon the Solar Energy System at the time of its installation or as to the vegetation existing at the time of installation of the said Solar Energy System or Solar Structure. The City does encourage the use of private easements and restrictive covenants as a means to protect access to sunlight.

Evidence of Existing Conditions: As a means of evidencing existing conditions, the owner of a Solar Energy System shall file with City Clerk of the City of Henderson an Affidavit containing the following information:

- A. The applicant's full name and address, together with the full name and address of the fee owner of the property if different from that of the applicant.
- B. A legal description to the property affected.
- C. A Certificate of Survey or other document specifying the boundary lines of the effected property upon which the Solar Energy System is located.
- D. The names and addresses of all abutting owners to the affected property
- E. Attaching photographs of the affected property depicting the Solar Energy System, the property upon which it is located, and its location with regard to neighboring properties.
- F. A statement by the applicant that they have served, either personally or by registered or certified mail, all adjoining property owners with a notice that the applicant would be filing an Affidavit pursuant to this Section with the City Clerk and that they would have 30 days of

the filing of the applicant's Affidavit, the photographs attached thereto shall be presumed to be a true and correct pictorial depiction of the Solar Energy System, its location upon the affected property and of all existing structures, trees, shrubbery and other vegetation upon the affected property and upon all adjoining properties. Should a timely notice of objection be filed by any adjoining property owner, no presumption hereunder shall be created.

Subd. 5. Approval of Solar Energy Systems or Solar Structures: For all the permits required under 905.04 of the Henderson City Codes of Ordinances, no use permit, which includes a Solar Energy System or Solar Structure, shall be issued without the property owner or his designated agent first having obtained approval in writing from the zoning administrator with regard to a Solar Energy System or Solar Structure plan prior to issuing the Building permit. Adding a Solar Energy System to an existing building will require a building permit.

Violation: Violation of any provision of this ordinance is declared to be a nuisance affecting the public health, safety, and general welfare and shall be prohibited as specified in this section of the Code of Ordinances of the City of Henderson.

### PART III. GENERAL PROVISIONS AND EXCEPTIONS

903.01. INTERPRETATIONS: The regulations in this ordinance shall be subject to the interpretations and exceptions specified in this section.

Subd. 1. USE: The following accessory uses, in addition to those herein-before specified shall be permitted in any residential district, if the accessory uses do not alter the character of the premises in respect to their use for the purpose permitted in the district.

A. The renting of rooms or the providing of table board in a dwelling as and incidental use to that of its occupancy as a dwelling of the character permitted in the respective district, but not to the extent of constituting a hotel as defined in this ordinance, unless permitted in the district.

B. The operation of necessary facilities and equipment in connection with schools, colleges, universities, hospitals and other institutions permitted in the district.

C. Recreation, refreshment and service buildings in public parks and playgrounds.

Subd. 2. SIGN REGULATIONS: Signs in addition to those otherwise permitted in the following cases and under the following conditions:

A. Signs displaying only the name of property or premises upon which displayed or of the owner or lessee.

B. Signs not exceeding 8 square feet in area pertaining only to the sale, rental or lease of the premises upon which displayed.

C. The following signs upon securing a conditional use permit as provided by this ordinance for each such sign:

1. Signs advertising the sale of a subdivision and located thereon.

2. Directional and informational signs of a public or quasi-public nature, including signs serving as directional signs to properties not situated adjacent to the street next to which the signs are located.

Subd. 3. EXCAVATING FOR CONSTRUCTION: Nothing in this ordinance prohibits the excavating of nature materials for the construction of a building permitted in the district in which the same is to be located if the building is to be constructed on the lot from which the material is excavated. No use permit shall be required for such excavating.

Subd. 4. No filling station, public garage, or gasoline distributing station shall be located within 300 feet of a school, church, hospital, or other public meeting place having a seating capacity of more than 50 person.

Subd. 5. HEIGHT:

- A. In any district with a height limit of less than 75 feet, public and semi-public buildings, schools, and churches, hospitals and other institutions permitted in the district, may be erected to a height not exceeding 75 feet. The front, rear and side yards shall be increased one foot for each one foot by which the building exceeds the height limit herein before established for such district.
- B. Dwelling in residential districts may be increased in height not to exceed ten feet and to a total of not exceeding three stories when two side yards of a width of not less than 15 feet each are provided.
- C. Upon the securing of a conditional use permit as provided in Part 903.03 of this ordinance, any building may be erected to a height exceeding that herein before specified for the respective district, but the total floor area of the building shall not exceed that possible for a building in the district erected within the height limit specified in this ordinance for the district.
- D. Subject to any other provisions of law, towers, gables, spires, penthouses, scenery lofts, cupolas, water tanks, similar structures and necessary mechanical appurtenances may be build and used to a greater height than the limit established for the district in which the building is located, with the following qualifications:
1. No such exception shall cover at any level more than 15 per cent in area of the lot nor have an area at the base greater than 1600 feet.
  2. No tower, gable, spire, or similar structure shall be used for sleeping or eating quarters or for any commercial purpose except one incidental to the permitted uses of the main building.
  3. No building or structure in any district shall over-exceed a maximum height of 150 feet, except that the height limitations of this ordinance shall not apply to chimneys, church spires, flag poles, monuments, silos, and radio towers.
- E. Where the average slope of a lot is greater than one foot rise or fall in seven feet of distance from the established street elevation at the property line, one story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building if the height of the building is increased above the limit specified for the district.

Subd. 6. YARDS:

- A. For the purpose of computing front yard dimensions, measurements shall be taken from the nearest point of the front wall of the building to the street line, subject to the following qualifications:
1. Cornices, canopies, or eaves may extend into the required front yard a distance not exceeding two feet, six inches.
  2. Fire escapes may extend into the required front yard a distance not exceeding two feet, six inches.
  3. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding 6 feet, if the landing place or porch has its floor no higher than the entrance floor of the building, An open railing no higher than 3 feet may be placed around such place.
  4. The above enumerated 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 more than 3 feet into any side yard and then, in the case of an outside stairway, only if it is unroofed and un-enclosed above and below the steps. In no case shall a porch,

stair landing or other architectural feature extend closer than 4 feet to the side property line.

5. Fences, walls, and hedges:

- a. Except as limited below, a wall, fence, or hedge, 8 feet high or less, may occupy part of the required yard, provided it is set back 2 feet from the lot line. This set-back requirement shall not apply to Chain link fencing provided the same shall be installed it the good side out.
- b. No wall or fence more than 4 feet high, except a retaining wall, shall be constructed in a front yard without a special use permit.
- c. Vision clearance in any residence zone on any corner lot, no fence or accessory structure or planting shall rise over 2 1/2 feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or planting rising over 2 1/2 above the level of the public sidewalk shall be erected on any interior lot within 10 feet of the front property line where it will interfere with traffic visibility from a driveway.

B. In the residential districts, in any case where 25 percent or more of the lots in any block located in the same district, exclusive or the frontage along the side or a corner lot, has been heretofore improved with buildings or a character permitted in the district and the front yards on the lots vary in depth to an extent not greater than 6 feet, the required front yard depth for the district shall be disregarded in the block and instead the front yard required on each lot in the block shall be of a depth not less than the average depth of the front yards on the lots on which are located such existing buildings, to a maximum of 50 feet. The same rule shall apply in any other residential district on which are located such existing buildings in less than the depth of front yards otherwise required by this ordinance.

C. In determining the depth of rear yard for any building where the rear yard opens into an alley, one-half the width of the alley, but not exceeding 10 feet, may be considered as a portion of the rear yard subject to the following qualifications:

1. The depth of any rear yard shall not be reduced to less than 10 feet by application of the exception (15' is accepted when there is no alley/right of way access).
2. If the door of any building or improvement, except a fence, opens toward an alley, it shall not be erected or established closer to the center of the alley than a distance of 15 feet.

D. In case an accessory building is attached to 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 buildings. An accessory building, unless attached to and made a part of the main building shall not be closer than 5 feet to the main building, except as otherwise provided in this section.

E. A detached accessory building not over one story and not exceeding twelve feet in wall height may occupy not to exceed thirty percent of the area of any rear yard.

F. Detached accessory building in residential districts shall conform to the following additional regulations as to their locations upon the lot:

1. In the case of an interior lot abutting upon one street, no detached accessory building shall be erected or altered so as to encroach upon the front of the lot.
2. In the case of an interior lot abutting upon two or more streets, no detached accessory building shall be erected or altered so as to encroach upon the one-fourth of the lot nearest either street or in any case nearer to the established building line on either street frontage.

3. In the case of a corner lot abutting upon two streets, no accessory building shall be erected or structurally altered so as to encroach upon the front half of the lot nor so that the building will be to the lot line along the street side of the lot than a distance equal to the width of side yard on the street side of the lot; but on a corner lot adjacent to a key lot no detached accessory building shall be located nearer to the street line of the street upon which the key lot faces than a distance equal to the depth of front yard required on the key lot.

4. In the case of a corner lot abutting on more than two streets, no detached accessory building shall be erected or altered so as to be nearer to the lot line long the street side of the lot than a distance equal to the width of the side yard on the street of the lot or nearer to any other street line of the lot than a distance equal to one-fourth the depth of the lot.

5. No detached accessory building shall be within five feet of the sideline of the front half of any adjacent lot except as herein before specifically permitted.

6. The forgoing rules shall not require:

a. Any detached accessory building to be more than 75 feet from any street line bounding the lot.

b. The street side of any detached accessory building to be nearer to the lot line opposite the street line than 20 feet.

G. A private garage to be separated from the front and side lines of the lot where the slope of the front half of the lot is greater than one foot rise or fall in a distance of seven feet from the established street elevation at the property line or where the elevation of the lot at the street line is five feet or more above or below the established street elevation.

H. No swimming pool shall be erected, excavated, or otherwise placed or used on any property unless it is completely surrounded by a permanent fence at least 6 feet in height. The fence must be built in accordance with Subd. 6. (A,5) above and all other provisions of this ordinance.

Subd. 7. MAJOR RECREATIONAL EQUIPMENT: No boat, boat trailer, travel trailer, pickup-camper or coach designed to be mounted on a motor vehicle, motorized dwelling, tent trailer, or similar major recreational equipment, and no case or box used for transporting such equipment shall be parked or stored for more than 72 hours on any lot in a residential district except in a car port or enclosed building or in a side or rear yard. No point or any such equipment shall be located within three feet of the rear or side lot line except when parked in an established driveway and in no case shall any such point be closer than ten feet from the living quarters of a residence on adjoining property. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Subd. 8. PERFORMANCE STANDARDS:

A. COMPLIANCE REQUIRED: Every use permitted by this ordinance shall be so established and maintained as to comply with the provisions of this section. The council may require the owner or operator of a use permitted by this ordinance to provide such tests or investigations by an independent testing organization satisfactory to the council as are necessary to show compliance with these standards. The cost of such investigations and tests shall be shared equally by the owner or operator and the city unless the results disclose noncompliance with these standards; in that event, the entire cost shall be borne by the owner or operator. This provision does not preclude the city from making any investigations and test it finds appropriate to determine compliance with these standards.

B. NOISE: Noise shall be measured on any property line of the tract on which the source of the noise is located. Noise shall be so muffled as not to become objectionable due to

intermittence, beat frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in Table A. The sound pressure level shall be measured with a Sound Level Meter and an Associated Octave Band Analyzer, both of which are manufactured to specifications published by the American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and other Sounds Z24, 10-1953, American Standards Association, Inc., New York, New York. Measurements shall be made using the flat network of the sound level meter.

C. ODOR: No use shall cause the discharge of toxic, noxious, or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort, or welfare or cause injury to property or business

TABLE A

Maximum permissible sound-pressure levels of specified points of measurement for noise radiated continuously from a facility.

Band Cycles Per Sound Frequency	Maximum Permitted Sound Level, (Decibels)
20-75	75
150-300	59
300-600	52
600-1200	46
1200-2400	40
2400-4800	34
over 4800	32

D. GLARE: Direct or reflected glare, such as from floodlights, spotlights, or high temperature processes, and as differentiated from general illuminations, shall not be visible beyond the site of origin at any property line. Any lights used for exterior illumination shall be directed away from adjacent properties.

E. VIBRATIONS: Vibrations at any property line shall not be discernible to the human sense of feeling for three minutes or more duration in any one-hour period. Vibration of any kind shall not produce at any time an acceleration of more than one-tenth gravities or result in any combination of amplitudes and frequencies beyond the "safe" range of Table VII, United States Bureau of Mines Bulletin No. 442 "Seismic Effects of Quarry Blasting" on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.

F. SMOKE: Smoke shall be measured at the point of emission by using the Ringelmann Smoke Chart published by the United States Bureau of Mines in circular No. 7718. Smoke not darker or more opaque than No. 1 on that chart may be emitted except that smoke not darker or more opaque than No. 3 on the chart may be emitted for a period of not longer than four minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke or a different color by with an equivalent capacity.

G. DUST: Solid or liquid particles shall not be emitted at any point in concentrations exceeding three-tenths grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50 percent excess air.

H. FUMES OR GASES: Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic, or corrosive. The values given in Table 1 (Industrial Hygiene Standards - Maximum Allowable Concentration for eight-hour day, five days per week),



Table III (Odor Thresholds). Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5, "Physiological Effects: that contains such tables, in the "Air Pollution Abatement Manual" published by the Manufacturing Chemists' Association, Inc., Washington, D.C., are hereby established as guides for the determinations of permissible concentrations and amounts. The city may require detailed plans for the elimination of fumes of gases before the issuance of a building permit.

I. FIRE HAZARDS: Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally used in the handling of such materials, Such hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

J. WASTES: All solid waste material, debris or refuse shall be kept within a completely enclosed building or properly contained in a closed container designed for such purposes. All liquid wastes containing any organic or toxic matter shall be either discharged into a public sanitary sewer or treated in a manner prescribed the health officer.

K. AIR POLLUTION: Every activity shall conform to state regulations relating to air quality standards and air pollution control.

L. SEWER AND WATER: The design and construction of water supply facilities and treatment of all sewage and waste shall comply with the City, County and state health standards, ordinances, statutes and requirements.

#### 903.02. OFF-STREET PARKING AND LOADING SPACE

Subd. 1. Off-street automobile storage or parking space shall be provided on any lot which any of the following uses are hereafter established:

A. DWELLING: one parking space fore each individual unit.

B. TOURIST ACCOMMODATION: one parking space for each room offered for tourist accommodations.

C. THEATER, STADIUM, AUDITORIUM, OR OTHER PLACES OF PUBLIC ASSEMBLY: one parking space for each 1- seat, based on maximum seating capacity.

D. Hotel: one parking space for each four guests sleeping rooms

E. OFFICE BUILDING AND STORES: one parking space fore each 300 square feet of office or store floor area.

F. INDUSTRIAL OR MANUFACTURING ESTABLISHMENTS: one parking space for each 400 square feet of gross floor area or for each five workers, based on peak employment, and adequate space fore loading and unloading all vehicles used incidental to the operations of the industrial or manufacturing establishment.

Subd. 2. Such space shall be provided with vehicular access to street or alley and shall be considered required open space associated with permitted use. It shall not be reduced or encroached upon in any manner after the use is established. Where such space cannot be reasonably provided on the same lot with the principal use, the council with the approval of the planning commission, may permit such space to be located on other off-street property if the space is within 500 feet of the permitted use, measured along lines of public access.

Subd. 3. In any commercial or industrial district, space for loading of vehicles shall be provided on the same lot for every building used or designed to be used for that purpose. One loading space at least 10 by 25 feet shall be provided for each 20,000 square feet of floor area in the building. Where such space is completely enclosed within a building by walls and doors which close, a height clearance of at least 12 feet, 9 inches shall be provided. Where such space is located wholly or in part outside of the building and is not

completely enclosed, a height clearance of at least 14 feet shall be provided. Where approach ramps are sloped so as to necessitate clearance in addition to that here in specified, this clearance shall be adequate to allow the free passage of a semi-trailer 12 feet, 6 inches in height and with a wheel base of 21 feet. These requirements may be increased, modified, or waived on appeal where conditions or circumstances justify such action.

903.03. CONDITIONAL USE PERMITS: Subdivision 1. Conditional use permits may be issued for any of the following:

- A. Any of the uses or purposes for which such permits are required of permitted by the provisions of this ordinance, except as provided in Subd. 2.
- B. Public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare.
- C. Commercial excavating of natural materials used for building or construction purposes, in any district.
- D. To classify as a conforming use any institutional use existing in any district.
- E. To permit the location of any of the following uses in a district from which they are excluded by the provisions of this ordinance: airport, library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery, crematory, mausoleum or any other place for the disposal of the human dead.

Subd. 2. Applications for the issuance of a conditional use permit shall be made to the planning commission, except that any proceedings to classify certain uses as conforming uses as provided in this section may be initiated either by such application or by the city council or the planning commission. The planning commission may hold such hearings on the proposal to issue a conditional use permit as it may consider necessary; but at least one public hearing shall be held on any application for a use permit for the establishment of any use listed in Subdivision 1, Clause E, of this Section. Following the hearing the planning commission shall make a report to the council upon the proposal and shall recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of the use for which a permit is sought will not under the circumstances of the particular case be detrimental (1) to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use or (2) to the public welfare or injurious to property or improvements in the neighborhood. It may designate conditions and require guarantees in the granting of use permits in the manner provided in Part 903.05 for the granting of adjustments. Upon receipt of the report of the planning commission, the council shall hold whatever public hearing it deems advisable and shall make a decision upon the proposal to grant a use permit. If it finds that the conditions exist which are necessary under this section before the planning commission may recommend the granting of a use permit, the council may grant the use permit and it may attach to the permit such conditions and guarantees as are provided for in part 903.02 for the granting of adjustments.

Subd. 3. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permit and of any condition designated in connection therewith.

Subd. 4. Conditions attached to conditional use permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the planning commission may attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to the following:

- A. Modification of waste disposal and water supply facilities.
- B. Limitations on period of use, occupancy and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures.

E. Flood-proofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

903.04. NONCONFORMING USES: Subdivision 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

A. No such use shall be expanded, changed, enlarged, or altered in anyway which increases it nonconformity.

B. No structural alteration or addition to any non-conforming structure over the life of the structure shall exceed 50 percent of its market value at the time of its becoming a non-conforming use, unless the entire structure is permanently changed to a conforming use.

C. If any non-conforming 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 non-conforming uses which have been discontinued for a period of 12 months.

D. If any non-conforming use is destroyed by any means to an extent of 50 percent or more of its market value, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The sole exception to this provision is stated in Subd. 4. below.

Subd. 2. No junk yard may continue as a non-conforming use for more than one year after the effective date of this Ordinance.

Subd. 3. No outdoor advertising structure may continue as a non-conforming use for more than one year after the effective date of this Ordinance.

Subd. 4. Manufactured homes and homes which are transportable structures and designed to be used as dwellings but do not meet the standards of a manufactured home in some way are expressly allowed to continue as non-conforming uses for and during the lifetime of the person or persons who own the property at the time of adoption of this ordinance. If a non-conforming home is destroyed by any means, during the present owner's lifetime, another manufactured home may be placed on the property. Upon sale or transfer of the property, the existing manufactured home may remain on the property in accordance with Subd. 1, but upon the homes destruction or removal, any future use of the property shall conform to this Ordinance.

Subd. 5. No motor vehicle or trailer without current license plates or existing in an inoperable condition shall be parked or stored in any street or alley.

903.05. BOARD OF ADJUSTMENTS: Subdivision 1. ESTABLISHMENT: There is hereby created a Zoning Board of Adjustments and Appeals, which shall be composed of members of the Planning Commission. Three members of the Board constitute a quorum, and all action by the Board requires the affirmative vote of the quorum. The Board shall serve without compensation. The Board shall elect one of its members as chairman and appoint a secretary who may, but need not be one of its members. Staff services for the board shall be furnished by the council.

Subd. 2. RULES: The Board of Adjustments shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

Subd. 3. ADMINISTRATIVE REVIEW: The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of administration of this ordinance.

Subd. 4. VARIANCES: The Board may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of the Ordinance will result in unnecessary hardship so that the spirit of the Ordinance shall be observed and substantial justice done. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

Subd. 5. HEARINGS: Upon filing with the Board a request for variance or an appeal from an administrative order or determination, the Board shall set a date for hearing thereon, which be not later than 60 days from the date of filing, and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of any such hearing shall be mailed not less than 10 days before the date of hearing to each person who filed the appeal or request and, in the case of a request for a variance, to each owner of property situated wholly or partly within 350 feet of the property to which the variance related insofar as the name and addresses of such owners can be determined by the clerk from records available to the public. The board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing for all variance granted in Flood Plain district (F-1) Part VIII of this Ordinance.

Subd. 6. DECISIONS: The board shall arrive at a decision on such appeal on Variance within ten (10) days. In passing upon an appeal the Board 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 appealed from. It shall make its decision in writing setting forth the finding of fact and the reasons for the decisions for all variances granted in Flood Plain District (f-1), Part VIII of this Ordinance.

Subd. 7. APPEAL: Appeal to the City Council and District Court. Appeals from any decision of the board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board, or bureau of the municipality, to the City Council. The decision of the City Council may be appealed to the district court of this jurisdiction as provided in Minnesota Statutes 462.361.

903.06. GROUP HOUSING PROJECTS: When a housing project consisting of a group of two or more buildings is to be constructed on a plot of land of at least three acres and the land is not to be subdivided into the customary streets and lots or the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual buildings in the housing project, the council, upon favorable recommendation of the planning commission after a public hearing, shall apply the requirements of this ordinance to the housing project in a manner that will be in harmony with the character of the neighborhood, will insure a density of land use no higher and a standard of open space at least as high as required by this ordinance in the district in which the project is located. In no case shall the council authorize a non-residential use or a building height prohibited in the district.

903.07. CERTIFICATE OF OCCUPANCY: Subdivision 1. A certificate of occupancy shall be obtained before:

- A. Any vacant land is hereafter occupied or used, except for agricultural purposes other than livestock farming or dairying:
- B. Any building hereafter erected or structurally altered is occupied or used: or
- C. The use of any such building is altered.

Subd. 2. Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made to the city clerk as part of the application for such building as required in of this ordinance. The certificate shall be issued within ten days after the erection or alteration

of such building or part thereof has been completed in conformity with the provisions of this ordinance. Pending the issuance of such a certificate the city clerk may issue a temporary certificate of occupancy for a period of not exceeding six months during the completion of the erection or alteration of such building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or the city relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately insure the safety of occupants.

Subd. 3. Written application for a certificate of occupancy for the use of vacant land or for a change in the character of the use of land as provided in shall be made before any such land shall be so occupied for use. Such certificate of occupancy shall be issued within three days after the application therefor has been made if the use is in conformity with the provisions of this ordinance.

Subd. 4. Every certificate of occupancy shall state that the building or proposed use of a building or land complies with all provisions of law and of this ordinance. A record of all certificates of occupancy shall be kept on file in the office of the city clerk and copies shall be furnished on request to any person having a propionate or tenancy interest in the building or land affected. No fee shall be charged for a certificate of occupancy.

No building permit for the erection or alteration of a building shall be issued before application has been made for a certificate of occupancy.

#### PART IV. AMENDMENTS AND PETITIONS

904.01. AMENDMENT: Subdivision 1. This ordinance may be amended whenever the public necessity and convenience and the general welfare require such amendment by following the procedure specified in this section.

Subd. 2. An amendment may be initiated by the city council or the planning commission, or by the verified petition of not less than fifty percent of the property owners within three hundred feet of the proposed change. An amendment not initiated by the planning commission shall be referred to the commission for study and report and may not be acted upon by the governing body until it has received the recommendation of the planning commission or until 60 days have elapsed from the date of reference of the amendment without a report by the planning commission.

Subd. 3. Before any amendment is adopted, the planning commission shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least 10 days before the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property to which the amendment relates. Following the hearing the planning commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the city clerk within ten days of the meeting at which the date of the hearing was set. Failure of the Planning Commission so to report shall be deemed to be approval by the commission of the proposed amendment.

Subd. 4. Upon the filing of such report or upon the expiration of such ten days as afore said, the city council shall hold such public hearing upon the amendment as it deems advisable. After the conclusion of the hearing, if any, the council may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if two-thirds of all the members of the council concur in its passage.

Subd. 5. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to land outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance relating to uses in the Flood plain District (f-1) in part VIII of this ordinance including amendments of the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map also require prior approval by the Federal Insurance Administration for use in the Flood Plain District (F-1) part VIII of this Ordinance.

904.02. PETITION FOR AMENDMENT AND ADJUSTMENTS – FEES: Subdivision 1. Any person filing a petition for and amendment to the Zoning Ordinance requesting a variance from the Board of Adjustments and Appeals or a change in regulations with in any use district shall pay a fee according to the schedule established.

Subd. 2. Fees payable under this Section are as follows:

Type of Request	Area Included	Fee
Variance	Any area	\$10.00
Change of Regulations	Any area	\$10.00
Rezoning	Under 20,000 Square feet	\$10.00
	20,000 to 50,000 Square feet	\$10.00
	Each additional 50,000 square feet	\$10.00

The fee is payable at the time of filing a petition and is not refundable.

Subd. 3. The petition shall give the street address of the land as to which the petition is made, contain a legal description thereof, state the mailing address of the owner, and clearly describe the building or structure to be built or altered if the petition is granted, or if the petition is for a change in any regulations of this ordinance, shall state the change and the reasons therefor. The Planning Commission may require the petitioner to submit a certificate by a registered professional land surveyor verifying the front, rear and side-yard setbacks of all buildings and structures situated on or adjacent to the property described in the petition.

## PART V.

905.01. ADMINISTRATION AND ENFORCEMENT: The city administrator shall serve as the zoning administrator and he/she shall be responsible for enforcing this ordinance. If he/she finds a violation of the provisions of this Ordinance.; he/she shall notify the person responsible for such violation, indicate the nature of the violation, and order action necessary to correct it. In carrying out this general authority he/she shall:

- A. Maintain permanent and current records pertaining to this ordinance including but not limited to, maps, amendments, conditional uses, variance, appeals, planned unit developments and applications therefor;
- B. Receive, file, and forward applications for appeals, various, conditional use permits, or other action to the appropriate official bodies;
- C. Provide clerical and technical assistance to the zoning board and planning commission.
- D. Make recommendations to the council on the institution of appropriate actions or proceedings for enforcement of this ordinance, on amendments and on any other matters relating to the administration of this ordinance.

905.02. CITY COUNCIL: The City Council/Building Inspector shall administer the requirements of this ordinance for building and occupancy permits and issue or deny each application in accordance with the provisions of this ordinance.

905.03. BUILDING INSPECTOR: The building inspector or other officials appointed by the city council shall conduct inspections of buildings and the use of land to determine compliance with the terms of this ordinance, if necessary.

905.04. USE PERMIT:

A. Use Permit Required. A use permit issued by the city council/building inspector/zoning administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill or excavation of materials within the flood plain.

B. Application for Use Permit. Application for a use permit shall be made in duplicate to the Building Inspector on forms furnished by him/her 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 any stream channel.

C. State and Federal Permits. Prior to granting a use permit or processing an application for a conditional use permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

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/Building Inspector stating that the use of building or land conforms to the requirements of this Ordinance. Where a nonconforming use or structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this Ordinance.

E. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificate of Zoning Compliance. Use Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction at variance with the authorized shall be deemed violation of this ordinance, and punishable as provided by section Part VI (Penalty Section) of this Ordinance. 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 architect.

F. Completion of Work:

1. Any person altering, repairing or remodeling the exterior portion of a building, including an attached or detached garage, shall complete such work within 180 days from the date of issuance of the use and building permits. The Issuing Authority may extend the time for completion upon written request of the permittee establishing that circumstances beyond the control of the permittee prevented completion of the work for which the building permit was authorized.

2. All building debris must be removed from the work site within said 180 days from the date of issuance of the use and building permits unless the Issuing Authority extends the time for completion upon the written request of the permittee.

3. Any permittee who fails to remove said work debris in a timely fashion, even if the work has not been completed but no extension has been granted, shall be in violation of the terms of this Ordinance and the terms of the use and building permits and shall be guilty of a misdemeanor, punishable by a fine of up to \$1,000.00, and by up to 90 days in jail.

#### PART VI. PENALTIES.

906.01. Any person who violates or fails to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed 700 dollars or by imprisonment not to exceed ninety days for each offense. Each day that the violation is permitted to exist shall constitute a separate offense.

#### PART VII. VALIDITY OF ORDINANCE.

907.01. Should any part or portion of this ordinance be declared to be invalid by any court or competent jurisdiction, the remainder of this ordinance shall continue in full force and effect and, except for any part expressly found invalid by such court, shall continue to be valid.

#### PART VIII.

908.01. STATUTORY AUTHORIZATION; FINDINGS OF FACT AND PURPOSE. Subdivision 1. STATUTORY AUTHORIZATION: The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and MSA 104.01 - 104.107 delegated the responsibility to the local government units to adopt regulations designed to minimize flood losses. Therefore, the City of Henderson, Minnesota does ordain as follows:

Subd. 2. FINDINGS OF FACTS:

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

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

C. Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in 908.01, Subd. 2. A. by provisions contained herein.

908.02. GENERAL PROVISIONS: Subdivision 1. LANDS TO WHICH ORDINANCE APPLIES: This ordinance shall apply to all lands within the jurisdiction of the City of Henderson 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.

Subd. 2. ESTABLISHMENT OF OFFICIAL ZONING MAP: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the City of Henderson prepared by the Federal Emergency Management Agency dated January 6, 1999, and the Flood Insurance



Rate Map dated January 6, 1999 therein. The Official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.

Subd. 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 encroachments on the flood plain that result from designation of a floodway.

Subd. 4. INTERPRETATIONS:

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

B. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board and to submit technical evidence.

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

Subd. 6. WARNING AND DISCLAIMER OF LIABILITY: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability of the part of the city of Henderson or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

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

Subd. 8. DEFINITIONS: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance it most reasonable application.

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

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

C. Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed by only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that : (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

D. 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.

- E. Flood - a temporary increase in the flow or stage of a stream or in state of a wetland or lake that results in the inundation of normally dry areas.
- F. Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- G. Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Henderson.
- H. Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- I. Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- J. Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- K. Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting, into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- L. Principal Use or Structure - means all uses or structures that are not accessory uses or structures.
- M. 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 crossing would not typically constitute a reach.
- N. Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- O. 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.
- P. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in 908.09. Subd. 3. A. of the ordinance and other similar items.
- Q. Variance - means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

#### 908.03. ESTABLISHMENT OF ZONING DISTRICTS: Subdivision 1. DISTRICTS:

- A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in 908.02, Subd. 2.

B. Flood Fringe District. The Flood Fringe District shall include those areas designated as Zone AE on the Flood Insurance Rate Map adopted in 908.02 that are located outside of the floodway.

C. General Floodplain District. The General Floodplain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in 908.02.

908.04. FLOODWAY DISTRICT (FW): Subdivision 1. PERMITTED USES:

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 anchoring ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, single or multiple purpose recreational trails.

D. Residential lawns gardens, parking areas, and play areas.

Subd. 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 if one exists.

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

Subd. 3. CONDITIONAL USES:

A. Structures accessory to the uses listed in 908.04, Subd. 1. above and the uses listed in 908.04, Subd. 3. B-H below.

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.

G. Travel trailers and travel 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 908.09, Subd 3 of this Ordinance.

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.

Subd. 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 contained in 908.10, Subd. 4. of this Ordinance.

C. The Conditional Use shall be permissible in the underlying zoning district if one exists.

D. Fill:

1. Fill, dredge spoils, and all other similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, rip rap, or other acceptable method.

2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage and fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

E. Accessory Structures:

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters. (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, (b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles or limited storage. All Flood proofed accessory structures must meet the following additional standards, and appropriate:
  - a. The structure must be adequately anchored to prevent floatation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
  - b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

F. Storage of materials and Equipment:

1. 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.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

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

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

908.05 FLOOD FRINGE DISTRICT (FF): Subdivision 1. PERMITTED USES: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use districts(s). If no pre-existing, underlying zoning use structure or land shall be a Permitted Use in the Flood Fringe provided such

use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in 908.05, Subd. 5.

Subd. 2. STANDARDS FOR FLOOD FRINGE PERMITTED USES:

- A. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- 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 908.04, Subd 4.E. 3.
- 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 908.05, Subd. 2.A. of this ordinance.
- D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- E. The provisions of 908.05. Subd. 5. of this Ordinance shall apply.

Subd. 3. CONDITIONAL USES: Any structure that is not elevated on fill or flood proofed in accordance with 908.05, Subd. 2. A-B or any use of land that does not comply with the standards in 908.05, Subd, 2, C-D shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and critical and evaluation procedures specified in 908.05, Subd.4- Subd, 5. and 908.10, Subd 4. of this Ordinance.

Subd. 4. F. Standards for Flood Fringe Conditional Uses:

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

1. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2. 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. The minimum area of openings in the walls where internal flooding is to be sued as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no higher that one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings

or devices provided that they permit the automatic entry and exit of flood waters.

b. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

B. Basements, as defined by 908.02, Subd. 8. B. of this Ordinance, shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with 908.05, Subd. 4. C. of this Ordinance.

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

D. When at any one time more than 1,000 cubic yards of fill or other similar materials is located on a parcel for such activities as on-site storage landscaping 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 shoreline management ordinance. In the absence of a state approved shore land ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage of Materials and Equipment:

1. 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.

2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

F. The provisions for 908.05, Subd. 5. of this Ordinance shall also apply.

Subd. 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 Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood protection Elevation. However, a permit for such facilities to be used by the employees or general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the

area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

C. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plan operations especially along streams having protracted flood duration. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in 908.05, Subd 5. B. 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 protects by the use of rip rap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation -FEMA's requirements incorporated 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 be 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 travel trailers and travel vehicles are contained in 908.09. Subd 3.

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

#### 908.06. GENERAL FLOOD PLAIN DISTRICT: Subdivision 1. PERMISSIBLE USES:

A. The uses listed in 908.04, Subd. 1. of this Ordinance shall be permitted uses.

B. All other uses shall be subject to the floodway/flood fringe evaluation criteria following 908.06, Subd. 2. Below, Section 908.04 shall apply if the proposed use is in the Floodway District and section 908.05 shall apply if the proposed use is in the Flood Fringe District.

#### Subd. 2. PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS WITHIN THE GENERAL FLOOD PLAIN DISTRICT:

A. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

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

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

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

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120-5000 - 6120-6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood,
2. Calculate the water surface profile of the regional flood based hydraulic analysis of the stream channel and over bank areas.
3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .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 Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and /or Flood Fringe District boundary or deny the permit application. The Governing Body, 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 or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer to the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of 908.04 and 908.05 of this Ordinance.

908.07. SUBDIVISIONS: Subdivision 1. REVIEW CRITERIA: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory flood Protection Elevations. All subdivisions shall have water and sewer treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevations and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

Subd. 2. FLOODWAY/FLOOD FRINGE DETERMINATIONS IN THE GENERAL FLOOD PLAIN DISTRICT: In the General Flood Plain District, applicants shall provide the information required in 908.06 Subd. 2, of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

Subd. 3. REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATIONS: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation of certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compacting 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.



908.08 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES: Subdivision 1. PUBLIC UTILITIES: All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevations.

Subd. 2. PUBLIC TRANSPORTATION FACILITIES: Railroad tracks, roads, and bridges to be located within the flood plain shall comply with 908.04. and 908.05 of the Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

Subd. 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 water into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Subdivision.

908.09. MANUFACTURED HOMES AND MANUFACTURED HOME PARKS; AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES: Subdivision 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed or subdivisions by 908.07 of this Ordinance.

Subd. 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with 908.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with 908.05, Subd. 5. A, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

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 to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subd. 3. Travel trailers and travel vehicles that do not meet the exemption criteria specified in 908.09. Subd. 3.A. below shall be subject to the provisions of this Ordinance and as specifically spelled out in 908.09, Subd. 3.C-D below.

A. Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in 908.09, Subd. 3.E. below and, further, they meet the following criteria:

1. Have current licenses required for highway use.
2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

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

B. Areas Exempted For Placement of Travel/Recreational Vehicles

1. Individual lots or parcels of record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium type associations.

C. Travel trailers and travel vehicles exempted in 908.09, Subd. 3.A. lose this exemption when development occurs on the parcel exceeding \$500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in 908.04 and 908.05 of this Ordinance.

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

1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or 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 908.05, Subd. 5. A. of this Ordinance. No fill placed in the floodway to meet the requirements of this Subdivision shall increase flood stages of the 100-year or regional flood.
2. All new or replacement travel trailers or travel vehicles not meeting the criteria of (1) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 908.10, Subd. 4. of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with 908.08, Subd. 3. of this Ordinance.

908.10. ADMINISTRATION: Subdivision 1. ZONING ADMINISTRATOR: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in 908.12 of the Ordinance.

Subd. 2. PERMIT REQUIREMENTS:

A. Permit Required: A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; 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 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 Applications, Plans, Permits, Variances and Certificates of Zoning Compliance, Permits, Conditional Use Permits. or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other- Use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable by 908.12 of this Ordinance.

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 Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

### Subd. 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 error in any order, requirement decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

C. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

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 shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board

shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

E. Decision. The Board shall arrive at a decision on such appeal or Variance within 14 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in 908.10, Subd. 4.F, which are in conformity with the purposes of this Ordinance. Violation 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 908.12. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of action.

F. Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

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 up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Subd. 4. CONDITIONAL USES: The Planning and Zoning Commission shall hear and decide applications for conditional uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Henderson Planning and Zoning Commission for consideration.

A. Hearings- Upon filing with the Planning and Zoning Commission an application for a Conditional Use Permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

B. Decisions- The Planning and Zoning Commission shall arrive at a decision on a Conditional Use within 14 days. In granting a Conditional Use Permit the Planning and Zoning Commission shall prescribe appropriate condition and safeguards, in addition to those specified in 908.10, Subd. 4.F, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under 908.12. 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 Planning and Zoning Commission in Passing on Conditional Use Permit Applications within all Flood Plain Districts:

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning and Zoning Commission for determining the suitability of the particular site for the proposed use:

a. Plans in triplicate drawn to scale showing the nature, location dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

b. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

2. Transmit one copy of the information described in subsection (1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters,

3. Based upon the technical evaluation of the designated engineer or expert, the Planning and Zoning Commission 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 Planning and Zoning Commission Shall Be Based. In passing upon Conditional Use applications, the Planning and Zoning Commission shall consider all relevant factors specified in other subdivisions of this Ordinances, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments

2. The danger that materials may be swept onto other lands or downstream to the injury of others or the may block bridges, culverts or other hydraulic structures.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

4. The susceptability of the proposed facility, and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the

community.

6. The requirements of the facility for a waterfront location

7. The availability of alternative locations not subject to flooding for the proposed

use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

12. Such other factors which are relevant to the purposes of this Ordinance.

E. Time for Acting on Application. The Planning and Zoning Commission shall act on an application in the manner described above within 14 days from receiving the application, except that where additional information is required pursuant to 908.10. Subd. 4.D. of this Ordinance. The Planning and Zoning Commission shall render a written decision within 14 days from the receipt of such additional information.

D. Conditions Attached to Conditional Use Permits, Upon consideration of the factors listed above and the purpose of this Ordinance, the Planning and Zoning Commission shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill

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

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

908.11. NONCONFORMING USES: Subdivision 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

- A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- B. 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 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 908.11, Subd I. C. below.
- C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Subdivision are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community'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 50 percent of the current market value of the structure, then the structure must meet the standards of 908.04 or 908.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
- D. 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.
- E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in 908.04, 908.05, or 908.06 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

908.12. PENALTIES FOR VIOLATION: Subdivision 1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

Subd. 2. Nothing herein contained shall prevent the City of Henderson 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 and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- 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 the official control. As soon as is reasonably possible, this information, will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
- C. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days
- D. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

#### 908.13. AMENDMENTS:

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

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

## PART IX. HENDERSON SUBDIVISION ORDINANCE REGULATIONS.

909.01. TITLE: This section shall be known and may be cited as “HENDERSON SUBDIVISION ORDINANCE REGULATIONS”.

909.02. INTENT AND PURPOSE: The process of dividing raw land into separate parcels for other uses including residential, industrial, and commercial sites, is one of the most important factors in the growth of any community. Once the land has been subdivided and the streets, homes, and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is, therefore, in the interest of the general public, the developer, and the future landowners that subdivisions be conceived, designed, and developed in accordance with the highest possible standards of excellence.

All subdivisions of land hereafter submitted for approval shall fully comply, in all respects with the regulations set forth herein. It is the purpose of these regulations to:

1. Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
2. Provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service.
3. Place the cost of improvements against those benefiting from the construction project.
4. Secure the rights of the public with respect to public land and waters.
5. Improve land records by establishing standards for surveys and plats.
6. Protect the environmentally sensitive areas in the city.

909.03. RULES AND DEFINITIONS: Subd. 1. RULES: Words used in the present tense include the past and future tense; the singular includes the plural and the plural includes the singular; the word "shall" is mandatory, and the words "should" and "may" are permissive. In the case of conflicting provisions in the text of these regulations, the more restrictive shall apply.

Subd. 2. DEFINITIONS: For the purpose of this chapter, certain terms and words are hereby defined as follows:

1. Alley-A narrow public right-of-way, which normally affords a secondary means of vehicular access to abutting property.
2. Attorney-The attorney employed by the City unless otherwise stated.
3. Blocks-The enclosed area within the perimeter of roads, property lines, or boundaries of the subdivision.
4. Boulevard-The portion of the street right-of-way between the curb line and the property line.
5. Cluster Development-A subdivision development planned and constructed so as to group housing units into patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this Chapter.
6. City-The city of Henderson
7. Comprehensive Plan-A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social, and economic development of the city and its surroundings and includes any unit or part of such plan, which is separately adopted, and any amendment to such plan or parts thereof.
8. Concept Plan or Sketch Plan- A generalized plan of a proposed subdivision indicating lot layout, streets, park areas, and water and sewer systems presented to the city officials at the pre-application meeting.
9. 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.



10. Copy-A print or reproduction made from a tracing.
11. County-Sibley County, Minnesota.
12. Development-The act of building structures and installing site improvements.
13. Drainage Course- A water course or indenture for the drainage of surface water.
14. Easement-A granting of land by an owner for a specific use by persons other than the owner.
15. Engineer-The registered engineer or consulting firm hired or employed by the City unless otherwise stated.
16. Final Plat-The final map drawing or chart on which the subdivider's plan of subdivision is presented to the City Council for approval, and if approved, will be submitted to the County Recorder.
17. Governing Body-Henderson City Council
18. Key Map-A map drawn to a comparatively small scale, which defines and shows the area proposed to be platted and the areas surrounding it to a given distance.
19. Lots
  - a. Lot, parcel or portion of land in a subdivision or plat of land, separated, from other parcels or portions by description as on a subdivision or record of survey may, for the purpose of sale or lease or separate use thereof.
  - b. Lot, Butt-A lot located on the end of a block excluding the two corner lots.
  - c. Lot, Corner-A lot located at the intersection of two streets; and the interior angle of the intersections do not exceed one hundred and thirty-five degrees.
  - d. Lot, Double Frontage-A lot that has a front lot line abutting on one street and a back or rear lot line abutting another parallel street.
  - e. Lot, Through-Any lot other than a corner lot that abuts more than one street.
  - f. Lot, Depth-The mean horizontal distance between the front lot line and the rear lot line.
  - g. Lot Line-The property line bounding a lot. Except where any portion of a lot extends into the right-of-way of proposed public right-of-way, the line of such right-of-way shall be the lot line.
  - h. Lot Width-The horizontal distance between the side of lines of the lot, measured parallel to the front line of the lot at the setback line.
20. Metes and Bounds Description-A description for real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by describing lines or portions thereof.
21. Minimum Subdivision Design Standards-The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.
22. Minor Subdivision-A subdivision of small size situated in a locality where conditions are well defined that may be exempt from the strict regulations of this chapter.
23. Owner-An individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided or to commence and maintain proceedings to subdivide the same under these regulations.
24. Pedestrian Way-A public right-of-way across or within a block intended to be used by pedestrians.
25. Person-Any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.
26. Planned Unit Development (PUD)-A residential or commercial development whereby buildings are grouped or clustered in and around common open space areas in accordance with a pre-arranged site plan, and where the common open space is owned by the homeowners and maintained by a homeowners association.

27. Plat-The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota Statutes Chapters 462.358 and 505.
28. Preliminary Approval-Official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in Minnesota Statutes Chapter 462.358 and the applicable provisions of this chapter.
29. Preliminary Plat-The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and city Council for their consideration.
30. Protective Covenants- Contracts entered into between private parties and constituting a restriction on the use of private property within a subdivision for the benefit of the property owner's, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
31. Right-of-Way-Public land used or to be used as a street or highway including alleys, and boulevards.
32. Sketch Plan-A sketch of a proposed subdivision showing the information specified in Section 909.05 of this Chapter.
33. Street-A public way for vehicular traffic, whether designed as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place, or however otherwise designated.
  - a. Collector Street-A street which carries traffic from local streets to arterials.
  - b. Cul-de-sac Street- a turn-around with only one outlet.
34. Service Street-Marginal access street, or a minor street, which is parallel or perpendicular and adjacent to a thoroughfare providing access to abutting properties, and provides protection from through traffic.
35. Local Street-A street of limited continuity use primarily for access to the abutting properties and the local need of a neighborhood.
36. Arterial Street-A street or highway with access restrictions designed to carry large volumes of traffic between various sections of the city and beyond.
37. Private Street-A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.
38. Street Width-For the purpose of this chapter, the shortest distance between the lines delineating the right-of-way.
39. Subdivider-Any person commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.
40. Subdivision-"Subdivision" is the division of a parcel of land into two or more lots or parcels, any of which resultant parcels is less than two and one-half acres in area, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes re-subdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
41. Surveyor-A person duly registered as a land surveyor by the State of Minnesota.
42. Tracing- A plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.

909.04. SCOPE: Subd. 1. The rules and regulations governing plats and subdivision of land obtained herein shall apply within the city. Except in the case of re-subdivision, this Chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the Office of the Sibley county Recorder prior to the effective date of this Chapter, nor is it intended by this Chapter to repeal, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this Chapter, or with restrictive covenants running with the land. Where this Chapter imposes

a greater restriction upon the land than is imposed or required by existing provisions of Federal, State, or Municipal Laws, Statutes, Ordinances, or Regulations, then provisions of this Chapter shall control.

Subd. 2. AMENDMENTS: The provisions of this chapter may be amended by the Henderson City Council at any time at its discretion.

Subd. 3. RESTRICTIONS ON FILING AND RECORDING CONVEYANCES. No conveyance of land in which the land conveyed is described by metes and bounds or by reference to an unapproved registered land survey or to an unapproved plat made after this chapter becomes effective, shall be made or recorded unless the parcel described in the conveyance:

1. Was a separate parcel of record at the date of adoption of this chapter, or
2. Was the subject of a written agreement to convey property, and was entered into prior to such time, or
3. Was a separate parcel of not less than one and one-half acres in area and one hundred fifty feet in width as of January 1, 1966, or
4. Was a separate parcel of not less than five acres in area and three hundred feet in width on the effective date of this chapter.
5. Such parcel complies with all requirements of this chapter.

Subd. 4. PLATTING: Except as specifically set forth in these regulations any subdivision creating parcels, tracts, or lots after the adoption for these regulations shall be platted in accordance with Minnesota statutes Chapter 505, as it may be amended from time to time.

Subd. 5. PUBLIC IMPROVEMENT: Where a parcel of land is being subdivided and a plat is required, no public improvements shall be installed, undertaken or constructed unless the Final Plat is approved and no such services (ie. electric, sewer & water, streets, etc.) shall be provided until approval of the final Plat is granted and such plat has been duly recorded.

909.05. ADMINISTRATION OF THIS CHAPTER: Subd. 1. PLAT PRESENTATION PROCEDURES: Except as set forth in section 909.04 and 909.10 this chapter, no real property within the jurisdiction of this Chapter shall be subdivided and offered for sale or a plat recorded until a preliminary plat and a final plat of the proposed subdivision have been reviewed by City Staff, and the Planning Commission and until the Final Plat has been approved by the City Council. Planned Unit Developments (PUD'S), shall be presented in the same manner as other plats for review by City Staff and the Planning Commission with the approval of the City Council.

Subd. 2. PRE-APPLICATION MEETING: Prior to the preparation of a preliminary plat, the subdivider or owner shall meet with the appropriate City Officials, as determined by the City, in order to be made fully aware of all applicable ordinances, regulations, and plans in the area to be subdivided. At this time and at subsequent informal meetings such as with the Planning Commission, the subdivider shall submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal, as well as other utilities locations. The sketch plan can be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, or to the neighboring subdivisions and developments, and to the natural resources and topography of the site.

Subd. 3. PRELIMINARY PLAT:

- A. After the pre-application meeting, the subdivider shall submit eight (8) copies of the Preliminary Plat to the Zoning Administrator at least fourteen days before the Planning Commission meeting at which such Plat is to be considered. The subdivider shall include a written application and statement along with the Preliminary Plat describing the proposed subdivision. The written statement shall include the anticipated development of the existing natural features and vegetation, and any other information required by this Chapter.

B. The Zoning Administrator shall submit one copy of the Preliminary Plat to each Planning Commission Member, and the City Engineer, and any other appropriate city officials. One copy shall also be submitted to the County Engineer if the plat abuts a County road and one copy to the State Department of Transportation if the plat abuts a State Highway, for review and comment as required by Minnesota Statutes Chapter 505.03.

C. The City Engineer and Zoning Administrator and other appropriate city officials shall review the Preliminary Plat and shall transmit a report of their findings and recommendations together with any supporting material to the Planning Commission prior to the meeting at which such Plat is to be considered. The subdivider shall be required to reimburse the city for all costs for extra outside consulting services that the City Staff, Planning Commission, and City Council deem necessary for determining the adequacy of the plan.

D. Within thirty days after the plat has been filed and after reports and certifications have been received as requested, the Planning Commission shall hold a public hearing on the Preliminary Plat. Notice of the time and place thereof shall be published once in the official newspaper at least ten days before the day of the hearing, the Planning Commission shall make its report to the City Council.

E. The Planning Commission shall forward to the city Council a favorable, conditional, or unfavorable report and said report shall contain a statement of findings and recommendations.

F. The preliminary application shall be approved or disapproved by the city council within one hundred twenty days following the filing with the city and application complying with this chapter, unless an extension of the review period has been agreed to by the applicant. If the City fails to preliminarily approve or disapprove an application within the review period and/or extensions thereof, the application shall be deemed approved, and upon demand, the City shall execute a certificate to that effect. If the City Council disapproves of the Preliminary Plat, the grounds for any such disapproval shall be set forth in the minutes of the City Council meeting and reported to the owner and/or subdivider.

G. During the intervening time between approval of the preliminary plat and the Final Plat, the subdivider must submit acceptable engineering plans for all required improvements.

H. In the case of all subdivisions, the Planning Commission shall recommend denial of and/or the City Council may deny approval of a preliminary or final plat if it makes any of the following findings:

1. The proposed subdivision, including the design, is in conflict with any adopted component of the Policy Plan, Comprehensive Plan, and/or Zoning Ordinance of the City of Henderson.
2. The physical characteristics of the site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development of use contemplated;
3. The site is not physically suitable for the proposed density of development;
4. The design of the subdivision or the proposed improvements is likely to cause substantial environmental damage;
5. The design of the subdivision or the types of improvements are likely to cause serious public health damage;
6. The design of the subdivision or the type of improvements will conflict with easements of record.

Subd. 4. FINAL PLAT:

- A. The subdivider shall engage a registered land surveyor to prepare a Final Plat, which shall meet all the requirements of Minnesota Statutes Chapter 505.
- B. The subdivider may request approval of such portion of the Preliminary Plat that the subdivider proposes to develop at one time by filing a Final Plat limited to such portion with the City Clerk. The entire area of the Preliminary Plat shall be platted in final form within a period of five years from the date of Preliminary Plat approval, or that portion of the preliminary plat not so finally platted shall become null and void and disapproved.
- C. The subdivider shall submit eight (8) copies of the Final Plat to the Zoning Plat to the Zoning Administrator at least three weeks before the Planning commission meeting at which such Plat is to be considered. The Subdivider shall submit the Final Plat within one year of Preliminary Plat approval; otherwise, such approval shall become null and void unless Section 9-5 of this chapter applies.
- D. The Final Plat shall incorporate all changes required by the City, County Engineer and State Department of Transportation, but in all other respects, it shall conform to the preliminary plat as approved.
- E. The Zoning Administrator shall transmit one copy each of the Final Plat to the Planning commission, City Engineer, City Attorney, and other appropriate city officials.
- F. The City staff shall review the Final Plat and shall transmit reports of their recommendations to the Planning Commission before the meeting at which such Plat is to be considered.
- G. The Planning Commission shall review the Final Plat and consider reports of City staff including its Engineer, Attorney, and other appropriate municipal employees. The Planning Commission shall then submit its recommendations to the Zoning Administrator who shall within 30 days after the subdivider's request for approval forward such recommendations to the City Council.
- H. The City Council shall approve or disapprove of the Final Plat within thirty days after receiving the recommendations of the Planning Commission. The City Clerk shall notify the subdivider of the Council's action.
- I. The City shall approve the Final Plat within sixty days of the subdivider's request for approval if the applicant has complied with all conditions and requirements of this Chapter and all conditions and requirements upon which the preliminary plat was approved, either through performance or agreements assuring proper compliance with the City's requirements. If the City fails to certify final approval within the time frame, and if the applicant has complied with all conditions or requirements, the final plat shall be deemed approved and upon demand, the City shall execute a certificate to that effect.
- J. Upon approval of the final plat by the City, the subdivider shall record such Final Plat with the Sibley County Recorder within sixty days after approval. Otherwise the approval of the Final Plat shall be considered void. The subdivider shall, within thirty days of recording, furnish the City Clerk with a reproducible print (i.e. a photo-mylar or an original) of the final plat showing evidence of the recording.

Subd. 5. EFFECT OF SUBDIVISION APPROVAL: For one year following preliminary approval and for three years following final approval, unless the subdivider and the City agree otherwise, no amendment to the City's comprehensive plan or Zoning Ordinance shall apply to or affect the use, development, density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, the City may extend the period by agreement with the subdivider. This may require submission of a new application unless substantial financial damage as a consequence of the requirement to submit a new application. In connection with a subdivision involving planned and staged

development, the City may by resolution or agreement, grant the rights referred to herein for periods of time longer than three years which it determines to be reasonable and appropriate.

Subd. 6. DISCLOSURE BY SELLER; PURCHASER'S ACTION FOR DAMAGES: A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which this Chapter applies shall attach the instrument of conveyance either:

- A. A recordable verification by the city clerk that this chapter does not apply, or that the subdivision has been approved by the City, or that the provisions of this chapter have been waived by resolution of the City because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of this Chapter, or
- B. A statement which names and identifies the location of the appropriate City offices and advises the grantee that municipal subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction on it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, of nonapplicability, or waiver from the municipality.

In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this section shall be grounds for damages. If the buyer establishes a right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding five per cent of the purchase price of the land.

909.06. DATA FOR PRELIMINARY AND FINAL PLATS: Subd. 1. DATA FOR PRELIMINARY PLAT: Data required to be included or provided with the Preliminary Plat is as follows:

A. IDENTIFICATION AND DESCRIPTION

1. Proposed name of subdivision and street names, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in Sibley County unless approved in advance by the Planning Commission or Sibley County Recorder.
2. Location by section, township, range, and by legal description.
3. Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer, and designer of the plat.
4. Graphic scale not less than one (1) inch to one (1) hundred feet.
5. Show North Direction point on Plan.
6. Key map including area within one (1) mile radius of plat.
7. Date plat prepared or drafted.
8. A current Abstract of Title or a Registered Property Certificate along with any unrecorded documents, and Opinion of Title by the subdivider's attorney.

B. EXISTING CONDITIONS IN PROPOSED TRACT

1. Boundary line of proposed subdivision, clearly indicated to a close degree of accuracy.
2. Existing zoning classifications for land within and abutting the subdivision including flood plain and shoreland districts, if applicable.
3. A general statement of the approximate acreage and dimensions of the lots.
4. Location, right-of-way widths, and names of existing or platted streets, or other public ways, parks, and other public lands, permanent buildings and structures, easements, sections and corporate lines within the plat.

5. Boundary lines of adjoining non-subdivided or subdivided land or lands, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
6. Topographic data, including contours at vertical intervals of two feet, water courses, marshes, rock outcrops, power transmission poles and lines, and other significant features may also be required to be shown.
7. An analysis of the soils. The City may require soil borings if deemed necessary by the Planning Commission or City Council.
8. If applicable, limits of the flood plain, flood-way, and flood fringe areas.
9. Existing zoning and land use in the area within three hundred feet of the boundaries of the tract.
10. Plans for water supply, sewage disposal, and drainage. Location and size of existing sewers, water mains, culverts or other underground facilities within the preliminary plat area. Such data as existing grades, invert elevations, and location of catch basins, manholes, hydrants and street payment width and type, shall also be shown.

#### C. SUBDIVISION DESIGN FEATURES

1. Layout and width of proposed streets and utility easements, pedestrian ways showing street names, lot dimensions, parks, and other public areas. The street layout shall include all contiguous land owned or controlled by the subdivider.
2. Proposed use of all parcels, and if zoning change is contemplated, proposed zoning amendment.
3. Preliminary street grades and drainage plan.
4. Layout, numbers, and preliminary dimensions of lots and blocks.
5. When lots are located on a curve, the width of the lot at the building setback line.

#### D. OTHER INFORMATION

1. Where a subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property to show the possible relationships between the proposed subdivision and the future subdivision.
2. Potential land areas for re-subdivision or land area of excessively deep or wide (over two hundred feet) lots shall be indicated on the plat for their intended use.
3. A plan for soil erosion and sediment control both during construction and after development has been completed.
4. Any necessary site drainage, sewer & water, traffic studies or traffic impact statements, or other relevant information as required by the Zoning Administrator, Planning Commission, or City Council.
5. Such other information as may be requested by the City Staff, Planning Commission, or City Council.

Subd. 2. DATA AND REQUIREMENTS FOR FINAL PLAT: Data required to be included or provided with the Final Plat is as follows:

1. A land surveyor who is registered in the State of Minnesota and shall comply with Minnesota Statutes Chapter 505 and this chapter shall prepare the plat.
2. Data as required by the City Engineer, i.e., and accurate angular and linear dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, and other important features.
3. Identification and description data as required for the Preliminary Plat.

4. Boundaries of the property; lines of all proposed streets and alleys, with their width, and other areas intended for public use.
5. Lines of adjoining streets and alleys, with their width and names.
6. All lot lines and easements, with figures showing their dimensions.
7. An identification system for all lots and blocks.
8. Certification by a registered land surveyor that the Plat represents a survey made by them and that monuments and markers thereon exist as located and all dimensional and geodetic details are correct.
9. Notarized certification by owner, and by any mortgage holder of record, of adoption of the Plat, and the dedication of streets and other public areas.
10. Certification showing that all taxes currently due and special assessments have been paid.
11. Title opinion by a practicing attorney-at-law shall show, based upon an examination of an abstract, torrens certificate or the records of the Sibley County recorder for the lands included within the plat, that the title is in the name of the owner or subdivider and any encumbrances or liens on the property.

The date of continuation of the abstract examined or the date of the examination of the registered property, abstract, torrens certificate or records shall be within thirty days prior to the date the final plat is submitted to the city for approval. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the Sibley County Recorder.

12. Execution by all owners of any interest in the land and any holders of a mortgage therein of the certificate required by Minnesota Statutes and which certificate shall include an accurate legal description of any area to be dedicated for public use and shall include a dedication to the City for sufficient easements to accommodate utility services in such form as shall be approved by the City Clerk.

Subd. 3. CERTIFICATIONS: The final plat shall include the required certifications by the City and County officials. This shall include a signature by the Chairman of the Planning Commission indicating that the plat has been reviewed by the Planning Commission.

A. Form for approval of county officials concerned with the recording of the plat.

No delinquent taxes and transfer entered this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_.

\_\_\_\_\_  
(Name) Sibley County Auditor

Document Number \_\_\_\_\_. I hereby certify this instrument was filed in the office of the County Recorder for record on this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_, at \_\_\_\_\_ o'clock a.m./p.m., and was duly recorded in Book \_\_\_\_\_ of \_\_\_\_\_ on page\_\_\_\_\_.

\_\_\_\_\_  
(Name) County Recorder  
Sibley County

B. Form of approval of City Officials.

I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution.

Date this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_.



\_\_\_\_\_  
(Name) Henderson City Attorney

Checked and approved as to compliance with Minnesota Statutes Chapter 505.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_\_\_\_.

\_\_\_\_\_  
(Name) Henderson City Engineer

Checked and approved as in compliance with the Henderson Zoning Ordinance and Subdivision Ordinances.

\_\_\_\_\_  
City Zoning Administrator

Approved by Henderson City Council on this \_\_\_\_\_ day of \_\_\_\_\_  
200 \_\_\_\_\_.

\_\_\_\_\_  
Mayor, City of Henderson

Attest:

\_\_\_\_\_  
City Clerk

909.07. SUBDIVISION DESIGN STANDARDS: Subdivision 1. CONFORMITY WITH THE COMPREHENSIVE PLAN: The proposed subdivision shall conform to the Comprehensive Plan and Policy Statement adopted by the City.

Subd. 2. STREETS AND THOROUGHFARES:

A. General Street Design-:

1. The design of all streets shall be considered in relation to public safety, existing and planned streets, efficient circulation of traffic, topographical conditions, run-off of storm water, proposed use of the land to be served by such streets, and the Comprehensive Plan of the community.
2. When a new subdivision adjoins unsubdivided land that is susceptible to being divided, the arrangement of streets shall allow for their appropriate continuation into adjoining areas. Such streets shall be carried to the boundaries of the unsubdivided land.
3. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

B. Street names-Street names shall not duplicate the names of other streets unless approved in advance by the planning commission or Sibley County Recorder.

C. Street Width and Grades-The following standards for street width and grades shall be followed by the subdivider.

Type of Highway or Street Width	Minimum	Maximum Grade	Minimum
Type Highway and Arterials	8-120ft.	5%	.5%
Collectors	60ft	8%	.5%
Local Streets	60ft	10%	.5%
Frontage Roads	60ft.	10%	.5%

Cul-de-sacs Radius	40ft.	10%	.5%
Turn around Diameters	80ft	10%	.5%

D. Street Intersections- Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than sixty degrees.

Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated to the City.

E. Tangents-A tangent of at least one hundred feet shall be introduced between reverse curves on collector streets and fifty feet on lesser streets.

F. Deflections-When connecting street lines deflect from each other at one point by more than ten degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of no less than five hundred feet for arterioles, three hundred feet for collector, one hundred feet for all other streets.

G. Street Jogs-Street jogs with centerline offsets of less than one hundred fifty feet shall be prohibited.

H. Local Streets- Local streets shall be laid out so as not to encourage through traffic.

I. Cul-de-sac -The maximum length of a street terminating in a cul-de-sac shall be three hundred feet, measured from the centerline of the street of an origin to the end of the right-of-way. Each cul-de-sac shall be provided with a turn-around having a minimum outside roadway diameter of eighty feet and a minimum street property line diameter of one hundred feet.

J. Access to Arterial Streets-In the case where a proposed plat is adjacent to a limited access from individual lots to such highways. As a general requirement, access arterioles shall be at intervals of not less than 1/4 mile and through existing and established crossroads where possible. The City Council may require the developer to provide local service drives along the right-of-way of such facilities, or they may require that lot rear yards back on the arterioles, in which case vehicular and pedestrian access between the lots and arterial shall be prohibited.

K. Half Streets-Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. Half streets shall not be developed, or maintained.

L. Private Streets-Private streets shall be prohibited and not maintained.

M. Corners-Curb lines at street intersections shall be rounded at a radius of not less than fifteen feet.

N. Alleys-Alleys, where permitted by the City, shall be at least a minimum of fifteen feet wide in residential areas and at least twenty-four feet wide in commercial areas. The City may require alleys in commercial areas where adequate off-street loading space is not available. Dead-end alleys, alley intersections, and sharp changes in alignment shall be prohibited

O. Pedestrian Walkways-The Planning Commission and/or Council may require the provision of pedestrian ways in proximity to public service areas such as parks, schools, shopping facilities, or in other appropriate locations as need exists or as required by City Officials, Planning Commission, and/or the city Council. The design of the pedestrian walkways shall be a minimum of at least ten feet wide.

P. Hardship to Owners of Adjoining Property-The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

Subd. 3. BLOCKS:

- A. The length of blocks shall not exceed one thousand two hundred feet nor be less than three hundred feet. Pedestrian ways at least ten feet wide at their approximate centers may be required for blocks over eight hundred feet long.
- B. Blocks intended for commercial and industrial use must be designed as such, and the block must be of sufficient size to provide for adequate off-street parking, loading, and such other requirements of the City.
- C. The width of a block shall normally be sufficient to allow two tiers of lots of appropriate

length.

Subd. 4. LOTS:

- A. Size-For areas served by municipal sewer and water systems, the lot dimensions shall be such as to comply with the minimum lot areas specified in the Zoning Ordinance.
- B. Side Lot Lines-Side lines of lots shall be substantially at right angles to straight street lines or radial to curved street lines.
- C. Drainage-Lots shall be graded so as to provide drainage away from building locations.
- D. Natural Features-In subdividing any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses, or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety, and stability to the proposed development.
- E. Lot Remnants-All remnants of lots below the minimum lot size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as un-usable parcels unless the owner can show plans for future use of such remnant.
- F. Double Frontage Lots- Double frontage (lots with frontage on two parallel streets) or reverse frontage shall not be permitted except when lot rear yards back on an arterial or collector street. Such lots shall have an additional depth of at least ten feet in order to allow for screen planting along the rear yard back lot line.

Subd. 5. EASEMENTS:

- A. Utilities-Easements shall be a minimum of twenty feet wide when centered on rear or side property lot lines and fifteen feet when adjacent properties aren't available for utility easements. The Clerk may request greater requirements if the situation warrants the need. Easements for storm or sanitary sewers shall be a minimum of at least twenty feet wide, unless otherwise directed by the City Clerk. Easements shall have continuity of alignment from block to block. Temporary construction easements may from time to time be required to where installation depths are greater than twelve feet. Utility easements other objects that will interfere with the free movement of utility service vehicles. If easements are obstructed the City reserves the right to remove any or all obstructions at the cost of the effected property owner, any or all costs may be assessed back to the effected property owners. The City is not responsible for any removal costs and/or destruction of any items obstructing the easement right-of-ways.
- B. Water Courses-When a subdivision is traversed by a watercourse, drainage way channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the construction as may be determined to be necessary by the City Engineer.

909.08. REQUIRED IMPROVEMENTS: The subdivider-developer shall be required to provide the following improvements for residential subdivisions unless the City Council elects to do so under special assessments.

A. Monuments-Steel monuments shall be placed as described according to MN Statutes 505 at all lot corners, block corners, angle points, of curves in streets, and at intermediate points as shown on the Final Plat and shall be the subdivider's responsibility and at his expense. All Federal, State, County, other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

Said steel monuments shall be placed as so they are within 6 inches from final elevation at the above referenced corners and points within one year of final acceptance of said final street grades.

B. Streets

1. Grading-Streets shall be graded to the full width of the right-of-way in accordance with street grades submitted to and approved by the City Engineer. All street grading and gravel base construction shall be in accordance with specifications on file in the City Engineer's office. Grading shall be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after completion of the installation of underground utilities.

2. Surfacing-Following the City Engineer's approval of street grading and after utility installation, streets shall be surfaced and provided with concrete curbs and gutters where required in accordance with the latest recommended plans and specifications prepared by the City Engineer, and approved by the City Council.

C. Sidewalks and Driveways-Sidewalks shall be installed along all thoroughfares and collector streets and other streets except if determined by appropriate City Staff, Planning Commission, and City Council that their purpose is not required. Driveways shall be constructed from the curb and gutter to the property line or property side of sidewalks. In cases where driveways are constructed after curbing and sidewalk are in place, the sidewalk shall be reconstructed in accordance with driveway specifications to the width of the driveway.

D. Utilities

1. Sanitary Sewer-Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the master plan for water main extensions of the municipality. All new construction shall be connected to the municipal water system.

2. Storm water Facility -Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

E. Specifications and Inspections-Unless otherwise stated, all required improvements shall conform to engineering standards and specifications as required by the City Council. Such improvements shall be subject of inspection and approval by, and shall be made in sequence as determined by, the City Engineer.

909.09. PAYMENT FOR INSTALLATION OF IMPROVEMENTS: Subdivision 1. The required improvements as listed in this Chapter are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost of the city. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvements, representing the benefit to such lands, to be assessed against that property. In this situation, the subdivider will be required only to pay for such portion of the whole cost of such improvement as will represent the benefit to the property within that subdivision.

Subd. 2. Prior to the installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the City requiring the subdivider to furnish and construct said improvements and pay costs for which he is ground to b responsible in accordance with plans and specifications and usual contract conditions. This shall include provision for supervision of details of construction by the Engineer and shall grant to the Engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder an with any other work being done or contracted by the community in the vicinity.

No subdivider shall be permitted to start work on any other subdivision without special approval of the City Council if he has previously defaulted on a City contract entered into in accordance with this section.

Subd. 3. The contract provided for in Section 9-9 of this chapter may require in the City's sole discretion that the subdivider make an escrow deposit or, in lieu thereof furnish a bank letter of credit or performance bond is required, the City shall be entitled to reimburse itself for any damages, costs and expenses including reasonable attorneys fees incurred by the City resulting from the subdivider breaching the terms and conditions of the contract. If the subdivider defaults on the terms and conditions of the contract with the City, the city may also complete the project referred to in the contract and assess all costs incurred by the City, which shall include but not be limited to all costs incurred by the City as a result of the subdivider's breach of the contract, against the real property being subdivided as a special assessment and collect it in the same manner as a special assessment levied by the City against real property is accordance with Minnesota Statutes Chapter 429.

Subd. 4. Construction plans and specifications for the required improvements conforming in all respects with the standards and ordinances of the City shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota, and said plans and specifications shall contain his certificate. Such plans and specifications, together with the quantities of construction items shall be submitted to the City Engineer for his approval and for his estimate of the total costs of the required improvement. Upon approval, such plans and specifications shall become a part of the required contract. The tracings of the plans approved by the City Engineer, plus three (3) prints shall be furnished to the City and be filed as a public record.

All required improvements on the site that are to be installed under the provision of this chapter shall be inspected during the course of construction by the City Engineer at the subdivider's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the contract.

Subd. 5. Improvements within a subdivision which have been completed prior to application for preliminary of final approval of the plat, or the execution of the contract for installation of the required improvements, shall only be accepted as equivalent improvements if they are in compliance with and conform to applicable City standards, and only if the City Engineer shall certify that he is satisfied that the existing improvements conform to those applicable City standards.

909.10. OTHER PROVISIONS: Subd. 1. The City Council may grant a variance from any of the terms and conditions of this chapter upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical condition that strict compliance with this Chapter would cause undue hardship, provided such relief may be granted without detriment to the public welfare and without detriment to the public welfare and without impairing the intent and purpose of this chapter.

The Planning Commission may recommend variations from the requirements of this Chapter in specific cases which, if in the opinion of the Planning Commission it does not affect the Comprehensive Plan or the intent of this Chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons that justify the modifications. The City Council may

approve variances from this chapter in specific cases that in its opinion meet the above requirements and do not adversely affect the purposes of this Chapter.

Subd. 2. Upon receiving a report from the Planning Commission, the City Council may grant a variance from any of the provisions of this Chapter in the case of a planned unit development, provided that the City Council shall find that the proposed development is fully consistent with the purposes and intent of this Chapter. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques.

Subd.3. The subdivision of a lot which is a part of a recorded plat or parcel, where the division is to permit the transfer of land from one (1) neighbor to another, and the newly created property line or lines will not cause either lot or lots when transferred to be in violation of the Zoning Ordinance shall be exempt from the terms and conditions of this Chapter.

In the case of a subdivision of unplatted land or a resubdivision of platted land into five (5) parcels or less, situated in a locality where conditions are well defined, and the subdividing will not be detrimental to the public welfare or injurious to other property in the locality in which the property in question is located and newly created, and property lines will not cause any resulting lot to be in violation of this Chapter or the Zoning Ordinances, the applicant may petition the Planning Commission, the exempt the subdivider from complying with all or part of the regulations of this chapter.

The applicant shall be required to submit a petition for waiver of the requirements of this chapter upon forms furnished by the City. The forms shall be accompanied by or contain the following information:

1. An exhibit showing a dimensioned certificate of survey drawn by a registered land surveyor identifying the original lot or subdivision with an overlay or separate plan showing the proposed lot or subdivision requested.
2. An accurate dimensioned drawing of the present lot (or lots), arrangements shall include existing lot lines, structures, easements and encroachments, existing and proposed utilities, streets, and other relevant information as needed, as well as the relationship to adjacent lots and buildings.
3. A legal description of the existing area and the proposed project area.
4. Proof of property ownership.

The petition for waiver and eight (8) copies of the certificate of survey must be submitted to the Zoning Administrator at least three weeks prior to the next regular meeting of the Planning Commission, and shall be accompanied by the required filing fee as determined by the City Council

The Planning Commission shall thereafter make a recommendation to the City Council concerning requests.

The City Council, after review by the Planning Commission shall then consider the application and the Planning Commission recommendation, and proceed to act on a resolution approving or denying the request.

A certified copy of the City Council's resolution approving the petition for waiver accompanied by the exhibits required in the petition must be recorded by the petitioner at the Office of the Sibley County Recorder and be done within ten days after the Council's approval of the petition. If land, lots, or parcels are subdivided without following these guidelines, the transfer of any lands shall be deemed illegal and in violation of this chapter.

909.11. ENFORCEMENT: Subd. 1. REMEDIES: The City may exercise any or all of the following remedies to enforce this chapter:

- A. The City may, through civil proceedings, obtain a court order to enjoin any person from committing an act that is in violation of this chapter.

B. The City may deny the issuance of a building permit or other permits until all provisions of this chapter are complied.

C. The City may exercise any and all other remedies available to it in law or in equity against anyone who is in violation of this Chapter.

Subd. 2. PENALTIES: Any person who violates any of the provisions of this chapter, or who sells, leases, or offers for sale or lease any lot, block or tract of land herein regulated before all requirements of this chapter have been complied with, shall be guilty of a misdemeanor, and upon conviction thereof will be subject to a fine and/or imprisonment. Each day that the violation is permitted to exist shall constitute a separate offense.

909.12. MISCELLANEOUS: Subdivision 1 SEPARABILITY: The several provisions of this chapter are separable in accordance with the following provisions:

If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgement shall not affect any other provision of this chapter not specifically included in said judgement.

If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or structure, such judgement shall not affect other property, buildings, or structures.

Subd. 2. BUILDING PERMITS: No building permit shall be issued for any construction enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of this chapter have been fully met.

Subd. 3. REPEAL: All previous Ordinance or code provisions adopted by the City Council regulating the subdivision of land is hereby repealed.