

## CHAPTER 10

### LAND USE REGULATION (ZONING)

#### Section 1000 - General Provisions

**1000.01. Title.** This Chapter shall be known as the Zoning Ordinance of the City of Blue Earth, Minnesota and shall include both text and maps.

**1000.02. Intent and Purpose.** This Chapter is adopted for the purpose of protecting the public health, safety, morals, comfort, convenience and general welfare of the citizens of Blue Earth.

**1000.03. Legal Authority.** This Chapter is enacted pursuant to the City's general police powers, as well as specific statutory authority and State mandated regulatory rules.

#### **1000.04. Supremacy.**

**Subd. 1. Minimum Requirements.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare of the citizens of the City of Blue Earth.

**Subd. 2. Comparable Laws.** Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

**Subd. 3. Provisions of the City Code.** When any condition imposed by any provision of this Chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any other provision of this City Code or other City regulation, the more restrictive conditions shall prevail.

**Subd. 4. Private Agreements.** This Chapter is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the City by private declaration or agreement, but where the provisions of this Chapter are more restrictive than any such easement, restriction, covenant, or provision of any private agreement, the provisions of this Chapter shall prevail.

**Subd. 5. General Rule.** Except as specifically provided in this Chapter, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Chapter.

#### **1000.05. Remedies.**

**Subd. 1. Application to City Personnel.** The failure of any officer or employee of the City to perform any official duty imposed by this Chapter shall not subject the officer or employee to a

penalty imposed for violation unless a penalty is specifically provided for such failure.

**Subd. 2. Equitable Release.** In the event of a violation or the threatened violation of any provision of this Chapter, or any provision or condition of a permit issued pursuant to this Chapter, the City in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

**1000.06. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

**Subd. 1. Accessory Use of Structure.** The phrase “accessory use of structure” means a use or structure or portion of a structure subordinate to and serving the principal use structure on the same lot and customarily incidental thereto.

**Subd. 2. Administrator.** The term “administrator” means the duly appointed person charged with enforcement of this Chapter.

**Subd. 3. Agricultural Use.** The phrase “agricultural use” means the use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including, but not limited to, the following:

A. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers;

B. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits, and mink;

C. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

**Subd. 4. Alley.** The term “alley” means a public right-of-way which affords a secondary means of access to abutting property.

**Subd. 5. Apartment.** The term “apartment” means a room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any units in buildings with more than two (2) dwelling units.

**Subd. 6. Auto or Motor Vehicle Reduction Yard.** The phrases “auto” or “motor vehicle reduction yard” mean a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also Junk Yard.)

**Subd. 7. Basement.** The term “basement” means a portion of a building located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

**Subd. 8. Boardinghouse (Rooming or Lodging House).** The term “boardinghouse” means a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed twenty (20) persons.

**Subd. 9. Building.** The term “building” means any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**Subd. 10. Building Line.** The phrase “building line” means a line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any

part of the building is set back from said right-of-way line.

**Subd. 11. Building Height.** The phrase “building height” means the vertical distance to be measured from the grade of a building line to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, to the mean distance of the highest gable on a pitched or hip roof.

**Subd. 12. Building Setback.** The phrase “building setback” means the minimum horizontal distance between the furthest protruding part of the building and a lot line.

**Subd. 13. Business.** The term “business” means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

**Subd. 14. Carport.** The term “carport” means an automobile shelter having one (1) or more sides open.

**Subd. 15. Church.** The term “church” means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**Subd. 16. Comprehensive Plan or “Policies Plan”.** The phrase “comprehensive plan” means a compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in the Minnesota Municipal Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Subd. 17. City Water and Sewer Systems.** The phrase “city water and sewer systems” means utilities systems serving a group of buildings, lot, or any area of the City, with the design and construction of such utility systems as approved by the City and the State of Minnesota.

**Subd. 18. Conditional Use.** The phrase “conditional use” means a use classified as conditional which generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or abnormal traffic congestion.

**Subd. 19. Curb Level.** The phrase “curb level” means the grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established the engineering staff shall determine a curb level or its equivalent for the purpose of this Chapter.

**Subd. 20. Drive-In.** The term “drive-in” means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.

**Subd. 21. Dwelling Unit.** The phrase “dwelling unit” means a residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes.

**Subd. 22. Dwelling Attached.** The phrase “dwelling attached” means a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

**Subd. 23. Dwelling Detached.** The phrase “dwelling detached” means a dwelling which is entirely surrounded by open space on the same lot.

**Subd. 24. Easement.** The term “easement” means a grant by a property owner for the use of

a strip of land by the public or any person for any specific purpose or purposes.

**Subd. 25. Exterior Storage (Includes Open Storage).** The phrase “exterior storage” means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

**Subd. 26. Extraction Area.** The phrase “extraction area” means any non-agricultural artificial excavation of earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the natural surface of the earth, or sod, soil, sand, gravel, stone or other natural matter, or made by turning, or breaking or undermining the surface of the earth

**Subd. 27. Family.** The term “family” means an individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

**Subd. 28. Feed Lot.** The phrase “feed lot” means the place of confined feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

**Subd. 29. Floor Area.** The phrase “floor area” means the sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

**Subd. 30. Floor Area Ratio.** the phrase “floor area ratio” means the numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.

**Subd. 31. Floor Plan - General.** The phrase “floor plan - general” means a graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed in construction plans.

**Subd. 32. Frontage.** The term “frontage” means that boundary of a lot which abuts an existing or dedicated public street.

**Subd. 33. Garage - Private.** The phrase Garage – Private means (1) an accessory building or portion of the principal building upon any lot where the primary building is a private dwelling which is intended for and used to store private passenger vehicles of the family or families resident upon the premises or (2) a private storage building built as the primary structure upon a single lot or part of a lot adjacent to and abutting a lot owned by the same person(s) that has built upon it a private dwelling. The adjacent and abutting lot shall border the primary dwelling lot for at least 50 feet.

**Subd. 34. Home Occupation.** The phrase “home occupation” means any gainful occupation or profession engaged in by the occupant of a dwelling unit and not in an accessory building provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, tourist homes, restaurants, or similar uses.

**Subd. 35. Hotel.** The term “hotel” means a building which provides a common entrance, lobby, halls and stairway and in which twenty (20) or more people are, for compensation, lodged

with or without meals.

**Subd. 36. Irrigation System.** The phrase “irrigation system” means any structure or equipment, mechanical or otherwise, used to supply water to cultivated fields or supplement normal rainfall, including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds and reservoirs.

**Subd. 37. Junk Yard.** The phrase “junk yard” means an open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. This definition does not include sanitary landfills.

**Subd. 38. Landscaping.** The term “landscaping” means plantings such as trees, grass, and shrubs.

**Subd. 39. Lodging Room.** The phrase “lodging room” means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) lodging room.

**Subd. 40. Lot.** The term “lot” means a 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 map, for the purpose of sale or lease or separate use thereof.

**Subd. 41. Lot of Record.** The phrase “lot of record” means any lot which is one unit of a plat heretofore duly approved and filed, or a Registered Land Survey that has been recorded in the office of the County Recorder of Faribault County, Minnesota, prior to the effective date of this Code.

**Subd. 42. Lot Area.** The phrase “lot area” means the area of a lot in a horizontal plane bounded by the lot lines.

**Subd. 43. Lot - Corner.** the phrase “lot - corner” means a lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**Subd. 44. Lot Depth.** The phrase “lot depth” means the mean horizontal distance between the front lot line and the rear lot line of a lot.

**Subd. 45. Lot Line.** The phrase “lot line” means the property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Chapter.

**Subd. 46. Lot Line - Front.** The phrase “lot line - front” means that boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the Council.

**Subd. 47. Lot Line - Rear.** The phrase “lot line - rear” means that boundary of a lot which is opposite the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

**Subd. 48. Lot Line - Side.** The phrase “lot line - side” means any boundary of a lot which is not a front lot line or a rear lot line.

**Subd. 49. Lot - Substandard.** The phrase “lot - substandard” means a lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the

effective date of this Code which does not meet the minimum standards of this Chapter.

**Subd. 50. Lot - Through.** The phrase “lot - through” means a lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this chapter.

**Subd. 51. Lot Width.** The phrase “lot width” means the maximum horizontal distance between the side lot lines of a lot at the setback line.

**Subd. 52. Mining.** The term “mining” means the extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removing thereof from the site without processing. The only exclusion from this definition shall be removal of materials associated with construction of a building provided such removal is an approved item in the building permit.

**Subd. 53. Manufactured Homes.** The term “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 320 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; A manufactured home shall be distinct from other one (1) family dwelling units.

**Subd. 54. Manufactured Home Stand.** The phrase “manufactured home stand” means the part of an individual manufactured home lot which has been reserved for placement of the manufactured home, appurtenant structures, or additions.

**Subd. 55. Modular Home.** The phrase “modular home” means a non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A module home shall be congruous to a one (1) family dwelling.

**Subd. 56. Motel (Tourist Court).** The term “motel” means a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

**Subd. 57. Multiple Residence (Apartment Building).** The phrase “multiple residence” means three (3) or more dwelling units in one (1) structure.

**Subd. 58. Nursery, Landscape.** The phrase “nursery, landscape” means a business growing and selling trees, flowering and decorative plants, and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

**Subd. 59. Nursing Home.** The phrase “nursing home” means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health as provided for in Minnesota Statutes, Section 144.50.

**Subd. 60. Official Map.** The phrase “official map” means the map established by the Council, in accordance with State statutes, showing streets, highways, and parks both existing and proposed.

**Subd. 61. Off-Street Loading Space.** The phrase “off-street loading space” means a space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one (1) vehicle

of the type typically used in the particular business.

**Subd. 62. Open Sales Lot (Exterior Storage).** The phrase “open sales lot” (exterior storage) means any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

**Subd. 63. Parking Space.** The phrase “parking space” means a suitably surfaced and permanently maintained area on privately-owned property either within or outside of a building of sufficient size to store one (1) standard automobile.

**Subd. 64. Pedestrian Way.** The phrase “pedestrian way” means a public or private right-of-way across or within a block, to be used by pedestrians.

**Subd. 65. Prefabricated Home.** The phrase “prefabricated home” means a non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site. A prefabricated home shall be congruous to a single family dwelling.

**Subd. 66. Principal Structure or Use.** The phrase “principal structure or use” means one which determines the predominant use as contrasted to accessory use or structure.

**Subd. 67. Property Line.** The phrase “property line” means the legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

**Subd. 68. Public Land.** The phrase “public land” means any land owned or operated by City, School District, County, State or other governmental units.

**Subd. 69. Recreation - Public.** The phrase “recreation - public” includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

**Subd. 70. Recreation - Commercial.** The phrase “recreation - commercial” includes all uses such as bowling alleys, driving ranges, and movie theaters that are privately-owned and operated with the intention of earning a profit by providing entertainment for the public.

**Subd. 71. Recreation Equipment.** The phrase “recreation equipment” means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding twenty (20) feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures but not including tree houses.

**Subd. 72. Reclamation Land.** The phrase “reclamation land” means the improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited shall be considered as reclaimed land.

**Subd. 73. Registered Land Survey.** The phrase “registered land survey” means a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.

**Subd. 74. Sign.** The term “sign” means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.

**Subd. 75. Sign - Advertising.** The phrase “sign - advertising” means a sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises, where such sign is located or to which it is attached.

**Subd. 76. Street.** The term “street” means a public right-of-way which affords a primary means of access to abutting property, and shall also include avenue, highway, road or way.

**Subd. 77. Street - Collector.** The phrase “street - collector” means a street which serves or

is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.

**Subd. 78. Street - Major or Thoroughfare.** The phrase “street - major” or term “thoroughfare” mean a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

**Subd. 79. Street - Local.** The phrase “street - local” means a street intended to serve primarily as an access to abutting properties.

**Subd. 80. Street Pavement.** The phrase “street pavement” means the wearing or exposed surface of the roadway used by vehicular traffic.

**Subd. 81. Street Width.** The phrase “street width” means the width of the right-of-way, measured at right angles to the centerline of the street.

**Subd. 82. Story.** The term “story” means that portion of building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story.

**Subd. 83. Structure.** The term “structure” means anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

**Subd. 84. Structural Alteration.** The phrase “structural alteration” means any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**Subd. 85. Subdivision.** The term “subdivision” means the dividing of any parcel of land into two (2) or more parcels.

A. Platted Subdivision - If any resultant parcel is less than five (5) acres and less than 300 feet in width and the subdividing was done for the purpose of transfer of ownership to effectuate building development or if a new street or road is involved, regardless of the size of the parcel and/or its width, subsequent parcels must be platted in accordance with the terms and procedure of the Subdivision Regulations.

B. Unplatted Subdivision - A division of any parcel of land into two (2) or more parts wherein all parts are at least five (5) acres and at least 300 feet in width and where no new road is involved. These do not require platting.

**Subd. 86. Townhouse.** The term “townhouse” means a single family building attached by party walls with other single family buildings, and oriented so that all exits open to the outside.

**Subd. 87. Use.** The term “use” means the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

**Subd. 88. Use - Accessory.** The phrase “use - accessory” means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**Subd. 89. Use - Non-Conforming.** The phrase “use - non-conforming” means the use of land, buildings or structures legally existing at the effective date of this Chapter which does not comply with all the regulations of this Chapter or any amendments hereto governing the zoning district in which such use is located.

**Subd. 90. Use - Permitted.** The phrase “use - permitted” means a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**Subd. 91. Use - Principal.** The phrase “use - principal” means the main use of land or buildings as distinguished from subordinate or accessory uses. A “principal use” may be either permitted or conditional.

**Subd. 92. Use - Conditional.** See Conditional Use.

**Subd. 93. Variance.** The term “variance” means a modification or variation of the provisions of this Chapter where it is determined that special and/or unique circumstances relating to a specific lot make compliance with the provisions of this Chapter substantially impractical and a variance from the requirements of this Chapter will not:

- (a) alter the essential character of the locality of the parcel/lot, and
- (b) the proposed use will remain in harmony with the intent and purpose of this Chapter.

**Subd. 94. Wind Energy Conversion Systems (W.E.C.S.).** The phrase “wind energy conservation systems” means any device that converts wind power to another form of energy such as electricity or heat (also referred to by such common names as wind charger, wind turbine, and wind mill).

**Subd. 95. Yard.** The term “yard” means a required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

**Subd. 96. Yard - Rear.** The phrase “yard - rear” means the portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

**Subd. 97. Yard - Side.** The phrase “yard - side” means the yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

**Subd. 98. Yard - Front.** The phrase “yard, front” means the yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located.

**Subd. 99. Zoning Amendment.** The phrase “zoning amendment” means a change authorized by the governing body either in the allowed use within a district or in the boundaries of a district.

**Subd. 100. Zoning District.** The phrase “zoning district” means an area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

**Subd. 101. Zoning Variance Special/Unique Circumstances.** Circumstances that relate to the condition of a specific lot for purposes of a variance are “unique” if the lot/parcel conditions are:

- (a) more narrow, more shallow or more of an odd shape as platted as of October 1, 2011;
- (b) have an exceptional topographic feature or water condition; or
- (c) have a significant tree or stand of trees of a size where the tree trunks are greater than 12 inches in diameter which interferes with the ability to meet the set back requirements.

**Subd. 102. Zoning Variance Essential Character.** The phrase Zoning Variance Essential Character means the character of a specific platted block or subdivision within the City. For purposes of a variance, a proposed use impairs the essential character of a platted block or subdivision within the City if:

- (a) the use impairs an adequate supply of light and/or airflow to adjacent platted lots;

- (b) the use causes an unreasonable increase in the congestion of traffic upon the existing public streets;
- (c) the use increases the danger of fires(s) within the block or subdivision;
- (d) the use endangers the safety of the public within the block or subdivision; or
- (e) the use unreasonably diminishes the property values of the other lots or parcels within the block or subdivision.

## **Section 1010 - Administration**

**1010.01. Enforcing Officer.** The Council shall appoint a Zoning Administrator whose term of office shall terminate at the pleasure of the Council. The Zoning Administrator shall enforce this Chapter and shall perform the following duties.

**Subd. 1. Applications.** Receive, file and forward all applications for appeals, variances, special uses or other matters to the designated official bodies.

**Subd. 2. Actions.** Institute in the name of the City any appropriate actions or proceedings against a violator as provided for.

**Subd. 3. Ex-Officio Member of Planning Commission.** Serve as an ex officio non-voting member of the Planning Commission.

### **1010.02. Board of Adjustment and Appeals.**

**Subd. 1. Composition.** The Council shall serve as the Board of Adjustment and Appeals.

**Subd. 2. Authority.** The Board of Adjustment and Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Planning Commission or an administrative official charged with enforcing this Chapter. Such appeal may be taken by any person aggrieved or by any officer, department, board, commission or bureau of a town, municipality, county or state.

**Subd. 3. Power of Review.** The Board of Adjustment and Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of such Board shall be final subject to the right to appeal to District Court.

### **1010.03. Planning Commission.**

**Subd. 1. Variances.** The Planning Commission shall review, discuss, advise and recommend action to the City Council for all variance and conditional use permit applications received by the City. The recommendations made by the Planning Commission for both Variances and Conditional Use Permits shall consider and address the definitions set forth in Subsection 1000.06, the conditions set forth in Subsection 1010.09 and the district regulations and performance standards set forth in this Chapter as well as State law.

**Subd. 2. Hearings.** Hearings. All hearings of the Planning Commission shall be held within such time and upon such notice to interested parties as provided for in State Statutes. The Planning Commission shall make its recommendations to the City Council in a timely fashion so that action can be taken upon the application before the City Council in the timely fashion as required by State Law.

### **1010.04. Zoning Amendments.**

**Subd. 1. Criteria for Granting Zoning Amendments.** The Council may adopt amendments to this Chapter and the zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City. A two-thirds vote of the Council is required for any amendment to this Chapter to become effective.

**Subd. 2. Procedure.**

A. An amendment to this Chapter or the zoning map may be initiated by the Council, the Planning Commission or by petition of affected property owners. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Council until it has received the Planning Commission recommendations or until sixty (60) days have elapsed from the date of reference of the amendment without a report of the Planning Commission. Individuals wishing to initiate an amendment to this Chapter shall fill out a zoning amendment application form and submit it to the Zoning Administrator.

B. A public hearing on the rezoning application shall be held by the Planning Commission within thirty (30) days after the request for the zoning amendment has been received. Notice of said hearing shall be published in the official newspaper designated by the Council at least ten (10) days prior to the public hearing. The Clerk-Administrator shall mail the same notice to the owners of the property within 350 feet of the outside of the land proposed to be rezoned. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Clerk-Administrator and be made part of the records of the proceedings. The notice shall include the description of the land and the proposed changes in zoning. Failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made. The Planning Commission shall make its report to the Council at its next regular meeting following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

C. The Council must take action on the application within sixty (60) days following of receipt of the application. The person making the application shall be notified of the action taken. The Zoning Administrator shall maintain records of amendments to this Chapter and the zoning map.

**Subd. 3. Zoning and the Comprehensive Plan.** Any change in zoning granted by the Council shall automatically amend the Comprehensive Plan in accordance with said zoning change.

**1010.05. Fees.** The City may charge fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control of this Chapter or an application for a permit or other approval required under the official controls established by this Chapter. Such fees shall be set by ordinance of the City Council. A schedule of fees is contained in Appendix H to the City Code.

**1010.06. Existing Lots.**

**Subd. 1. Single Family Use Allowed.** A lot or parcel of land in a residential district which was of record as a separate lot or parcel in the office of the Faribault County Recorder or Registrar of Titles, on or before the date of adoption of this Chapter may be used for single family detached dwelling purposes provided the area and width thereof are within 60% of the minimum requirements

of this Chapter and provided it can be demonstrated that safe and adequate sewage treatment systems can be installed to serve such permanent dwelling.

**Subd. 2. Subdividing Existing Lots.** No lot or parcel of land in a residential district shall be split or subdivided so as to render the original lot non-conforming subject to the provisions of this Chapter. No building permit shall be issued on a lot so conveyed.

**1010.07. Non-Conforming Uses and Structures.** Any structure or use existing upon the effective date of this Chapter and which does not conform to the provisions of this Chapter may be continued for a certain period of time subject to the following conditions:

**Subd. 1. Expansion.** No such use shall be expanded or enlarged except in conformity with the provisions of this Chapter.

**Subd. 2. Discontinuance of Use.** If a non-conforming use is discontinued for a period of more than one (1) year, further use of the structures or property shall conform to this Chapter.

**Subd. 3. Destruction of Structure.** If a non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent (50%) of its fair market value and no building permit has been applied for within 180 days of when the property is damaged, a future structure on the site shall conform to this Chapter. In the case a permit is applied for within 180 days, the City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

**Subd. 4. Maintenance and Repair.** Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion or otherwise as described in 1010.07 Subd. 1, 2, and 3.

**1010.08. Conditional Use Permits.**

**Subd. 1. Criteria for Granting Conditional Use Permits.** In granting a conditional use permit, the Planning Commission shall consider the advice and recommendations of the Zoning Administrator and the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the Planning Commission shall make the following findings where applicable.

A. The use will not create an excessive burden of existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

B. The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.

D. The use in the opinion of the Commission is reasonably related to the overall needs of the City and to the existing land use.

E. The use is consistent with the purposes of this Chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.

F. The use is not in conflict with the Comprehensive Plan of the City.

G. The use will not cause traffic hazard or congestion.

H. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

**Subd. 2. Additional Conditions.**

A. In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the City as a whole. These conditions may include, but are not limited, to the following:

1. Increasing the required lot size or yard dimension.
2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, fencing, screening, landscaping or other facilities to

protect adjacent or nearby property.

8. Designating sites for open space.

B. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location and conditions imposed by the Commission, time limits, review dates, and such other information as may be appropriate.

**Subd. 3. Procedure.**

A. The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator a conditional use application form.

B. The Zoning Administrator shall refer the application to the Planning Commission for review.

C. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the City at least ten (10) days prior to the hearing. Notice of the hearing shall also be mailed to owners of property located within 350 feet of the outside of the land to which the conditional use will be applicable. The notice shall include a description of the land and the proposed conditional use and a statement that all appeals from the Planning Commission decision must be filed within fourteen (14) days. A copy of the notice and a list of the owners to which it was sent shall be attested to by the Clerk-Administrator and be made part of the record of the proceedings. Failure to give mailed notice to individual property owners shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

D. The Planning Commission shall conduct a hearing and make a decision not later than sixty (60) days after the applicant has submitted the application. If it grants the conditional use permit, the Commission may impose conditions (including time limits) it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

E. An amended conditional use permit application shall be administered in a manner similar to that required for a new conditional use permit. The amended conditional use permit application shall include requests for changes in conditions, and as otherwise described in this Chapter.

F. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Zoning Administrator to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of conditional use permit may be granted at the discretion of the Commission.

G. In the event that the applicant violates any of the conditions set forth in this subsection, the Commission shall have the authority to revoke the conditional use permit.

**Subd. 4. Filing of Permit.** A certified copy of any conditional use permit shall be filed with the County Recorder or Registrar of Titles of Faribault County, Minnesota for record. The conditional use permit shall include the legal description of the property included.

**Subd. 5. Appeals.** Appeals to the City Council of a decision by the Planning Commission must be filed in writing at the office of the City Clerk within fourteen (14) days of the decision.

#### **1010.09. Variances.**

**Subd. 1. Generally.** The Planning Commission may grant variances for the strict application of the provisions of this Chapter and impose conditions and safeguards in the variance so granted, but no variances shall be granted unless the Planning Commission finds that:

A. That the variance is in harmony with the purposes and intent of this chapter of the Blue Earth City Code and is consistent with the comprehensive plan of the City of Blue Earth;

B. That the variance does place the property in question to use in a reasonable manner;

C. That the unique circumstances to the property which led to the variance request have not been created by the landowner; and

D. That the variance does not alter the essential character of the locality.

**Subd. 2. Prohibited Uses.** No variance shall be granted to allow any use that is not permitted under this Chapter for property in the zone where the applicant's land is located.

**Subd. 3. Applications.** Applications for variances shall be made by the owner or owners of the property and shall be filed with the Zoning Administrator. All applications shall be accompanied by the administrative fee as set in the City's fee schedule and shall include any and all information required by the application form, the Zoning Administrator or the Planning Commission.

**Subd. 4. Planning Commission.** The Planning Commission may hold one (1) or more hearings on the application as it deems necessary or required by law. If a public hearing is not held, a notice describing the property and the request must be mailed to the adjacent property owners at least ten (10) days before the Planning Commission meeting. Failure of the property owners to receive the notice shall not invalidate the proceedings.

**Subd. 5. Issuance.** In considering applications for variance under this Chapter, the Planning Commission shall consider the advice and recommendations of the Zoning Administrator and the standards set out in Subdivision 1 of this Subsection and may grant or deny the variance and may

impose conditions and safeguards therein.

**Subd. 6. Denial.** An application for a variance may be denied by motion of the Planning Commission and such motion shall constitute a finding and determination by the Planning Commission that the conditions required for approval do not exist.

## Section 1020 - District Regulations

**1020.01. District Boundaries.** Where uncertainty exists as to the boundaries, the following rules shall apply.

**Subd. 1. Streets, Highways, Alleys, Railroads.** Boundaries indicated as approximately following the center lines of streets, highways, alleys or railroad lines shall be considered to follow such center lines.

**Subd. 2. Plats.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

**Subd. 3. Shore Line.** Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in event of change in shore line shall be construed as varying with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or bodies of water shall be construed to follow such center lines.

**Subd. 4. City Limits.** Boundaries indicated as approximately following the City limits shall be construed as following such City limits.

**Subd. 5. Lot Division.** Where a district boundary line divides a lot which was in single ownership at the time this Code is enacted, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the City Council upon request of the owner.

**Subd. 6. Interpretation of Zoning Chapter and Map.** Where the street or lot layout actually on the ground, or as recorded, differs for the street and lot lines shown on the Official Zoning Map, the Board of Adjustments and Appeals, after notice to the owners of the property and after public hearing, shall interpret the map in such a way as to carry out the intent and purpose of this Chapter. In case of any question as to the location of any boundary line between zoning districts or where there is uncertainty as to the meaning and intent of a textual provision of this Chapter, a request for interpretation of the Zoning Map or the textual provision in question may be made to the Board of Adjustments and Appeals and a determination shall be made by said Board.

### **1020.02. Districts for Annexed and Unzoned Areas.**

**Subd. 1. Annexed Areas.** Areas annexed to the City after October 1, 2011 shall be considered to be “R-2 Suburban Residential” until placed wholly or partly in another district by amendment as provided for in this Chapter.

**Subd. 2. Unzoned Areas.** Areas not included in any district shall be considered reserved for public use and purposes.

### **1020.03. District Regulations.**

**Subd. 1. Minimum.** The regulations of this Chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as provided in this Chapter.

**Subd. 2. Conformity.**

A. No building, structure or land shall be used or occupied, and no building structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations specified in this Chapter for the district in which it is located.

B. No building or other structure shall hereinafter be erected or altered: to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yards, side yards, or other open spaces, than herein required; or in any other manner contrary to the provisions of this Chapter.

**Subd. 3. Yards and Open Spaces.**

A. No part of a yard, or other open space, or off street parking required about or in connection with any building for the purpose of complying with this Chapter shall be included as part of a yard, open space, off-street parking or landing space similarly required for any other building.

B. No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth in this Chapter. Yards or lots created after the enactment of this Code shall meet at least the minimum requirements established by this Chapter.

**1020.04. Opt-Out Of Minnesota Statutes, Section 462.3593.** Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Blue Earth opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

## Section 1030 - Zoning Districts

### 1030.01. Establishment of Districts.

**Subd. 1. Purpose.** The zoning districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare.

**Subd. 2. Zoning Districts and Map.**

A. For the purposes of this Chapter the City is hereby divided into the following Zoning Districts.

1. AG Agricultural Preservation.
2. R-1 Residential.
3. R-2 Suburban Residential.
4. B-1 General Business.
5. B-2 Highway Business.
6. LI Limited Industry.
7. FP Flood Plain.
8. S Shoreland.
9. GI General Industrial.
10. CBD Central Business District.

B. The location and boundaries of the districts established by this Chapter are set forth on the Zoning Map which is hereby incorporated as part of this Chapter. It shall be the responsibility of the Zoning Administrator to maintain and update this Map and the amendments to such Map shall be recorded on such Map within thirty (30) days after official adoption of zoning amendments.

### 1030.02. Agricultural Preservation District (AG).

**Subd. 1. Purpose.** Agricultural Preservation areas are established for the purpose of preserving, promoting, maintaining and enhancing the use of land for commercial agricultural purposes, to prevent scattered and leap-frog non-farm growth, to protect expenditures for such public services as roads and road maintenance, police and fire protection, and schools.

**Subd. 2. Permitted Uses.**

- A. Agricultural land uses.
- B. Farmstead residences.
- C. Single family residences.
- D. Forestry and nurseries.
- E. Seasonal produce stands.
- F. Essential services - telephone, telegraph, and power transmission lines and necessary appurtenant structures.
- G. Public recreation.
- H. Historic sites and area.

**Subd. 3. Accessory Uses.** Any incidental machinery, structure, or buildings necessary to the conduct of agricultural operations or other permitted uses.

**Subd. 4. Conditional Uses.** The Council may grant conditional use permits for any conditional uses that are in conformance with Subsection 1010.07 of this Chapter.

**Subd. 5. Performance Standards.**

A. Height Regulations.

1. The maximum height of all buildings shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet.

2. This height limitation shall not apply to grain elevators, barns, silos, windmills, elevator lags, cooling towers, water towers, chimneys and smokestacks, church spires, electric transmission lines or radio or television towers.

B. Front Yard Regulations.

1. Required Setback Distance from:

<u>Road Right of Way</u>	<u>Road Classification</u>
70	State Highway
50	County Road
30	Local Street

2. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

C. Side Yard Regulations. There shall be a side yard width of not less than twenty (20) feet on each side of the building.

D. Rear Yard Regulations.

1. No rear yard regulation shall be required for agricultural buildings.  
2. For other buildings there shall be a rear yard having a depth of not less than forty (40) feet.

E. Lot Area Regulations.

1. For farmstead residences - none.
2. For non-farm dwellings - five (5) acres.

F. Lot Width and Depth Regulations. Every lot or plat of land on which one family dwelling is constructed shall have a minimum width of not less than 100 feet and a minimum depth of not less than 150 feet.

G. General Regulations. Additional requirements for parking, signs, sewage systems, and other regulations are set forth in Section 1040 of this Chapter.

**1030.03. Residential Districts (R-1).**

**Subd. 1. Purpose.** The major purpose of this district is to allow the continuation of existing residential development and infilling of existing lots in the older residential areas of the City where central sewer and water systems are available.

**Subd. 2. Permitted Uses.**

- A. Single family detached residences.
- B. Churches.
- C. Community center.
- D. Nurseries, excluding greenhouses.
- E. Public recreation.

- F. Essential services - telephone, power distribution poles, lines and necessary appurtenant equipment and structures such as transformers, unit substations and equipment houses.
- G. Schools, private and public.
- H. Home occupations as defined in Subsection 1000.06, Subd. 34 of this Chapter.
- I. Condominiums and townhome groupings of 8 units or less.
- J. Apartment complexes.
- K. Duplexes.
- L. Home based licensed day care operations.

**Subd. 3. Accessory Uses.**

- A. Open off-street parking spaces meeting the provisions of Subsection 1040.07 of this Chapter.
- B. Garages meeting the provisions of Subsection 1040.31 of this Chapter.
- C. Fences and screening meeting the requirements of Subsection 1040.04 of this Chapter.
- D. Decorative landscape features such as statues, rocks, reflecting ponds and benches.
- E. Recreation equipment for personal use.

**Subd. 4. Conditional Uses.** The City Council may grant conditional use permits for any conditional uses that are in conformance with Section 1010.07 of this Chapter.

**Subd. 5. Performance Standards.**

A. Height Regulations. No buildings hereafter erected shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

B. Front Yard Requirements.

1. Each lot in the R-1 Residential District shall have a minimum front yard of twenty (20) feet. In the event other dwellings already erected to the side of the proposed dwelling have been set back a distance greater than twenty (20) feet, the front yard requirement for the proposed dwelling shall conform to the average set back of the adjacent dwellings.

2. Corner Lots. When a lot is adjacent to more than one public street, the front line is the shortest side for setback purposes.

C. Side Yard Requirements. For every dwelling hereafter erected or structurally altered that does not exceed one and one-half (1 1/2 ) stories, each side yard shall have a width of not less than five (5) feet. For every such dwelling that has two (2) stories, each side yard shall have a width of not less than eight (8) feet. For every such dwelling of two and one-half (2 ½) each side yard shall have a width of at least ten (10) feet. When the side yard of a dwelling is adjacent to a public street, the setback is required to be a minimum of twenty (20) feet.

D. Rear Yard Regulations. For all accessory structures and garages there shall be a rear yard of not less than five (5) feet, unless the accessory structure opens onto a public alley, in which case there shall be a rear yard setback of not less than twenty (20) feet. For all other buildings there shall be a rear yard having a depth of not less than thirty (30) feet.

E. Lot Area Regulations. The minimum lot size shall be 3600 square feet.

F. Lot Width and Depth Regulations. The minimum lot width shall be fifty (50) feet and the minimum lot depth shall be sixty (60) feet.

G. General Regulations. Additional requirements for parking, signs, exterior storage, and other use regulations are set forth in Section 1040 of this Chapter.

**1030.04. Suburban Residential Districts (R-2).**

**Subd. 1. Purpose.** The major purpose of this district is to allow for a medium density residential development in outlying areas of the City which are served by central sewer and water systems.

**Subd. 2. Permitted Uses.**

- A. Single family detached residences.
- B. Public recreation.
- C. Essential services as allowed in R-1 districts.
- D. Home occupations as defined in the provisions of Subsection 1000.06, Subd. 34 of this Chapter.
- E. Condominium and/or townhome groupings of 4 units or less.
- F. Home based licensed daycare operations.

**Subd. 3. Accessory Uses.**

- A. Open off street parking meeting the provisions of Subsection 1040.07 of this Chapter.
- B. Garages meeting the requirements of Subsection 1040.31 of this Chapter.
- C. Fences meeting the requirements of Subsection 1040.04 of this Chapter.
- D. Decorative landscaping as allowed in R-1 Districts.
- E. Recreation equipment.

**Subd. 4. Conditional Uses.** The Council may grant conditional use permits for any conditional uses that are in conformance with Subsection 1010.07 of this Chapter.

**Subd. 5. Performance Standards.**

A. Height Regulations. No building hereafter erected shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

B. Front Yard Regulations.

- 1. Required setback distance from:

<u>Road Right of Way</u>	<u>Road Classification</u>
70	State Highway
50	County Road
30	Local Street

2. When a lot is adjacent to more than one public street, the front line is the shortest side for setback purposes.

C. Side Yard Regulations. There shall be a minimum side yard setback of fifteen (15) feet.

D. Rear Yard Regulations. For all buildings and garages, there shall be a rear yard having a depth of not less than thirty (30) feet.

E. Lot Area Regulations. The minimum lot size shall be 8500 square feet.

F. Lot Width and Depth Regulations. The minimum lot width shall be seventy-five (75) feet and the minimum lot depth shall be 100 feet.

G. General Regulations. Additional requirements for parking, garages, accessory buildings, signs and other regulations set forth in Section 1040 of this Chapter.

**1030.05. General Business Districts (B-1).**

**Subd. 1. Purpose.** The General Business District is intended to provide a district that will allow general retail and commercial uses to serve existing population.

**Subd. 2. Permitted Uses.**

- A. Commercial recreation.
- B. Hospitals.
- C. Hotel and motel.
- D. Offices and medical centers.
- E. Retail trade.
- F. Government buildings.
- G. Wholesale business.
- H. Indoor recreation, such as movie theaters.
- I. Restaurants, cafes and supper clubs.
- J. Passenger transportation terminal.
- K. Drive-in business.
- L. Clubs, lodges.
- M. Automobile service stations.
- N. Essential services - utility lines and necessary appurtenant structures.
- O. Off-sale liquor establishment.

**Subd. 3. Accessory Uses.**

- A. Landscaping.
- B. Parking facilities.
- C. Fences.
- D. Any incidental repair, processing and storage necessary to conduct a principal use but not exceeding thirty percent (30%) of the floor space of the principal building.

**Subd. 4. Conditional Uses.** The Council may grant conditional use permits for any conditional uses that are in conformance with Section 1010.07 of this Chapter.

**Subd. 5. Performance Standards.**

A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed two (2) stories or thirty (30) feet in height.

B. Front Yard Regulations.

1. There shall be a front yard having a depth of not less than twenty-five (25) feet except in a block where two (2) or more structures have been built facing the same street, the setback for the remaining lots in that block fronting on the same street shall be determined by the average setback of existing buildings.

2. Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

C. Side Yard Regulations. There shall be no minimum side yard requirements except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

D. Rear Yard Regulations.

1. There shall be a minimum rear yard of thirty-five (35) feet.

2. No building shall be located within fifty (50) feet of any rear lot line

abutting a lot in any Residence or Agricultural District.

E. Screening and Fencing. The City may require the screening or fencing of commercial uses, to prevent visual blight, especially on side and rear yards which face Residential or Agricultural Districts.

F. General Regulations. Requirements for signs, parking, shopping centers, and other regulations are set forth in Section 1040 of this Chapter.

### **1030.06. Small Business and Industry Districts (SBI).**

**Subd. 1. Purpose.** A Small Business and Industry District is established to accommodate those types of businesses that are not large industrial or commercial operations in nature but still require accessibility to the main trucking routes within the City to successfully function. To minimize unmanageable strip development, SBI Districts should only allow the type of businesses that rely upon accessible truck routes for routine delivery of consumer goods and services and/or supplies for the business in a fashion that does not pose problems of pollution, noise, vibrations and traffic obstruction to encourage retail and small industrial businesses in areas of the City relatively close to residential development.

#### **Subd. 2. Permitted Uses.**

- A. Farm implement dealers.
- B. Commercial recreational facilities including drive-in movie theaters, roller-rinks and health clubs.
- C. Drive-in restaurants, cafes, restaurants and supper clubs.
- D. Auto service stations and convenience stores.
- E. Auto repair garages.
- F. Auto sales lots/dealerships.
- G. Funeral homes.
- H. Public parks.
- I. Daycare facilities.
- J. Motels and hotels.
- K. Offices and medical centers.
- L. Hospitals.
- M. Retail stores and tattoo parlors.
- N. Government buildings.
- O. Passenger transportation terminals.
- P. Freight terminals and warehouses limited to 10,000 sq. ft.
- Q. Wholesale businesses limited to 10,000 sq. ft.
- R. Essential services – utility lines and necessary appurtenant structures.
- S. Public utility buildings that do not generate power.
- T. Livestock sales yards limited to 5 acres or less and not within 500 feet of a residential area.
- U. Light manufacturing facilities limited to less than 10,000 sq. ft.
- V. Food processing facilities limited to 10,000 sq. ft.
- W. Clubs and lodges.
- X. Cemeteries.

Y. Mini storage facilities limited to 1 acre or less.

Z. Construction contractor equipment and supply storage sites limited to 1 acre or less.

**Subd. 3. Accessory Uses.**

A. Parking lots.

B. Any other incidental repair, processing and storage necessary to conduct a permitted principal use provided that said accessory use does not exceed 50% of a parcel upon which a permitted use is located and in business.

**Subd. 4. Conditional Uses.** The City Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

**Subd. 5. Prohibited Uses.**

A. Distillation of bone, coal, tar, petroleum, grain or wood.

B. Manufacturing facilities of greater than 10,000 sq. ft.

C. Bulk storage of fuels or explosives other than for gasoline at an auto service station with gas pumps.

D. Fertilizer manufacturing, compost or storage of processing of garbage, offal, dead animals, refuse or rancid fats.

E. Livestock feeding lots, slaughter houses or processing plants.

**Subd. 6. Performance Standards.**

A. SBI Districts shall be located only adjacent to existing or proposed thoroughfares so that SBI business traffic shall not be routed or directed to local residential streets not designed to handle trucking traffic.

B. Height Regulations. No building or structure shall hereafter be erected or structurally altered to exceed fifty (50) feet in height.

C. Front Yard Regulations.

1. Required setback from any public roadway shall be 10 feet.

2. In a block where two (2) or more lots have been developed facing the same street, the setback for the remaining lots shall be determined by the average setback of existing buildings or 10 feet, whichever is less.

3. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings or uses shall project beyond the front yard of either road.

D. Side Yard Regulations.

1. There shall be a side yard having a width of not less than five (5) feet on each side of a building or structure.

2. No building or structure shall be located within fifty (50) feet of any side lot line abutting a lot in a Residential District.

E. Rear Yard Regulations.

1. There shall be a minimum rear yard of five (5) feet.

2. No building or structure shall be located within 50 feet of any rear lot line abutting a lot in a Residential District.

F. Lot Width Regulations. Every lot shall have a width of not less than 75 feet abutting a public right-of-way.

G. Screening and Fencing. The City may require the screening or fencing of

industrial uses, to prevent visual blight, especially on side yards which face Residential Districts.

H. General Regulations. Other regulations are set forth in Section 1040 – performance standards of this Chapter.

### **1030.07. Highway Business and Limited Industry Districts (HBLI).**

**Subd. 1. Purpose.** A Highway Business and Limited Industry District is intended to provide for larger commercial business and enterprises and industrial uses that may suitably be located in areas of relatively close proximity to residential development. As such, businesses and industries that pose problems of air pollution, noise, vibrations, etc. will be restricted from HBLI Districts.

#### **Subd. 2. Permitted Uses.**

A. All industrial and business enterprise uses not stated as a conditional or prohibited use in this Subsection and that conform to prescribed performance standards specified in this Subsection and/or in Subsection 1040 of the City Code.

B. Transportation and freight terminals.

C. Wholesale businesses.

D. Warehouses larger than 10,000 square feet but no more than 80,000 square feet.

E. Public Utility buildings that do not generate power.

F. Public vehicle garages.

G. Auto repair garages.

H. Essential services - utility lines and necessary appurtenant structures and substations.

I. Tattoo establishments.

J. Retail shopping centers; individual stores.

K. Liquor stores.

L. Auto service stations/convenience stores.

M. Mini storage facilities larger than 1 acre.

N. Restaurants and drive in restaurants.

O. Public parks.

P. Auto sales lots, implement sales/dealerships.

Q. Construction contractor equipment, storage and repair facilities/sites of greater than 1 acre in size.

**Subd. 3. Accessory Uses.** Any incidental repair, processing, or storage necessary to conduct a permitted principal use shall be permitted as an accessory use.

**Subd. 4. Conditional Uses.** The Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

#### **Subd. 5. Prohibited Uses.**

A. Distillation of bone, coal, tar, petroleum, grain or wood.

B. Manufacturing or bulk storage of explosives.

C. Fertilizer manufacturing, compost or storage, processing of garbage, offal, dead animals, refuse or rancid fats.

#### **Subd. 6. Performance Standards.**

A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed fifty (50) feet in height.

B. Front Yard Regulations.

1. Required set-back from any road right-of-way shall be those required by Minnesota State law, rules and regulations in effect when building permit is applied for by property owner. Set-backs from local road rights-of-way shall be those front-yard set-backs required in R-1 Residential Districts within the City of Blue Earth.

2. Where a lot is located in the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

C. Side Yard Regulations.

1. There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.

2. Except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

D. Rear Yard Regulations.

1. There shall be a minimum rear yard of thirty-five (35) feet.

2. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any Residence or Agricultural District.

E. Lot Width Regulations. Every lot shall have a width of not less than 400 feet abutting a public right-of-way.

F. Screening and Fencing. The City may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face Residential or Agricultural Districts.

G. General Regulations. Other regulations are set forth in Section 1040 of this Chapter.

**1030.08. Floodplain Districts (FP).** Floodplain districts and regulations are specified in Section 1060 of this Chapter.

**1030.09. Shoreland Zoning Districts (S).**

**Subd. 1. Purpose.** The major purpose of this District is to control the density and location of developments in the shorelands of the public waters of the City in order to preserve the water quality and the natural characteristics of the shorelands and public waters in the City.

**Subd. 2. Water Bodies Included in the Shoreland District.** The regulations of the Shoreland Zoning District in the City will apply to the east and west branch of the Blue Earth River which is classified as a Natural Environment (N-E) River.

**Subd. 3. Permitted Uses.**

- A. Agricultural uses, not to include feedlots.
- B. Nurseries and forestry uses, not to include greenhouses.
- C. Public recreation.
- D. Golf courses.
- E. Single family dwellings.

**Subd. 4. Accessory Uses.**

- A. Off-Street parking.

- B. Garages and carports.
- C. Fences.
- D. Gardening and other horticultural uses and the sale of farm products grown on the premises.

**Subd. 5. Conditional Uses.**

- A. Home occupations.
- B. Resorts.
- C. Churches and cemeteries.
- D. Schools.
- E. Commercial recreation.
- F. Mobile home parks.

**Subd. 6. Prohibited Uses.** The following uses are considered incompatible to recreation use of shorelands and waters and are expressly prohibited from locating on shorelands.

- A. Junkyards.
- B. Sanitary landfills.
- C. All industries.
- D. Any processing of animals or agricultural products.
- E. Mining and extraction.

**Subd. 7. Performance Standards.**

A. Height Regulations. No building shall hereafter be erected or structurally altered to exceed two and one-half (2 ½) stories or thirty-five (35) feet in height.

B. Setback Requirements.

1. Required Setback from:

<u>Road Right of Way</u>	<u>Classification</u>
70	State Highway
50	County Road
40	Local Road

2. Required Setback from Shoreline (Normal high water mark) - 200 feet.\*

\*Boat houses, piers, and docks may be placed within the lake setback requirements, but only with a conditional use permit from the Planning Department.

C. Lot Size, Width and Depth.

- 1. Minimum Lot Size - five (5) acres.
- 2. Minimum Lot Depth - 200 feet.
- 3. Minimum Lot Width - 200 feet.
- 4. Minimum Water Frontage - 200 feet.

D. Land Height. Minimum land height above high water line at building - three (3) feet.

E. Sewage Disposal, Soil Erosion Control, and Runoff Disposal. Developments in the Shoreland Areas in the City shall also conform to the standards and guidelines in the Sewage Disposal, Soil Erosion Control, Water Runoff Disposal and other pertinent Subdivisions of Section 1040 of this Chapter.

**1030.10. General Industrial (GI).**

**Subd. 1. Purpose.** The GI District is intended to provide for general industrial and adult uses not suitable for location in areas of relative close proximity to non-industrial or residential development.

**Subd. 2. Permitted Uses.**

- A. All industry not stated as a conditional or prohibited use provided said industry can conform to prescribed performance standards.
- B. Transportation or freight terminal.
- C. Wholesale business.
- D. All business defined as “Adult Use” as defined in this Chapter.
- E. Warehouse.
- F. Public utility buildings that do not generate power.
- G. Public vehicle garage.
- H. Auto repair garage.
- I. Essential Services - utility lines and necessary appurtenant structures.
- J. Grain Elevators/Grain marketing and shipping terminal facilities.
- K. Tattoo Establishments.

**Subd. 3. Accessory Uses.** Any incidental repair, processing, or storage necessary to conduct a permitted principal use shall be permitted as an accessory use except the on ground temporary storage of grains in non-permanent bunker structures which shall require a conditional use permit.

**Subd. 4. Conditional Uses.** The Council may grant conditional use permits for any conditional use that is in conformance with Section 1010.07 of this Chapter.

**Subd. 5. Prohibited Uses.**

- A. Distillation of bone, coal, tar, petroleum, grain or wood.
- B. Manufacturing or bulk storage of explosives.
- C. Fertilizer manufacturing, compost or storage processing of garbage, offal, dead animals, refuse or rancid fats.
- D. Livestock feeding yards or slaughter houses, or processing plants.

**Subd. 6. General Performance Standards.**

A. Front Yard Regulations.

1. Required Setbacks from:

<u>Road Right of Way</u>	<u>Road Classification</u>
130	State Highway
110	County Road
90	Local Road

2. Where a lot is located at the intersection of two (2) or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard of either road.

B. Side Yard Regulations.

1. There shall be a side yard having a width of not less than thirty (30) feet on each side of a building.

2. Except that no building shall be located within fifty (50) feet of any side lot line abutting a lot in any Residence or Agricultural District.

C. Rear Yard Regulations.

1. There shall be a minimum rear yard of thirty-five (35) feet.
2. No building shall be located within fifty (50) feet of any rear lot line abutting a lot in any residential district.
3. There shall be no minimum rear yard requirement for lots or parcels adjacent to a railroad right-of-way to the rear side of the parcel.

D. Lot Width Regulations. Every lot shall have a width of not less than 100 feet abutting a public right-of-way.

E. Screening and Fencing. The City may require the screening or fencing of industrial uses, to prevent visual blight, especially on side yards which face Residential or Agricultural Districts.

F. General Regulations. Other regulations are set forth in Section 1040 of this Chapter.

**Subd. 7. Adult Use Performance Standards.** Any use termed an “Adult Use” as defined in this Chapter and permitted for use under this Section shall be regulated according to the terms and conditions established in Section 1070 of the City Code.

### **Subsection 1030.11 – Central Business District ( CBD)**

**Subd. 1. Purpose.** The Central Business District (CBD) is intended to provide for the general retail shopping and service business development and use on the compact building lots located in the traditional and historic downtown area within the city. The applicable development regulations within the Central Business District (CBD) shall permit high density commercial and office development.

#### **Subd. 2. Definitions.**

A. Limited Light Industry. A use engaged in the manufacture predominately from previously prepared materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales and distribution of such products. Said facilities are limited in size to 10,000 square feet or less.

B. Limited Food Industry. A use engaged in the manufacturing and packaging of food products which require a license for the production and/or sale thereof by the State of Minnesota Departments of Health and/or Agriculture or a similar federal license. Said uses are limited to those uses which do not require the use of industrial chemicals and/or storage thereof. Said uses can include bottling establishments. All said uses are limited to a size of 10,000 square feet or less.

C. Limited Craftsman/Craftworking Establishments. A use engaged in the production of a finished product of a craftsman or artist not produced by the primary use of industrial machinery in an assembly line fashion, but made by the hands of an individual craftsman or artist from start to finish of the product. Said facilities are limited in size to 5,000 square feet or less.

#### **Subd. 3. Permitted Uses.**

- A. Administrative and Business offices.
- B. Antique Shops.
- C. Automobile maintenance services and sales, excluding fuel.
- D. Building maintenance services.

- E. Business support services.
- F. Churches.
- G. Clubs/ Lodges.
- H. Communication services.
- I. Consumer repair services.
- J. Essential services, utility lines and necessary appurtenant structures.
- K. Financial services/ Banking.
- L. Limited Light Industry as defined in Subd. 2 above.
- M. Limited Food Industry as defined in Subd. 2 above.
- N. Limited Craftsman/Craftworking establishments as defined in Subd. 2 above.
- O. Government Buildings and offices.
- P. Indoor sports and recreation facilities.
- Q. Liquor sales.
- R. Museums
- S. Personal services.
- T. Personal improvement services.
- U. Pet Services.
- V. Professional services and offices.
- W. Restaurants, cafes, and supper clubs.
- X. Retail sales (limited.)
- Y. Studios/galleries.
- Z. Theaters, live or film.
- AA. Public Parks.
- BB. Tattoo Establishments.

**Subd. 4. Accessory Uses.** The storage of goods pertaining to the conducting of the principal permitted business use of the premises.

**Subd. 5. Conditional Uses.** Except as specifically limited herein, the following uses may be permitted in the Central Business District (CBD). Conditions of approval for Conditional Uses may include requirements to provide off-street parking. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products and equipment.

- a. Apartments and townhomes limited to 6 units per floor.
- b. Convention, civic and public gathering places.
- c. Drive-in facilities, accessory to a principal use.
- d. Automobile service stations selling fuel.
- e. Shopping malls.
- f. Surfaced parking lots/structures when not accessory to a permitted use.
- g. Veterinary services.
- h. Hotels, motels, hostels and boarding houses.

**Subd. 6. Performance Standards.** Unless otherwise specified in this chapter, each development within the Central Business District (CBD) shall be subject to the following minimum requirements.

- A. Height Regulation. No building shall hereafter be erected or structurally

altered to exceed two (2) stories or Thirty (30) feet in height.

- B. Minimum Lot Area. The minimum lot area in the CBD shall be 1200 square feet.
- C. Minimum Lot Frontage. The minimum lot frontage in the CBD shall be twenty (20) feet.
- D. Yards and Setbacks. None required.
- E. Screening and Fencing. The City may require the screening and fencing of commercial uses to prevent visual blight, especially on the side and rear yards which face residential districts.
- F. Maximum Ground Coverage. No restriction.
- G. General Regulations. Requirements for signs, parking, shopping centers and other regulations and performance standards as set forth in Section 1040 of this chapter.

## Section 1040 - Performance Standards

### 1040.01. Purpose.

**Subd. 1. Intent.** The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. The City shall be responsible for enforcing the standards.

**Subd. 2. Conformance Required.** Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance. Such data may include description of equipment to be used, hours of operation, method of refuse disposal and type and location of exterior storage.

### 1040.02. Exterior Storage.

**Subd. 1. Residential Districts.** In Residential Districts all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction/landscaping materials and equipment currently (within a period of thirty-six (36) hours) being used on the premises, agricultural equipment and materials if these are to be used or intended for use on the premises, off street parking of passenger automobiles and pickup trucks, boats and non-commercial, personal, recreational travel trailers are permissible if stored in the rear yard.

**Subd. 2. All Districts.** In all districts, the City may require a conditional use permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health, safety, convenience, morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes threat to living amenities.

**1040.03. Refuse.** In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

### 1040.04. Screening.

**Subd. 1. Purpose.** The purpose of Section 1040.04 of the Code of the City of Blue Earth is to promote a pleasant physical environment, and to protect public and private property within the City of Blue Earth by regulating the location, height, type of construction, and maintenance of screening and fencing.

**Subd. 2. Permit Required.** No person shall erect a screen or fence within the City of Blue Earth without written authorization from the Zoning Administrator or City Administrator.

**Subd. 3. Prohibited Materials.** Except as specifically provided below in Subd. 4 of this Section, the following types of fencing and screening materials shall not be permitted within the City of Blue Earth:

- A. Electrically Charged Element
- B. Barbed Wire
- C. Spiked Wire or Board
- D. Temporary roll fencing (such as wood or synthetic based snow fencing)

**Subd. 4. Exceptions to Prohibited Materials.** Prohibited materials shall only be allowed for use as fencing or screening if authorized by the Zoning Administrator or City Administrator under the following circumstances:

- A. Enclosure of public buildings and structures if at least eight feet (8 ft.) above grade level.
- B. Enclosure of communication support structures if at least eight feet (8 ft.) above grade level.
- C. Purposes of underground or invisible pet restraint systems.
- D. Purposes of above ground animal restraint systems located upon lands zoned for agricultural use in Chapter 10 of the City Code.
- E. Enclosure of private property located within designated lands zoned for industrial and highway business use in Chapter 10 of the City Code if at least eight feet (8 ft.) above grade level.
- F. Temporary roll fencing for the purpose of establishing a safety barrier protecting construction zones, dangerous conditions, crowd control, etc.

**Subd. 5. Required Residential Screening.** Screening shall be required in residential zones where (1) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and (2) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

**Subd. 6. Required Business Screening.** Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

**Subd. 7. Required Exterior Storage Screening.** All exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for retail sale on-site; (2) materials and equipment presently being used for construction on the premises; and (3) merchandise located on service station pump islands.

**Subd. 8. Requirements for Required Screening.** The screening required in this Subsection may consist of a fence, trees, shrubs and berms not less than six (6) feet high but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed no closer than fifteen (15) feet from the street right-of-way with landscaping between the screening and pavement. The screening shall block direct vision and have an opacity of not less than eighty percent (80 %). Planting of a type approved by the Zoning Administrator or City Administrator may also be required in addition to or in lieu of fencing.

**Subd. 9. Limitations for Non-required Residential Screening.** Fencing within a residential zone at the option of the property owner shall be limited to six (6) feet in height, shall not extend within fifteen (15) feet of the improved portion of any street, and shall in no way be

constructed so as to obscure traffic visibility on any street or at any intersection. No fence may extend closer to the street located nearest the front of the house than the principal building, except decorative fencing is allowed in the front of a home if not designed or serving as an enclosure. Decorative fencing includes, but is not limited to, such things as split rail, picket, and brick fences. Decorative fencing shall not include chain link fencing. The allowed height for decorative fencing shall not exceed six feet (6 ft.) at its tallest point. All decorative fencing shall permit at least fifty percent (50%) opacity.

**Subd. 10. Maintenance.** All screening or fencing in the City of Blue Earth must be maintained in good repair on both sides of the fence or screen and present an appropriate appearance on both sides of the fence or screen consistent with the character of the neighborhood in which the screen or fence is located. All screening or fencing shall be maintained so that the outer surface shall be uniform in appearance and shall be uniformly painted, stained, or rust proofed, material permitting. The finished side of all screening or fencing shall face outward towards the nearest street or neighboring property.

**Subd. 11. General Requirements.**

A. Easements and Public Right-of-Way. No screening or fencing shall be permitted upon public right-of-way. No screening or fencing shall be erected upon or within any platted or otherwise designated easement.

B. Property-line Screening or Fencing. Screening or fencing shall not be erected within the City of Blue Earth any closer than three (3) feet from the property line. A variance shall be required for placement of screening or fencing closer to the property line. Where the property line is not clearly defined and located, a certificate of survey may be required by the Zoning Administrator or City Administrator to establish the property boundary prior to issuance of a building permit.

**1040.05. Landscaping Maintenance.** In all Districts, all structures requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

**1040.06. Glare.** In all Districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high-temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

**1040.07. Parking.**

**Subd. 1. Surfacing and Drainage.** Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water without damage to adjoining property. These requirements shall also apply to open sales lots. Durable and dustless surface may include crushed rock and similar treatment. The Council may require the use of asphalt, concrete, or other surface (water sealed) when circumstances warrant it.

**Subd. 2. Location.** All accessory off-street parking facilities required herein shall be located

as follows:

A. Spaces accessory to one (1) and two (2) family dwellings on the same lot as the principal use served;

B. Spaces accessory to multiple-family dwellings on the same lot as the principal use served or within 200 feet of the main entrance to the principal building served;

C. There shall be no off-street parking space within five (5) feet of any street right-of-way;

D. No off-street open parking area containing more than four (4) parking spaces shall be located closer than five (5) feet from an adjacent lot zoned or used for residential purposes.

**Subd. 3. General Provisions.**

A. Access drives may be placed adjacent to property lines except that drives consisting of crushed rock, or other non-finished surfacing shall be no closer than one (1) foot to any side or rear lot line.

B. Parking spaces. Each parking space shall not be less than nine (9) feet wide and twenty (20) feet in length for diagonal parking and eight (8) feet wide and twenty-two (22) feet in length for parallel parking.

C. Control of off-street parking facilities. When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the City requiring the owner and his or her heirs and assigns to maintain the required number of off street spaces during the existence of said principal use.

D. Use of parking area. Required off street parking space in any District shall not be utilized for open storage or goods or for the storage of vehicles which are inoperable or for sale or for rent.

**Subd. 4. Design and Maintenance of Off-Street Parking Areas.**

A. Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.

B. Signs. No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.

C. Curbing and Landscaping. All open off-street parking area designed to have head-in parking along the property line shall provide a bumper curb not less than three (3) feet from the side property line or a guard of normal bumper height not less than one (1) foot from the side property line. When said area is for six (6) spaces or more, a curb or fence not over five (5) feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or fence.

D. Parking space for six (6) or more cars. When a required off-street parking space for six (6) cars or more is located adjacent to a Residential District, a fence of adequate design, not over five (5) feet in height nor less than four (4) feet in height shall be erected along the Residential District property line.

E. Maintenance of off-street parking space. It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain, in a

neat and adequate manner, the parking space, access ways, landscaping and required fences.

F. Determination of areas. A parking space shall not be less than 300 square feet per vehicle of standing and maneuvering area.

**Subd. 5. Parking in Residential Areas.** Parking in residential areas (off-street and on-street) shall be limited to the use of the residents of those homes. Except for short-term parking (six (6) hours or less) and guest parking, the number of vehicles parked on or in front of a residential lot shall not exceed double the number of persons residing on the premises and having automobile driver's licenses.

**Subd. 6. Off-Street Spaces Required.** (One Space Equals 300 Square Feet).

- |    |   |  |
|----|---|--|
| A. | One (1) and (2) Two Family Residences   | Two (2) spaces per dwelling unit   |
| B. | Multiple Dwellings  | Two (2) spaces per dwelling unit   |
| C. | Business and Professional Offices   | One (1) space for each 400 square feet of gross floor space.   |
| D. | Hotel or Motel  | One (1) space per rental unit, plus one (1) space per employee.  |
| E. | Drive-in Food Establishment   | At least one (1) space for each fifteen (15) square feet or gross floor space in building allocated to drive-in operation. |
| F. | Automobile Service Station  | At least two (2) off-street parking spaces plus four (4) off-street parking spaces for each service stall.                 |
| G. | Retail Store in B-2 District  | At least one (1) off-street parking space for each 150 square feet of gross floor area floor area.                         |
| H. | Restaurants, Cafes, Bars, Taverns, Night Clubs except in the Central Business District where no off-street parking requirements shall apply | At least one (1) space for each three (3) seats based on capacity design.  |
| I. | Uses Not Specifically noted   | As determined by the Council following review by the Planning Commission.  |

**1040.08. Traffic Control.** The traffic generated by any use shall be channeled and controlled in a manner that will avoid: (a) congestion on the public streets; (b) traffic hazards; and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets. On corner lots, (including rural areas) nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of fifty (50) feet from the intersection of the right-of-way lines.

**1040.09. Tree and Woodland Preservation.** The following restrictions shall apply to all residential development occurring in wooded areas.

**Subd. 1. Structures.** Structures shall be located in such a manner that the maximum number of trees shall be preserved.

**Subd. 2. Clear Cutting.** Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the clear cutting of trees on the site and that if trees are cut, he will restore the density of trees to that which existed before development but in no case shall he be compelled to raise the density above ten (10) trees per acre.

**Subd. 3. Replanting.** Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

**1040.10. Soil Erosion and Sediment Control.** The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling or exposure of soils.

**Subd. 1. General Standards.**

A. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

B. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

C. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

D. The drainage system shall be constructed and operational as quickly as possible during construction.

E. Whenever possible, natural vegetation shall be retained and protected.

**Subd. 2. Exposed Slopes.** The following control measures shall be taken to control erosion during construction.

A. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing

grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and nettings, or should be worked with the soil to provide additional slope stability.

B. Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

C. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period may be extended only if the Planning Department is satisfied that adequate measures have been established and will remain in place.

D. The natural drainage system shall be used as far as is feasible for the storage and flow of runoff. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flows, erosion damage, and construction cost.

**1040.11. Explosives.** No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except as are specifically licensed by the Council.

**1040.12. Guest Houses.** Guest houses, for purpose of this Chapter, shall be an accessory building detached from the principal building where accommodations for sleeping is provided but no kitchen facility provision is made. The use is for persons visiting the occupants of this principal building. Guest houses shall be permitted in all Residential Districts and shall be located the required depth of the rear yard or more from the principal building and shall conform to the side yard requirements for the principal building.

**1040.13. Drive-In Business Development Standards.**

**Subd. 1. Drainage.** The entire area of any drive-in business shall have a drainage system approved by the City Engineer.

**Subd. 2. Surface Requirement.** The entire area other than that occupied by structures or planting shall be surfaced with a hard surface material which will control dust and drainage.

**Subd. 3. Screening.** A fence or screen of acceptable design not over six ( 6) feet in height or less than four (4) feet shall be constructed along the property line abutting a Residential District and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

**Subd. 4. General.**

A. Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, in-door food and beverage service seating area sufficient to accommodate at least twenty-four (24) customers.

B. The hours of operation shall be set forth as a condition of any building permit for drive-in business.

C. Each drive-in business serving food may have outside seating for at least twenty-four (24) customers.

D. Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one refuse receptacle per ten vehicle parking spaces within the parking area.

**Subd. 5. Locations.**

A. No drive-in business shall be located within four hundred feet of a public or parochial school, church, public recreation area, or any Residential District.

B. No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.

C. No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan.

**Subd. 6. Site Plan.**

A. The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.

B. A landscaping plan shall be included and shall set forth complete specifications for plant materials and other features.

C. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

D. The design of any structure shall be compatible with other structures in the surrounding area.

E. Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within 400 feet of any residentially zoned or used property, nor within 200 feet of any adjacent lot regardless of use or zoning district.

F. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

G. No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.

H. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within fifty (50) feet of intersecting street curb lines.

**Subd. 7. Drive-In Theaters.** In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

**Subd. 8. Lighting.** The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

**1040.14. Auto Service Stations.** The following standards shall be applicable to auto and truck service stations in all Districts.

**Subd. 1. Drainage.** A drainage system, subject to approval by the City Engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the Council. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight (8) feet on each side shall be concrete.

A box curb not less than six (6) inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than fifty (50) feet from the intersection of two (2) street right-of-way lines. Each service station shall have at least two (2) driveways with a minimum distance of 170 feet between centerlines when located on the same street.

**Subd. 2. Parking Restrictions.** No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be waiting service longer than fifteen (15) days.

**Subd. 3. Exterior Storage.** Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise.

**Subd. 4. Screening.** All areas utilized for the storage, disposal, or burning of trash, debris, discarded parts, and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean, and safe manner.

**Subd. 5. Conditional Use Permits.** Business activities not listed in the definition of service stations in this Chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: (1) automatic car and truck wash; (2) rental of vehicles, equipment, or trailers; and (3) general retail sales.

#### **1040.15. Manufactured Homes.**

**Subd. 1. Intent.** The intent and purpose of this Subsection is to assure the adequate provision of necessary services to manufactured homes by the City so as to promote the health, safety, and general welfare of the occupants and general public, to preserve property values within the City, and to regulate development in accordance with the City's land use and zoning plans. Necessary services include police and fire protection, utilities including water, sewage, and lighting, and the regulation of health conditions.

**Subd. 2. Use.** The placement of manufactured homes, both permanent and temporary, within the City, for periods exceeding seventy-two (72) hours, will be limited to approved manufactured home parks and subject to the guidelines set forth in Section 1040.15 of the City Code.

#### **1040.155. Manufactured Home Parks.**

**Subd. 1. Intent.** The intent and purpose of this Subsection is to assure quality development equal to that found in other types of residential areas throughout the City. Excellence of design, development and maintenance are the desired objective.

**Subd. 2. Conditional Use Permit Required.** It is unlawful for any person to attempt to develop, expand or enlarge a manufactured home park within the City without first obtaining a conditional use permit. Conditional use permits shall only be granted for manufactured home parks which are located within the boundaries of Multiple Family Urban Districts (R-3). The requirements of a conditional use permit shall prevail over all other standards and requirements notwithstanding the more restrictive Sections of this Chapter. A conditional use permit for a manufactured home

park may contain other requirements beyond those mentioned in this Subsection.

**Subd. 3. Application.** The application for a conditional use permit, in addition to other requirements, shall include the name and address of the developer and a general description of the construction schedule and construction cost. The application for a conditional use permit shall be accompanied by twelve (12) copies of plans which indicate the following:

- A. Location and size of the manufactured home park.
- B. Location, size and character of all manufactured home lots, manufactured home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
- C. Detailed landscaping plans and specifications.
- D. Location and width of sidewalks.
- E. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service and gas service.
- F. Plans for overhead street lighting system shall be submitted for approval by the City Engineer.
- G. The method of disposing of garbage and refuse.
- H. Location and size of all streets abutting the manufactured home park and all driveways from such streets to the park.
- I. Plans and specifications for all road construction either within the park or directly related to park operation.
- J. Floor plans of all service buildings to be constructed within the manufactured home park.
- K. Such other information as may be required or requested by the City.
- L. Detailed description of maintenance procedures and grounds supervision.

**Subd. 4. Performance Standards for All Manufactured Home Parks.**

A. A responsible attendant or caretaker shall be in charge of every manufactured home park at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than fifty (50) lots, the attendant, caretaker or other responsible employee, shall be readily available at all times in case of emergency.

B. All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No waste water from manufactured homes shall be deposited on the surface of the ground.

C. All manufactured homes shall be properly connected to a central water supply and a public sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the City Engineer. Where a public water supply is available to the manufactured home park or at the boundary of the park, a connection to said public water supply shall be provided for each manufactured home.

D. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the associated utilities, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes.

E. The area beneath all manufactured homes shall be enclosed with a material that shall be generally uniform through the entire manufactured home park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted

that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

F. Each manufactured home lot shall be served by a central fuel supply system such as natural gas or a central LP system. No separate private fuel containers, such as fuel oil tanks or LP tanks shall be allowed in the manufactured home park except by special temporary permit which shall be issued by the Zoning Administrator.

G. Every structure in the manufactured home park shall be developed and maintained in a safe, approved, and substantial manner. The exterior of every such structure shall be kept in good repair, and shall be repainted or refinished when so directed by the Building Inspector. All of said structures must be constructed to meet existing applicable Codes. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

H. Manufactured home parks shall have a plan for the sheltering or the safe evacuation of the residents of the park in times of severe weather conditions, such as tornadoes, high winds and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the City and shall be posted at conspicuous locations throughout the park.

I. Manufactured Home Stands. The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

J. All structures shall require a building permit. A building permit shall also be required whenever a manufactured home is installed or removed from a site. It is not the intent of this Subsection to repeal or abrogate any part of the State Building Code. The provisions of this Subsection shall be enforced in addition to and in conjunction with the provisions of the State Building Code.

K. To facilitate enforcement of the performance standards the manufactured home park owner shall annually provide the City with a site plan which shall indicate the manufactured home sites, site size, location of utilities, streets and tenants.

#### **Subd. 5. Manufactured Home Park Lots.**

A. Each manufactured home site shall contain at least 4,500 square feet of land area for the exclusive use of the occupant. Each site shall abut or face a clear unoccupied space of not less than thirty-six (36) feet in width which space shall have unobstructed access to a street. Larger manufactured homes will require longer lots to comply with the following requirements of this Subsection.

B. Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes and twenty (20) feet between the front of the manufactured home and the front lot line and ten (10) feet between the rear of the manufactured home and the rear lot line. Manufactured homes shall be parked no closer than ten (10) feet to a side lot line.

C. The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a manufactured home site. Land may be occupied by a manufactured home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure.

D. The yards shall be landscaped except for necessary driveway and sidewalk needs in the lawn area.

E. Each manufactured home lot shall have paved off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum or as approved by the Zoning Administrator.

F. No manufactured home, off-street parking space, or building shall be located within thirty (30) feet of the exterior boundary of any manufactured home park. No manufactured home shall be located within twenty (20) feet of the right-of-way or a public street.

G. The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

H. Each manufactured home lot shall be so designed that automobiles may not be parked within five (5) feet of the side of any manufactured home or within five (5) feet of the front or back of the manufactured home.

I. All manufactured home parks shall have an area set aside for dead storage. Boats, boat trailers, hauling trailers, and all other equipment not generally stored within the manufactured home or within the utility enclosure, that may be provided, shall not be stored upon a manufactured home lot which is occupied by a manufactured home nor upon the streets within the manufactured home park.

**Subd. 6. Manufactured Home Stands.** The area of the manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

A. The manufactured home stand shall be provided with state approved anchors and tie-downs.

B. Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand and each anchor shall be able to sustain a minimum tensile strength of 2,800 pounds or as approved by the current Minnesota State Uniform Manufactured Home Standards Code, whichever is more restrictive.

**1040.16. Bulk Storage (Liquid).** All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the Council may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of 10,000 gallons shall secure a conditional use permit. The Council may require the development of diking around said tanks. Diking shall be suitably sealed, and shall hold a leakage capacity equal to 115% of the tank capacity.

Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within a reasonable period of time specified by the Council.

#### **1040.17. Accessory Buildings and Structures.**

##### **Subd. 1. In Residential Districts.**

A. No accessory buildings may be located within five (5) feet of the side lot line nor within five (5) feet of the rear lot line.

B. No accessory building shall be located nearer the front lot line than the principal building on the lot.

C. No accessory building shall exceed the height of the principal building.

D. Detached utility sheds or sheds attached to a principal structure separated from the principal structure by a wall shall be permitted by conditional use permit. If detached, they should not be located closer than six (6) feet from the principal structure. A concrete slab or other suitable foundation should be required. Such sheds shall not be larger than 400 square feet in area.

E. No private garage used or intended for the storage of passenger automobiles shall exceed 1,300 square feet of gross area nor shall any access door or other opening exceed the height of ten (10) feet.

F. When a private garage is oriented so as to face onto a public street, it shall not be less than twenty (20) feet from the front line. When a private garage is oriented so as to face onto a public alley, it shall not be less than twenty (20) feet from the alley.

**Subd. 2. In Commercial and Industrial Districts.**

A. No accessory building shall exceed the height of the principal building except by conditional use permit.

B. Accessory buildings may be located any place to the rear of the principal building subject to the building code and fire zone regulations except that accessory buildings may be located in front of the principal building in the General Industrial Zone (GI).

**Subd. 3. In All Districts.**

A. No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.

B. An accessory building shall be considered as an integral part of the principal building if it is located less than six (6) feet from the principal building.

C. Where the natural grade of a lot at the building line is eight (8) feet or more above the established curb level, a private garage may be erected within any yard provided one-half (½) or more of its height is below grade level and it is not located less than ten (10) feet from any street line.

D. Accessory structures located on lake or stream frontage lots may be located between the public road and the principal structure provided it is clearly demonstrated that physical conditions require such a location. In no event, however, shall the structure be located closer than twenty (20) feet to the public road right-of-way.

E. An accessory building may be located within the rear yard setback provided that the lot is not a through lot and said accessory building does not occupy more than twenty-five percent (25%) of a required rear yard.

**1040.18. Land Reclamation.** Land reclamation may be permitted by conditional use permit in all Districts. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land. The permit shall state the type of fill allowed. Application for a permit shall include a plan for fire control and general maintenance of the site. A plan for controls of vehicle ingress and egress, and shall include provisions that will be taken to minimize erosion and excessive dust conditions.

**1040.19. Dwelling Units Prohibited.** No basement, garage, tent, trailer, or accessory building shall at any time be used as a dwelling. The basement portion of finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

**1040.20. Farming Operations.** All farms in existence upon the effective date of this Chapter shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained herein shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to farming operations just as they do to urban development. The Council may require any farm operation to secure a conditional use permit to expand or intensify said operations in the event that the farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade and further that such operations may tend to become a permanent industrial type operation that cannot be terminated as can a normal farming operation.

**1040.21. Vacated Streets.** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding.

**1040.22. Platting.** All buildings hereafter erected upon unplatted land shall be so placed that they will not obstruct proper street extensions or other features or proper subdivision and land planning.

**1040.23. Permitted Encroachments.** The following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided:

**Subd. 1. In Any Yard.** Posts, off-street open parking spaces, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

**Subd. 2. In Side and Rear Yards.** Bays not to exceed a depth of three (3) feet or contain an area of more than thirty (30) square feet, fire escape not to exceed a width of three (3) feet. Balconies eight (8) feet above grade may extend into yards to within five (5) feet of a lot line provided said balconies do not extend over driveways. Breezeways, detached outdoor picnic shelters, open arbors, trellises, and detached outdoor living rooms may extend to within five (5) feet of a side or rear lot line except that no such structure shall exceed 500 square feet. Covered porches may extend twenty (20) feet into the rear yard but not closer than ten (10) feet from the rear lot line.

**Subd. 3. Height Limitation Exceptions.** Height limitations shall not apply to barns, silos, and other structures on farms; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flagpoles, public utility facilities; transmission towers of commercial and private radio broadcasting stations; television antennae; and parapet walls extending not more than four (4) feet above the limiting height of the building except as hereinafter provided. (*Section*

**Subd. 4. Structure Sizes.** In no event shall off-street parking space, structures of any type, buildings, or other features cover more than seventy-five percent (75%) of the lot area resulting in less than twenty-five (25%) landscaped area in Residential Districts.

**1040.24. Access Drives and Access.**

**Subd. 1. City Roadways.** Access drives may not be placed closer than five (5) feet to any side or rear lot line. No access drive shall be closer than three (3) feet to any single or two (2) family residence, no closer than five (5) feet to any multiple family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

**Subd. 2. County Roadways.** Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

**Subd. 3. Other.** Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The Zoning Administrator shall review all access drives (driveways) for compliance with accepted City access drive standards.

**Subd. 4. Driveways.** All driveways shall have a minimum width of ten (10) feet with a pavement strength capable of supporting emergency and fire vehicles.

**Subd. 5. Emergency Vehicle Access.** All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the Council.

#### **1040.25. Commercial Feedlots.**

**Subd. 1. Permits.** All proposed commercial feedlots shall require a separate permit to be submitted to the Zoning Administrator and to the Pollution Control Agency for review. The following information shall be submitted as part of this permit:

A. A map or aerial photo indicating dimensions of feedlot and showing all existing homes, buildings, lakes, ponds, water courses, wetlands, dry-runs, rock outcroppings, roads, wells, and general contour and north arrow.

B. A description of the geological conditions, soil types, and ground water elevations, including the high water table to a depth of ten feet below the lowest elevation on the site.

C. A plan indicating an operational procedure, the location and specifications of proposed animal waste treatment facilities, land used for the disposal of waste and the quantity and type of effluent to be discharged from the site.

D. Should the land indicated as a disposal site not be owned by the applicant, a lease submitted indicating that the applicant has the right to dispose of waste on said land shall accompany the application, the same showing the duration of the lease.

**Subd. 2. Setback Requirements.** The following setback requirements shall be used on all feedlots:

A. No feedlot shall be located within 1,000 feet of the normal high water mark of any lake, pond, or flowage, or within 300 feet of a river or stream.

B. No feedlot shall be located within the Flood Plain.

C. Feedlots shall not be located within 1,000 feet of a public park.

D. Feedlots shall not be located within one-half (½) mile of ten (10) or more homes.

#### **1040.26. Irrigation Systems.**

**Subd. 1. Permits.** All proposed irrigation systems shall require a conditional use permit from the Council as well as a permit from the Department of Natural Resources (DNR). As part of the application for a conditional use permit from the City, the applicant shall submit a permit from the DNR.

#### **1040.27. Cluster Development.**

**Subd. 1. Where Permitted.** Cluster development, the placing of residential dwelling units into compact groupings, may be permitted in any Residential or Agricultural District following the completion and approval of a preliminary and final plat for a cluster development. The Planning Commission and Council shall find that the proposed development plan is in substantial compliance with the applicable standards of this Chapter.

**Subd. 2. Definition.** A cluster development shall be defined in this Chapter as a residential development in which a number of single family dwelling units are grouped on smaller than usual or minimum lots, leaving some land undivided for common use by all residents of the development.

**Subd. 3. Common Land.** Common land may be preserved as agricultural land, open recreation space for recreational facilities, or for preservation of natural or scenic resources.

**Subd. 4. Dimensional Standards.** Except for minimum setbacks and height limitations for the district in which the development is proposed, altered dimensional standards may be allowed as exceptions to this Chapter for cluster development, provided that:

A. In Agricultural (AG) and Residential (R-1, R-2, R-3) Districts of this Chapter, the number of dwelling units allowed shall not exceed the total number of dwelling units allowed if the development was based on the minimum lot size and density requirements for a single family residential subdivision.

B. Open space shall be preserved. At least 40% of the site shall be kept in its natural state or utilized for recreation or agricultural purposes.

C. Complete plans and documents of the homeowners association are submitted which explain:

1. Ownership and membership requirements.
2. Organization of the association.
3. Time at which the developer turns the association over to the homeowners.
4. Approximately monthly or yearly association fee for homeowners.
5. Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.
6. No cluster development lot shall be less than 6,000 square feet in area.

#### **1040.28. Signs.**

**Subd. 1. Purpose.** The purpose of this Subsection is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness of the roadside throughout the City. By the construction of public roads, the public has created views to which the public retains a right-of-view and it is the intent of these standards to prevent taking of that right. Signs are recognized as accessory uses and are permitted in all Districts subject to the regulations of this Chapter.

**Subd. 2. Illegal Signs.** No sign shall be allowed that is a hazard to the public health, safety, convenience, welfare, or that prevents ingress or egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard, or that is attached to a standpipe or fire escape.

**Subd. 3. Design Restrictions.** Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. No sign shall be placed so as to obstruct or interfere with traffic visibility or traffic control.

**Subd. 4. Private Signs.** Private signs are prohibited within the public right-of-way of any street or easement.

**Subd. 5. State & Federal Right-of Ways.** All signs on State and Federal highways right-of-way shall conform to State and Federal sign regulations.

**Subd. 6. Signs Permitted.** The following signs will be permitted in all Districts subject to the specific standards indicated:

A. One sign on each side of a non-conforming business establishment where there is access to that business establishment, announcing without display or elaboration only the name and occupation of the proprietor and not to exceed four (4) feet in height and ten (10) feet in length.

B. Wall signs on any conforming use building or business establishment not to exceed twenty percent (20%) of the wall area for businesses in commercial districts.

C. Multi-tenant business centers may have one wall sign per business which has an exclusive exterior entrance. A second wall sign may be allowed if a tenant has an additional exclusive exterior entrance on a second wall. All wall signs shall not exceed more than twenty percent (20%) of the wall area occupied by the tenant.

D. Projecting signs, including canopy and awning signs, as well as wall signs will be permitted within the Central Business District. Projecting signs and awnings shall have a minimum clearance of seven (7) feet above a public sidewalk. Such signs shall not project more than six (6) feet from the building. The entire awning shall be counted towards the maximum sign area if the awning is internally lit. Projecting signs must further comply with any county or state requirements for such signs, if any.

E. Wall signs in residential zones shall not exceed ten percent (10%) of the wall area used for retail purposes.

F. Wall signs shall not project above the roof level of any building.

G. Real Estate signs shall not exceed sixteen (16) square feet in area which advertise the sale, rental, or lease of the premises upon which the sign is temporarily located. Real estate signs shall be composed of a metal or other non-bendable material and have an appearance of professional quality. All real estate signs shall be either attached to the structure which is for sale or rent or placed directly into the ground. The affixing of signs to trees and utility posts is prohibited.

H. Warning signs shall not exceed sixteen (16) square feet.

I. Memorial signs, tablets and names of buildings and date of erection when out into any masonry surface or when constructed of metal and affixed flat against a structure, not to exceed sixteen (16) square feet.

J. Official signs such as traffic control, parking restrictions, information and notices.

K. Political signs are allowed in any district on private property with the consent

of the owner of the property. Such signs must be removed within seven (7) days following the date of election or elections to which said signs applied.

L. Construction signs not exceeding thirty-two (32) square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is completed.

M. Temporary signs or banners when authorized by the Council.

N. In non-residential districts, pylon signs no higher than thirty-five (35) feet and no greater than 100 square feet per side of the sign.

O. In residential districts, pylon signs shall be limited to sixteen (16) square feet in area and shall not exceed seven (7) feet in height.

P. All other signs shall require a conditional use permit.

**Subd. 7. Non-Conforming Signs.** Signs lawfully existing at the effective date of this Chapter may be continued although the use, size or location does not conform with the provisions of this Chapter. However, it shall be deemed a non-conforming use.

**Subd. 8. Sign Maintenance.**

A. Painting. The owner of any sign shall be required to have such sign properly painted at least once every two (2) years, if needed, including all parts and supports of the sign, unless such parts or supports are galvanized or otherwise treated to prevent rust.

B. Area Around Sign. The owner, or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind and at the ends of said sign.

**Subd. 9. Obsolete Signs.** Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign may be found within ten (10) days after written notice from the Zoning Administrator.

**Subd. 10. Unsafe or Dangerous Signs.** Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure, or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

**Subd. 11.** All permanent signs, of non-public origin, located within the city limits of the City of Blue Earth, shall require an administrative permit issued by the City. Permits may be obtained from the Administrator's Office, located in City Hall. Administrative permit fees for permanent non-public signs will be set in the city's fee schedule, as periodically determined by issuance of the Council. Permits shall be obtained prior to the placement of any new signs, or within 90 days of the permanent placement thereof. Signs permanently placed on or before October 31, 2003, shall be exempt from this subdivision.

**1040.29. Apartments and Other Multiple Family Uses.**

**Subd. 1. Conditional Use Permit Requirements.** In recommending the granting of a conditional use permit for structures containing three (3) or more dwelling units, the Planning Commission shall find the proposed development plan is in substantial compliance with the

following standards. In no event shall any building housing three (3) or more families in a Residential District have less than 10,000 square feet of lot area.

**Subd. 2. Conditional Use Permit Required.** A conditional use permit shall be required for any structure built in a Multiple Family Residential District prior to issuance of a building permit. The purpose of a conditional use permit shall be to assure that site and building plans as well as the impact on the neighborhood are fully consistent with the intent and purpose of the zoning regulations and the Comprehensive Plan for the area. All requests for conditional use permit shall be accompanied by a series of site plans and data showing:

A. Building locations, dimensions, and elevations all signs, structures, entry areas, storage sites, and other structural improvements to the site.

B. Circulation plans for both pedestrian and vehicular.

C. Fences and screening devices.

D. Solid waste disposal provisions and facilities.

E. Storm drainage plans.

F. Fire fighting and other public safety facilities and provisions such as hydrant locations and fire lanes.

G. Data pertaining to numbers of dwelling units, sizes, lot area, ratios, etc.

H. A two-foot contour topographic map of the existing site.

I. A grading plan illustrating the proposed grade changes from the original topographic map. All site area, when fully developed, shall be completely graded so as to adequately drain and dispose of all surface water, storm water, and ground water in such a manner as to preclude large scale erosion, unwanted ponding and surface chemical run-off.

J. A recreation plan illustrating in detail all recreational facilities and structures.

K. A landscape plan. The site, when fully developed, shall be landscaped according to a plan approved by the Council. The landscaping plan shall specify the size, type, and location of all trees and shrubbery and the location of all seeded and sodded areas.

L. A soil erosion control plan for the construction period. Areas within the construction zone shall be fenced with construction limit fencing as per the plan to prohibit heavy machinery and/or materials from being placed on areas not to be disturbed during construction. This shall, at a minimum, include all slopes in excess of eighteen percent (18%).

**Subd. 3. Council Approval Necessary.** The required plans shall be reviewed by the Planning Commission and the Council. The conditional use permit shall not be issued until site plan approval is obtained from the Council after the required public hearing. The site plans, when approved, shall be made part of the conditional use permit and non-compliance with the site plans may be deemed by the Council as grounds for the revocation of the conditional use permit.

**Subd. 4. Performance Bond Required.** The Council shall require the developer to post a full performance bond guaranteeing that street, utility, storm drainage, landscaping, and other individually specified improvements to the building site are completed as proposed on plans approved by the Council.

**Subd. 5. Parking Requirements.**

A. Two (2) parking spaces per unit shall be provided on the same site as the dwelling unit. Each space shall not be less than nine (9) feet wide and twenty (20) feet in length, or as approved by the Zoning Administrator, and each space shall be served adequately with access drives.

B. A minimum of fifty percent (50%) of the parking spaces shall be in garages.

C. Parking spaces shall not be within twenty (20) feet of the side lot line, within the front yard, or within five (5) feet of the rear lot line.

D. Bituminous or concrete driveways and parking areas with concrete or asphalt curbing may be required.

**Subd. 6. Landscape Provisions.**

A. The design shall make use of all land contained in the site. All of the site shall be related to the circulation, recreation, screening, building, storage, landscaping, etc. so that no portion of the site remains undeveloped.

B. A minimum of twenty percent (20%) of the site shall be landscaped.

**Subd. 7. Screening.**

A. Screening to a height of at least five (5) feet shall be required where: (a) any off-street parking area contains more than six (6) parking spaces and is within thirty (30) feet of an adjoining residential zone; and (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential zone.

B. All exterior storage shall be screened. The exterior screening required shall consist of a solid fence or wall not less than five feet high, but shall not extend within fifteen feet of any street, driveway or lot line.

C. Sidewalks shall be provided from parking areas, loading zones, and recreation areas to the entrance of the building.

**Subd. 8. Appearance.** All buildings within an apartment development shall be so planned that they have the equivalent of a front appearance on each exterior vertical surface.

**Subd. 9. General Building or Structural Requirements.**

A. The proposed apartment units and buildings shall conform to the Minnesota Uniform Building Code.

B. Storage Space Requirements. All multiple family dwellings shall provide a minimum of ninety-six (96) cubic feet of miscellaneous storage space for each dwelling unit within the principal structure containing such unit. such space shall be in addition to normal storage space provided in wardrobes, cabinets, and clothes or linen closets.

C. Each multiple family dwelling development containing more than four (4) dwelling units shall include a play area, part of which shall be a paved surface.

D. Any blighting or deteriorating aspects of the multiple family dwelling development shall be placed upon or absorbed by the site itself, rather than by neighboring residential uses. This provision particularly applies to the location of parking areas.

E. The design shall make use of all land contained in the site. All of the site shall be related to the multiple family use, either parking, circulation, recreation, landscaping, screening, building, storage, etc., so that no portion remains undeveloped.

F. Trash Incinerators and Garbage. Except with townhouses and multiple family dwellings of four (4) or less units, no exterior trash or garbage disposal or storage shall be permitted.

In the case of row housing and multiple family dwellings of four units or less, there shall be no exterior incineration and all storage shall be completely enclosed by walls and roof.

**1040.30. Wind Energy Conversion Systems (WECS).**

**Subd. 1. Purpose.** The purpose of this Subsection is to establish standards and procedures

by which the installation and operation of wind energy conversion systems (WECS) shall be governed within the City.

**Subd. 2. Application.**

a. Conditional Use. Wind energy conversion systems may be allowed as a conditional use within any zoning district of the City, subject to the regulations and requirements of this Section, provided the property upon which the system is to be located is zoned Future Restricted Development, residential, commercial or industrial or is constructed and maintained on any parcel of at least two and one-half (2 ½) acres in size.

b. Declaration of Conditions. The Planning Commission may recommend and the City Council may impose such conditions on the granting of a WECS conditional use permit as may be necessary to carry out the purpose and provisions of this Section.

c. Site Plan Drawing. All applications for a WECS conditional use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned displaying the following:

1. Location and height of all buildings, structures, above-ground utilities and trees on the lot, including both existing and proposed structures and guy wire anchors.

2. Location and height of all adjacent buildings, structures, above-ground utilities and trees located within three hundred fifty (350) feet of the exterior boundaries of the property in question.

**Subd. 3. Code Compliance.**

a. Compliance With State Building Code. Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

b. Compliance With National Electrical Code. WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

**Subd. 4. Manufacturing Warranty.** Applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within Blue Earth. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

**Subd. 5. Design Standards.**

a. Height. The permitted maximum height of a WECS shall be determined in one of two ways. In determining the height of the WECS the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.

1. A ratio of one (1) foot to one (1) foot between the distance of the closest property line to the base of the WECS to the height of the system.

2. A maximum system height of one hundred seventy-five (175) feet.

The shortest height of the two (2) above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA regulation part 77 “Objects Affecting Navigable Air Space” and/or MNDOT Rule 14, MCAR 1.3015 “Criteria for Determining Obstruction to Air Navigation.”

b. Setbacks. No part of a WECS (including guy wire anchors) shall be located

within or above any required front, side or rear yard setback. WECS towers shall be setback from the closest property line one (1) foot for every one (1) foot of system height. WECS shall not be located within thirty (30) feet of an above ground utility line.

c. Rotor Size. All WECS rotors shall not have rotor diameters greater than twenty-six (26) feet.

d. Rotor Clearance. Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree within a two hundred foot (200) foot radius.

e. Rotor Safety. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 mph or greater).

f. Lightning Protection. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.

g. Tower Access. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:

1. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.

2. A locked anti-climb device shall be installed on the tower.

3. Towers capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.

h. Signs. WECS shall have one sign, not to exceed two (2) square feet posted at the base of the tower and said sign shall contain the following information.

1. Warning high voltage.

2. Manufacturer's name.

3. Emergency phone number.

4. Emergency shutdown procedures.

i. Lighting. WECS shall not have affixed or attached any lights, reflectors, flasher or any other illumination, except for illumination devices required by FAA regulations part 77 "Objects Affecting Navigable Air Space" and FAA Advisory circular 70/7460-1F, September 1978 "Obstruction Marking and Lighting."

j. Electromagnetic Interference. WECS shall be designed and constructed so as not to cause radio and television interference.

k. Noise Emission. Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.

l. Utility Company Interconnection. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commenced upon it. There shall be an interconnect agreement in place between the property owner and the electric utility as a condition of the permit. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.

**Subd. 6. Ornamental Wind Devices.** Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section and shall conform to other applicable provisions of this Ordinance and the City Code.

**Subd. 7. Inspection.** The City hereby reserves the right upon issuing any WECS interim use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take

expeditious action to correct the situation.

**Subd. 8. Abandonment.** Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

### **1040.31. Garages.**

A. No private garage, whether attached or detached to the principal residence it is accessory to, shall be larger than 1300 square feet and no dimension for any private garage shall exceed 40 feet in length.

B. Location. A private garage shall comply with all setback requirements for accessory structures as specified in Subsection 1040.17 if a garage is a detached structure/building. If attached to the principal residence, a garage shall comply with all setback requirements for a principal residence.

C. Garages with Access from Public Alley. A private garage oriented so as to face onto a public alley shall not be less than twenty (20) feet from the alley.

D. Garage Doors. The garage door shall be no higher than 10 feet high.

E. Exterior Wall Finish Requirement. All exterior wall finishes for private garages located within R-1 and R-2 zoning districts shall be of the following materials or a combination of the following materials.

1. Face Brick.
2. Painted or stained wood siding.
3. Natural stone.
4. Vinyl siding designed for use on a residential dwelling and consistent with the aesthetic look of the neighborhood.
5. Steel siding designed for use on a residential dwelling and consistent with the aesthetic look of the neighborhood.
6. Stucco.

### **1040.32. Solar Systems.**

**Subd. 1. Purpose.** This subsection permits, as an accessory use, solar energy systems, while protecting the health, safety and welfare of city residents and the property interests of adjacent and surrounding land uses through appropriate zoning and land use controls.

**Subd. 2. Definitions.**

A. Building-integrated solar energy system. A solar energy system that is directly incorporated into the building by replacing typical building materials.

B. Ground-mounted solar energy system. A solar energy system that is installed onto the ground directly or by means of brackets or poles.

C. Roof-mounted solar energy system. A solar energy system mounted to a house or other building.

D. Solar energy system. A set of devices whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

E. Solar thermal system. A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs of the building.

**Subd. 3. Permitted accessory use.** Solar energy systems are allowable as an accessory use in all zoning districts, subject to the following requirements:

A. Standards.

1. Height. Roof-mounted solar energy systems shall not project beyond the peak of the roof and shall not be more than 4 feet above the roof surface to which they are attached. Ground-mounted solar energy systems shall not exceed 15 feet in height.

2. Location. Ground-mounted solar energy systems must be located in the rear yard only.

3. Setbacks. Ground mounted solar energy systems shall be set back a minimum of 20 feet from all property lines, a minimum of 20 feet from all buildings located on adjacent lots, a minimum of 20 feet from all public right-of-way, and a minimum of 20 feet from all utility easements. Roof-mounted solar energy systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

4. Coverage. Roof-mounted solar energy systems must be of a size and placed in such a location so as to allow the dwelling/building to be insured for fire/casualty and liability coverage by any insurance company licensed to do business in the State of Minnesota. Proof of coverage must be provided by the owner showing that the roof-mounted solar energy system is specifically insured will be required for any permit issued under this subdivision.

5. Feeder Lines. All power exterior electrical or other service lines must be buried below the surface of the ground.

6. Exemption. Building integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

7. Weight. Rooftop solar projects must not overload the designed weight limit of the roof.

**Subd. 4. Safety.**

A. Compliance with building codes. All solar energy systems shall comply with the Minnesota Building Code and any local building code requirements.

B. Compliance with electric code. All solar energy systems shall comply with the National Electrical Code.

C. Compliance with plumbing code. All solar thermal systems shall comply with the Minnesota State Plumbing Code.

D. Certifications. Solar energy system components shall be certified by Underwriters Laboratories Inc. and the Solar Rating and Certification Corporation. The city reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

**Subd. 5. Approval.**

A. City Building Permit. The erection, alteration, improvement, reconstruction, and movement of a solar energy system requires a building permit from the city.

B. BELW Interconnect agreement. The owner of a solar energy system that will physically connect to a house or other building's electrical system and/or the electric utility grid must enter into a signed interconnection agreement with Blue Earth Light and Water prior to the issuance of a building permit.

**Subd. 6. Abandonment.**

A. If the solar energy system remains nonfunctional or inoperative for more than twelve consecutive months, the system shall constitute a public nuisance. The owner shall obtain a demolition permit and remove the abandoned system at their expense. Removal includes the entire structure, including collector, mount, and transmission equipment.

**Subd. 7. Aesthetics.**

A. All solar energy systems shall use colors that blend with the color of the roof or other structure. Reflection angles from collector surfaces shall be oriented so as not to interfere with the use and enjoyment of other properties. Where necessary, screening may be required to address glare.

**Subd. 8. Easements.**

A. It shall be the responsibility of the property owner to secure/provide any desired solar easement by Blue Earth Light and Water to protect solar access for the system (per Minnesota Statutes Section 500.30).

**Subd. 9. Installation.**

A. Solar energy systems shall be installed only by licensed contractors.

## Section 1050 - Planned Unit Development

**1050.01. Purpose.** This Section is intended to provide procedures and standards to allow the development of a variety of residential and commercial uses as part of a single project where traditional subdivision and zoning regulations may be inadequate or inappropriate to regulate development. Specifically, this Section is intended to encourage more efficient use of land and open space, higher standards of site and building design, and preservation and enhancement of desirable site characteristics.

**1050.02. Designation of PUD.** To achieve the purposes of this Section, the Council may designate any area within the City as a PUD and within any such designated area may waive and modify sections of Chapter 11 (Subdivision of Land) and this Zoning Chapter.

**1050.03. Permitted Uses.** Within a PUD, the Council may permit any use permitted in the other zoning districts, except the Industrial District uses will not be permitted.

### **1050.04. General Requirements.**

**Subd. 1. Application.** An application for PUD approval must be signed by all landowners of the property included in the PUD and filed with the Clerk-administrator together with the application fee established by Ordinance of the City Council. The application and all submissions must be directed to the development of the property as a unified whole.

**Subd. 2. Public Dedication.** The Council may require up to ten percent (10%) of the land area of the project to be dedicated to the City for public use.

**Subd. 3. Maintenance of Common Areas.** If open space or other common areas are provided within the PUD, the plan must contain provisions to assure the continued operation and maintenance of such areas through ownership by one or more of the following, as approved by the Council:

A. The City, where a community wide use is anticipated and the Council agrees to accept the dedication;

B. Landlord control, where use only by tenants is anticipated;

C. Associations established under covenants and restrictions approved by the City and recorded prior to the sale of any property within the PUD.

**Subd. 4. Density.** The density for a PUD will be established by the Council based upon the ability of the City to provide essential services, the provision of adequate open space, the economics of developing the site and the environmental impact of the proposed density. The maximum floor area ratio within a PUD may not exceed 0.75 of the area of the entire development, excluding street rights-of-way.

**Subd. 5. Utilities.** All utilities, including telephone, electricity and telecable, must be installed underground.

**Subd. 6. Landscaping.** Landscaping must be provided according to a plan approved by the Council after review by the Planning Commission.

**Subd. 7. Minimum Site Size.** No site of less than five (5) acres will be considered for a

PUD.

**Subd. 8. Setbacks.** Building setbacks from all perimeter lines of the PUD must be at least twenty-five (25) feet.

**Subd. 9. Reapplication.** No substantially similar application for a site may be resubmitted within six (6) months after its latest consideration.

#### **1050.05. Concept Plan.**

**Subd. 1. Preapplication Conference.** Prior to filing an application for PUD approval, the applicant will meet with the Zoning Administrator for guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.

**Subd. 2. Purpose of Concept Plan.** The Concept Plan serves as the basis for a public hearing so that the project may be publicly considered at an early stage. In approving the Concept Plan the Council approves and binds itself as to the density, general location of streets, walks, common areas, open space, residential and nonresidential uses and staging.

**Subd. 3. Submission Requirements.** The Concept Plan must contain the following information:

A. The names and addresses of the applicant, the landowners, if different, and all professional consultants.

B. A statement of all contractual interests held in or affecting the property.

C. Evidence of title to the property.

D. Evidence of the financial capability of the proponent to complete the proposed

PUD.

E. A map depicting the existing zoning for the site and for all and within 350 feet.

F. A map depicting the location and extent of all water bodies, wetlands, streams, drainage patterns, slopes and major areas of tree cover.

G. A statement of the total number of dwelling units proposed and the approximate percent of the total project area devoted to residential and commercial uses, common or open space, public areas, streets, off-street parking and access.

**Subd. 4. City Review.** The Zoning Administrator will refer the plan to the Clerk-Administrator, City Attorney, Police and Fire Chiefs and the Public Works Director for their review.

**Subd. 5. Public Hearing.** The Planning Commission will select a time and place for a public hearing on the application, and notice of the hearing will be published and given as required under Chapter 11 of this Code. After the Planning Commission's recommendation to the Council, the Council may either grant approval, grant approval with modifications, resubmit the plan to the Planning Commission for further consideration, or deny approval. If the Council approves the Concept Plan by a simple majority, then the proponent may proceed with preparing the Final Plan, incorporating any suggestions of the Planning Commission and Council.

#### **1050.06. Final Plan.**

**Subd. 1. Submission of Final Plan.** After approval of the Concept Plan, the proponent may file a Final Plan, which must contain the same information as the Concept Plan plus the following:

A. A map depicting the existing development of the property and all land within 500

feet and showing the precise location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within 100 feet of the subject property.

B. A graphic rendering or topographic survey, as determined by the Zoning Administrator, of the existing site conditions at a scale not less than one (1) inch equals twenty (20) feet, or other appropriate scale as determined by the Zoning Administrator, which depicts contours, tree cover, slope analysis, water bodies, wetlands, streams and floodplains within 100 feet of the property, existing drainage patterns, vistas and soil conditions as they affect development. C

If the PUD is to be constructed in stages, a schedule for the stages stating the approximate beginning and completion dates, and the overall chronology of development from stage to stage.

D. Preliminary plans, drawn to a scale of not less than one (1) inch equals twenty (20) feet, or other appropriate scale as determined by the Zoning Administrator, showing at least the following information:

1. Proposed name of the development.
2. Property boundary lines and dimensions and all proposed lots and blocks.
3. The location, size, use and arrangement, including height and floor area, of proposed buildings and any existing buildings which will remain.
4. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian.
5. Location, designation and total area of all common areas, open spaces and landscaping.
6. Location, use and size of structures and other land uses on adjacent properties.
7. General grading and drainage plans for the developed PUD.
8. Utilities plans.
9. Plans showing uses, floor plans, elevations and exterior finishes of proposed buildings.
10. A soil erosion control plan.
11. A final plat of the PUD, per state and local guidelines, to be filed in conjunction with the final plan.
12. Any other information required by the Planning Commission or Council.

**Subd. 2. Review by City Staff.** The Final Plan will be submitted to the Clerk-Administrator, City Attorney, Director of Public Works and the Building Inspector for review. The Final Plan must refine, implement and be in substantial conformity with the approved concept plan.

**Subd. 3. Concept Plan.** A Final Plan will not be deemed to be in substantial conformity if it:

- A. Increases density by more than five percent (5%);
- B. Decreases public and common open space by more than five percent (5%);
- C. Significantly alters the arrangement of land uses within the PUD.

**Subd. 4. Purpose of Final Plan.** The Final Plan is to serve as a complete public record of the PUD and the land use regulations applicable to the PUD.

## **1050.07. Development.**

**Subd. 1. Commencement of Construction.** If construction of the project has not commenced within one (1) year after approval of the Final Plan, the PUD approval will be null and void, unless an extension has been granted by the Council.

**Subd. 2. Inspections During Development.** All improvements to be constructed or erected, including streets, utilities and common areas, are subject to usual and customary inspection including the City Engineer and any other designated inspector with all fees and expenses to be paid by the developer or an independent testing company. All cost attributable to inspections of the PUD improvements will be charged to and paid by the PUD owner. If any work does not comply with the approved plans, the City Council may order that all work be terminated until steps are taken to correct any defects or deficiencies.

**Subd. 3. Regulations During and After Completion.** Following Final Plan approval, the Final Plan, rather than other provisions of the Zoning Code, will constitute the use, bulk, parking, subdivision and housing design and construction controls applicable to the PUD.

**Subd. 4. Suspension of Regulations.** The Council may by a five-sevenths (5/7ths) vote of all members of the Council suspend or amend any provisions of this Subsection.

## **1050.08. Non-Conforming Uses and Structures.**

**Subd. 1. Intent.** It is the intent of this Subsection to permit nonconforming uses and structures to continue until they are removed, but it is not the intent of this Subsection to encourage their survival, or to permit them to be enlarged, expanded or extended.

**Subd. 2. Limited Continuation.** A nonconforming use or structure may be continued only so long as it remains otherwise lawful and complies with the following provisions:

**Subd. 3. Existing Structure.** No structure used for a nonconforming use may be enlarged, extended, reconstructed, replaced or moved except to change it to a conforming use.

**Subd. 4. Expansion of Use.** No nonconforming use may be extended to occupy any additional land outside any buildings in which the nonconforming use is conducted.

**Subd. 5. Change to Conforming Use.** If property used for a nonconforming use is subsequently used for a conforming use, the nonconforming use may not thereafter be resumed.

**Subd. 6. Discontinued Use.** When a nonconforming use is discontinued for a period of twelve (12) months, the nonconforming use will no longer be permitted.

**Subd. 7. Destruction of Building.** If a building used for a nonconforming use is removed or destroyed to the extent of over fifty percent (50%) of the fair market value, the nonconforming use will no longer be permitted.

## Section 1060 - Floodplain Management

### 1060.01. Statutory Authorization, Findings of Fact and Purpose.

**Subd. 1. Statutory Authorization.** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

**Subd. 2. Findings of Fact.**

A. The flood hazard areas of Blue Earth, 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 for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

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

**Subd. 3. Statement of Purpose.** It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in this Section by provisions contained herein.

### 1060.02. General Provisions.

**Subd. 1. Lands to Which Section Applies.** This Section shall apply to all lands within the jurisdiction of Blue Earth shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe 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 Section. The attached material shall include the Flood Insurance Study for the City of Blue Earth prepared by the Federal Insurance Administration dated 11-3-81, and the Flood Boundary and Floodway Map dated 5-3-82 and Flood Insurance Rate Map dated 5-3-82 therein. The Official Zoning Map shall be on file in the office of the Building Inspector and the Clerk-Administrator.

**Subd. 3. Regulatory Flood Protection Elevation.** The Regulatory Flood Protection Elevation shall be an elevation no lower than one (1) 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.

**Subd. 4. Interpretation.**

A. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the 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 and Appeals 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 Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

**Subd. 6. Warning and Disclaimer of Liability.** This Section 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 Section shall not create liability on the part of Blue Earth or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

**Subd. 7. Severability.** If any Subsection, subdivision, subpart, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

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

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 sides, regardless of the depth of 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 but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official, zoning controls or building codes and upon a finding that:

1. Certain conditions or detailed in the Zoning chapter 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 the stage of a wetland or lake that results in the inundation of normally dry area.

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 Blue Earth.

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 structures, 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, excavations, 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 crossings would most 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 are 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 (1) foot above the 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 Subsection 1060.09, subdivision 3A of this Section and other similar items.

Q. Variance - means a modification of a unspecified permitted development standard required in an official control including this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

### **1060.03. Establishment of Zoning Districts.**

#### **Subd. 1. Districts:**

A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary P-4 Floodway Map adopted in Subsection 1060.02, subd. 2. Of this Section.

B. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Subsection 1060.02, subd. 2 of this Section.

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

Section. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Subsections 1060.04, 1060.05 and 1060.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subsection 1060.11; and

2. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section and specifically as stated in Subsection 1060.10 of this Section.

#### **1060.04. Floodway District (FW).**

##### **Subd. 1. Permitted Uses.**

A. General farming, pasture, grazing, outdoor nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial-commercial loading areas, parking areas, and airport landing strips.

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

D. Recreational 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 subdivision 1 of this Subsection and the uses listed in subparts B-H of this subdivision 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 Subsection 1060.09, subd. 3 of this Section.

H. Structural works for flood control such as levees, dikes and flood walls 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 ten (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 Subsection 1060.10 of this Section.

C. The conditional use shall be permissible in the underlying zoning district if one exists.

D. Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable 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 subpart 2 immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the 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.

**Subd. 5. Accessory Structures.**

A. Accessory structures shall not be designed for human habitation.

B. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

C. Accessory structures shall be elevated on pile 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 and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

1. The structure must be adequately anchored to prevent floatation, collapse or lateral movement of the structure and be designed to equalize hydrostatic flood forces on exterior walls; and

2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

**Subd. 6. Storage of Materials and Equipment.**

A. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

B. 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.

**Subd. 7. Structural Works for Flood Control.** 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 Minnesota Statute, Chapter 103F. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

**Subd. 8. Levees and Dikes.** A levee, dike or flood wall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage on both sides of a stream.

#### **1060.05. Flood Fringe District (FF).**

**Subd. 1. Permitted Uses.** Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying Zoning Use Districts. If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a 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 subdivision 2 of this Subsection and the standards for all Flood Fringe “Permitted and Conditional Uses” listed in subdivision 5 of this Subsection.

##### **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 structure 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 limit of the structure erected thereon.

B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Subsection 1060.04, subd. 4(E) (3).

C. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with subdivision 2(A) above.

D. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

E. The provisions of Subsection 1060.05, subdivision 5 shall apply.

**Subd. 3. Conditional Uses.** Any structure that is not elevated on fill or floodproofed in accordance with Subsection 1060.05, subd. 2(A) - 2(B) or any use of land that does not comply with the standards in Subsection 1060.05, subd. 2(C) - 2(D) shall only be allowable as a Conditional Use.

An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Subsection 1060.05, subs. 4 - 5 and 1060.10, subd. 4 of this Section.

##### **Subd. 4. Standards for Flood Fringe Conditional Uses.**

A. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or 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) if the enclosed area is above-grade on at least one side of the structure; (2) is designed to internally flood and is constructed with flood resistant materials; and (3) 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 the same 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 must stipulate:

a. The minimum area of openings in the wall area internal flooding is to be used as a flood proofing technique. When openings are placed in a structures walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one (1) 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 Subsection 1060.02, Subd. 8(L), 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 Subsection 1060.05, subd. 4(C) of this Section.

C. All areas of nonresidential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing 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 floodproofed 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 material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize 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 of Subsection 1060.05, subd. 5 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 the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would 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 plant 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 subsection 1060.05, 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 protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

E. Flood plain developments shall not adversely effect 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 Subsection 1060.08, 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.

#### **1060.06. Subdivisions.**

**Subd. 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 Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Section and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

**Subd. 2. Removal of Special Flood Hazard Area Designation.** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

#### **1060.07. Public Utilities, Railroads, Roads and Bridges.**

**Subd. 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 Elevation.

**Subd. 2. Public Transportation Facilities.** Railroad tracks, roads and bridges to be located within the flood plain shall comply with Subsection 1060.04 and 1060.05 of this Section. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**Subd. 3. On-site Sewage Treatment and Water Supply Systems.** Where public utilities are not provided on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwater into the systems and discharges from the systems into flood waters and they shall to 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 the Section.

#### **1060.08. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailer and Travel Vehicles.**

**Subd. 1. Purpose and Scope.** New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by Subsection 1060.06 of this Section.

**Subd. 2. Placement.** 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 Subsection 1060.05 of this Section. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subsection 1060.05, 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. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring way 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.** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Subsection 1060.08, Subd. 3(A) below shall be subject to the provisions of this Section and as specifically spelled out Subsections 1060.08, Subds. 3(C) and 3(D) below.

A. Exception. Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Section Subsection 1060.08, subd. 3(B) below and further they meet the following criteria:

1. Have current license 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 using 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 Subsection 1060.08, 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 Stage 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 Subsections 1060.04 and 1060.05 of this Section.

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 Subsection 1060.05.Subd. 5(A). Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Subsection 1060.04.

2. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as Conditional Use if in accordance with the following provisions and the provisions of Section 1060.09, subd. 4 of the Section. 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 still 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 Subsection 1060.07, subd. 3 of this Section.

### **1060.09. Administration.**

**Subd. 1. Zoning Administrator.** A Zoning Administrator designated by the Governing Body shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Subsection 1060.11 of this Section.

#### **Subd. 2. Permit Requirements.**

A. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Section 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, 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 Section.

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 Section, and punishable as provided by Subsection 1060.11 of this Section.

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 Section. 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 and alterations or 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 administration official in the enforcement or administration of this Section.

C. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which 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 the day's notice of the hearing.

E. Decisions. The board shall arrive at a decision on such appeal or Variance within sixty (60) days. In passing upon an appeal, the Board, may, so long as such action is in conformity with the provisions of this Section 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 Subsection 1060.09, Subd. 4(F), which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Section punishable under Subsection 1060.11. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. Appeals. Appeals from any decision of the board may be made according to 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 \$25 for \$100 of insurance coverage; and (2) Such construction below the 100-year or regional 100-year 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 City Council shall hear and decide applications for Conditional Uses permissible under this Section. Applications shall be submitted to the Zoning Administrator who shall forward the application to City Council for consideration.

A. Hearings. Upon filing with the Zoning Administrator an application for a Conditional Use Permit, the City 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 (10) days notice of the hearing.

B. Decisions. The City Council shall arrive at a decision on a Conditional Use within sixty (60) days. In granting a Conditional Use Permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Subsection 1060.09, subd. 4(F), which are in conformity with the purposes of this Section. 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 Section punishable under Subsection 1060.11. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

C. Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications within all Flood Plain Districts.

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

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 movement, storage of materials, water supply and sanitary facilities.

2. Transmit one copy of the information described in subpart (a) 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 City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

D. Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon Conditional Use applications, the City Council shall consider all relevant factors specified in other Subsections of this Section, 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 they 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, lamination, and unsanitary conditions.

4. The susceptibility 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 comparability 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. Such other factors which are relevant to the purposes of this Section.

E. Time for Acting on Application. The City Council shall act on an application in the manner described above within sixty (60) days from receiving the application, except that where additional information is required pursuant to Subsection 1060.09, subd. 4(D) of this Section. The City Council shall render a written decision within sixty (60) days from the receipt of such additional information.

F. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Section, the City council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

1. Modification of was be 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 Section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

## **1060.10. Non-Conforming Uses.**

**Subd. 1. Continued Use.** A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section may 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 thru FP-4 floodproofing classifications allowable in the State Building Code, except as further restricted in subpart C below.

C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the current market value of the structure, then the structure must meet the standards of Subsections 1060.04 and 1060.05 of this Section for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

D. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.

E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (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 Section. The applicable provisions for establishing new uses or new structures in Subsection 1060.04 and 1060.05 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

#### **1060.11. Penalties For Violation of Section.**

**Subd. 1. Penalty.** Violation of the provisions of this Section 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 petty misdemeanor and shall be punishable as defined by law.

**Subd. 2. Other Actions.** Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

A. In responding to a suspected Section 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 Section violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

B. When an Section 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 Section 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 period of time not to exceed thirty (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 Section 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 Section.

**1060.12. Amendments to Section.** 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 or she determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Section, 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 ten (10) days written notice of all hearings to consider the amendment to this Section and said notice shall include a draft of the section amendment or technical study under consideration.

## Section 1070 - Adult Use

### 1070.01. Statutory Authorization

The Adult Use Ordinance is adopted pursuant to the City's general police powers, as well as specific statutory authority and State mandated regulatory rules.

### 1070.02. Findings and Purpose.

**Subd. 1. Intent.** This section is intended to regulate "adult uses", those premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

**Subd. 2. Purpose.** This Ordinance is adopted for the purpose of protecting the best interest of the public health, safety, comfort, convenience and general welfare of the citizens of the City of Blue Earth.

#### **Subd. 3. Findings.**

1. The city has reviewed and analyzed numerous studies, reports, articles, judicial decisions and the experience and legislative findings of other cities around the country concerning the impacts or "secondary effects" of sexually oriented businesses and the sale, distribution, and display of sexually oriented materials (collectively, "sexually oriented business activities") on the areas in which such activities are located or take place.

2. Sexually oriented business activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement and public health services.

3. Nude dancing and other similar conduct provided by sexually oriented business activities encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with sexually oriented business activities, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas to which such activities are located or take place.

4. Sexually oriented business activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located therein, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in such areas.

5. Sexually oriented business activities can undermine the stability of other established business and commercial uses in the areas in which sexually oriented business activities are located or take place and can cause or contribute significantly to the deterioration of such other business and commercial uses, thereby causing or contributing to a decline in such uses, an inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

6. Sexually oriented business activities can have a dehumanizing and distracting

influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of persons using parks, playgrounds, forest preserves and other public recreational areas, can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and similar facilities.

7. The presence of sexually oriented business activities is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which such activities occur or take place is in decline and deteriorating, a perception that can quickly lead to such decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of such decline and deterioration.

8. The exterior appearance, including signage, of sexually oriented business activities can have an adverse impact on young people and students; can contribute to the decline in property values associated with sexually oriented business activities; and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such activities are located or take place.

9. The conduct of sexually oriented business activities, including specifically, but without limitation, adult cabarets that provide nude dancing and other similar conduct and the operation and use of adult booths, often encourages or allows sexual activities and prostitution, among other things, that place employees and patrons of such businesses at risk to exposure and contraction of sexually transmitted diseases, including specifically, but without limitation, the HIV virus, Acquired Immune Deficiency Syndrome, and venereal diseases.

10. The city has determined that sexually oriented business activities will, unless properly regulated, have these and other severe adverse impacts and secondary effects on the city and its residents.

11. For the reasons set forth above, among others, the members of the City Council have found and determined that it is essential to the health, safety and general welfare of the city and its residents to adopt comprehensive licensing regulations relating to sexually oriented business activities, to the distribution and display of sexually oriented materials, and to the types and operation of sexually oriented businesses that may locate in the city.

12. The members of the City Council have further found and determined that the establishment of the regulations provided in this chapter on the operation, maintenance, and structural aspects of sexually oriented business activities is necessary to minimize to the greatest extent possible, or to eliminate altogether, the public health and safety risks that customarily, but unnecessarily, exist in connection with such activities.

13. The members of the City Council have further found and determined that the limitations on the hours of operation of sexually oriented business activities set forth in this chapter are necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts associated with sexually oriented business activities, to enhance enforcement and implementation of the regulations set forth herein, and to otherwise address, mitigate, and, if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities.

14. The members of the City Council have further found and determined that the disclosure and background information requirements set forth in this chapter relating to the owners, operators, and others in a position of control over sexually oriented business activities are necessary in order for the city to implement and enforce the terms and conditions of this chapter, to aid in the

prevention of crime related to sexually oriented business activities, to minimize to the greatest extent possible, or eliminate altogether, the public health risks associated with sexually oriented business activities, and to otherwise carry out the purposes and objectives of the regulations established herein.

15. The regulations established pursuant to this chapter are in no way based on the content of protected speech, if any, associated with sexually oriented business activities, and the purpose and intent of the regulations established pursuant to this chapter is not to restrict or prohibit protected speech, if any, associated with sexually oriented business activities, but rather is to address, mitigate, and, if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities in the areas in which such activities are located or take place and to ensure that these activities are established, managed, and operated in a safe and legal manner at all times.

16. The city has for many years engaged in rigorous, firm, and effective policies and regulations relating to uses and activities that could have adverse impacts on the continued stability and vitality of the residential and business areas of the city and the regulations imposed by this chapter are a continuation of and consistent with those long-standing policies and regulations.

17. The city has the power and authority to adopt and enforce the terms, conditions, and regulations established in this chapter pursuant to (i) its general police powers to protect the public health, safety, morals, and general public welfare; and (ii) all other applicable provisions of law.

### **1070.03. Title and Short Title**

**Subd. 1. Title.** Pursuant to the City's general police powers, as well as specific statutory authority enabling land use regulation, the City Council ordains this document the City of Blue Earth Adult Use Ordinance.

**Subd. 2. Short Title.** This Ordinance shall be known, and may be referred to, as the Adult Use Ordinance. When referred to herein, it shall be known as "this Ordinance."

**1070.04. 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 its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory and not permissive.

For the purposes of this section, the definitions provided for herewith shall apply:

**Subd. 1. Adult Uses.** Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

**Subd. 2. Adult Bookstore.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" or the barter, rental or sale

of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**Subd. 3. Adult Cabaret.** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

**Subd. 4. Adult Conversation/Rap Parlor.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Subd. 5. Adult Health/Sports Club.** A health/sports club, which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Subd. 6. Adult Massage Parlor.** A massage parlor which restricts minors by reason of age, or which provides the service of "massage", if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Subd. 7. Adult Mini-Motion Picture Theater.** A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**Subd. 8. Adult Motion Picture Theater.** A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**Subd. 9. Adult Steam Room/Bathhouse Facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service is provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Subd. 10. Liquor License.** Any of the following licenses issued or approved by the City of Blue Earth pursuant to Minnesota Statute, Chapter 340A:

- A. On-sale or Off-sale 3.2 percent Malt Liquor License, or
- B. On-sale or Off-sale Intoxicating Liquor License, or
- C. On-sale Wine License, or
- D. Consumption and Display Permit (set-ups).

**Subd. 11. Minor.** Person(s) under eighteen (18) years of age.

**Subd. 12. Specified Anatomical Areas.**

- A. Less than completely and opaquely covered:
  1. Human genitals;
  2. Pubic region;

3. Buttocks; and,
  4. Female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Subd. 13. Specified Sexual Activities.**

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; and
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

**1070.05. Interpretation.** In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety and welfare of the citizens of the City of Blue Earth by providing for the regulation of adult uses. This Ordinance is not intended to limit or repeal any other powers granted to the City of Blue Earth by the State of Minnesota.

**1070.06. Jurisdiction.** The provisions of this Ordinance shall apply to all adult uses located within all incorporated areas of the City of Blue Earth.

**1070.07. Licensing.**

**Subd. 1. License Required.**

- A. It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.
- B. An application for a license must be made on a form provided by the city.
- C. All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.
- D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following division and each applicant shall be considered a licensee if a license is granted.
- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
  1. If the applicant is:
    - (a) An individual, the individual shall state his or her legal name and any aliases, and submit proof that he or she is 18 years of age;
    - (b) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
    - (c) A corporation, the corporation shall state its complete name, the

date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(d) The name of the owner of the property where to be located; if a corporation, then the names of the principal owners of corporation.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (1) the sexually oriented business's fictitious name and, (2) submit the required registration documents.
3. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
4. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension, or revocation.
5. Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
6. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone if any.
7. The applicant's mailing address and residential address.
8. The applicant's driver's license number, social security number, and/or his or her state or federally issued tax identification number.
9. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
10. A straight-line drawing prepared within 30 days prior to application depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be licensed;

the property lines of any established religious institution/synagogue, school, a public park or recreation area within 500 feet of the property to be licensed. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. The drawing shall be reviewed by the Building Inspector for accuracy. In the event of a dispute between the applicant and the city as to the accuracy of the drawing, the Building Inspector may order the applicant to provide a drawing with the information required under this paragraph prepared by a registered land surveyor.

11. Copy of lease and all financing documents, all business related contracts for supply of materials and consulting management.

**Subd. 2. Issuance of License.**

A. Upon the filing of said application for a sexually oriented business license said application shall be referred to the appropriate city departments for an investigation to be made on such information as is contained in the application. The application process shall be completed within 60 days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under 18 years of age.
2. An applicant or a person with whom applicant is residing is overdue hi payment to the city of taxes, fees, liens, or penalties assessed against or imposed upon him or her in relation to any business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding 12 months or whose license to operate a sexually oriented business has been revoked within the preceding 12 months.
5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.
6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.
7. The license fee required by this chapter has not been paid.
8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

B. The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to this chapter. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

C. The health department, fire department and the building official shall complete their certification that the premises is in compliance or not in compliance within 20

days of receipt of the application by the city.

D. Every application for sexually oriented business license (whether for new license or for renewal of an existing license) shall be accompanied by a \$1,000 non-refundable application and investigation fee.

E. In addition to the application and investigation fee required above, every sexually oriented business that is granted license (new or renewal) shall pay to the city an annual non-refundable license fee of \$1,000 within 30 days of license's issuance or renewal.

F. All license applications and fees shall be submitted to the City Administrator-Clerk-Treasurer.

**Subd. 3. Expiration of License.**

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided herein. Application for renewal shall be made at least 30 days before the expiration date.

B. When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

**Subd. 4. Suspension/Revocation.**

A. The city shall suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this chapter;
2. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

B. The city shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding 12 months.

C. The city shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted during the application process;
2. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee has knowingly allowed prostitution on the premises;
4. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
6. A licensee is delinquent in payment to the city, county or state for any taxes or fees past due.

D. When the city revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be

granted a license if at least 90 days have elapsed since the date the revocation became effective.

E. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction.

The administrative action shall be promptly reviewed by the court.

**Subd. 5. Transfer of License.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

## **1070.08. Adult Use Operational Restrictions**

**Subd. 1. General Provisions.** Adult uses as defined in Section 1070.04 of this Ordinance shall be subject to the following provisions:

A. No person(s) under eighteen (18) years of age shall be permitted in any adult use-principal premises, enterprise, establishment, business or place.

B. No liquor license, as defined, shall be issued to any adult use related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in "specified sexual activities" or "specified anatomical areas."

C. No adult use related premises, enterprise, establishment, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.

D. Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this Ordinance be construed to allow an activity otherwise prohibited by law.

E. Adult uses, either principal or accessory, shall be prohibited from locating in any building that is also utilized for residential purposes.

F. The owner/operator shall hire and employ their own security personnel who shall provide crowd control to maintain orderly conduct at such establishment. These employees are not required to be law enforcement personnel.

G. Off-street parking shall be provided.

H. All licensed sexually oriented businesses shall comply with the provisions of this chapter, all other applicable city ordinances, and all other applicable federal, state and local laws.

I. No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs,

silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. This division shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

J. All signs for sexually oriented businesses shall be flat wall signs. The maximum allowable sign area shall be 1 square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this chapter shall contain only (i) the name of the sexually oriented business and/or (ii) the specific type of sexually oriented business conducted on the licensed premises. Temporary signage shall not be permitted in connection with any sexually oriented business.

K. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 10:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and noon 12:00 p.m. on Sundays.

L. A person commits a violation of this chapter if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

#### **1070.09. Location Requirements**

**Subd. 1.** Adult Uses shall be permitted in areas zoned “GF” as defined in Chapter 10 of the Blue Earth City Code, provided the following requirements are met:

- A. No adult uses shall be located within one thousand five hundred (1500) feet of:
  - 1. Any area zoned "R-1", "R-2", "R-3", "B-1", "B-2".
  - 2. Any school, as defined in Minnesota Statutes 120.101.
  - 3. Any church or church related organization.
  - 4. Any licensed daycare facility, or any residential/nonresidential program, as defined in Minnesota Statutes 245A.02.
  - 5. Any hotel or motel.
  - 6. Any public park.
  - 7. Hospitals/Clinics.
  - 8. Any youth establishment.
  - 9. Any nursing home.
  - 10. Any establishment holding a valid liquor license issued by the City.
- B. Adult uses shall not be established or maintained as a permitted, conditional or accessory use in any area other than those described in paragraph A above.

#### **1070.10. Additional Building Placement Restrictions.**

The Adult Use Ordinance Regulations of the City of Blue Earth Zoning Ordinance contains standards that are additional to those set forth in other sections of the Ordinance. Minimum setbacks from roads, minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in the underlying zoning districts (e.g., "R-1", "B-1"). In the event of a conflict between the setbacks listed in this ordinance and those listed in other appropriate sections of the

zoning ordinance, the most restrictive setback shall apply.

#### **1070.11. Implementation.**

**Subd. 1. Compliance.** All adult uses shall be in full compliance with requirements of this ordinance and all other ordinances of the City of Blue Earth, as well as all other applicable provisions of County, State, or Federal laws, and applicable fire, health, and/or safety codes.

**Subd. 2. Inspection.** An applicant or licensee for an adult use license pursuant to Section 1070 shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other city departments or agencies to inspect the premises of a sexually oriented business except the business office, dressing rooms and other areas not normally accessible to the public for the purpose of insuring compliance with the law, at any time it is occupied or open for business. An inspection of all areas of the premises may be conducted with the permission of the operator, agent or employee, or with an administrative search warrant.

**Subd. 3. Enforcement.** The City Administrator, City Zoning Official, and City Police Department are responsible for the enforcement of this Ordinance.

**Subd. 4. Penalty.** Any person, firm or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, or who shall make any false statement in any document required to be submitted under the provision hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

In addition, the City may sue for injunctive relief on any violation, or to prevent a violation, or may suspend and/or revoke any licenses or permits issued by the City with cause.

**1070.12. Severability.** If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

#### **1070.13. 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.

#### **1070.14. Referral to Other Laws**

If any section of this Ordinance references another Ordinance, Statute, Rule, or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future.

**1070.15. Judicial Review.** The district court shall expediate any action brought to contest any provision of this chapter, or any action of the city under this chapter.

#### **1070.16. Repeal and Adoption**

**Subd. 1. Repeal.** It is not intended by this Ordinance to repeal any Ordinance. 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. 2. Public Hearing and Planning Commission Recommendation.**

The City of Blue Earth Planning Commission, after proper notice and publication, held a public hearing on the adoption of this Ordinance and as amended on the 30th day of March 2006, at City Hall. After hearing public testimony and with due deliberation, the Planning Commission voted to recommend adoption of this Ordinance to the Council of the City of Blue Earth.

**Subd. 3. Adoption.**

The City of Blue Earth, after proper notice and publication, held a public hearing on the adoption of this Ordinance on the 17th day of April, 2006, at City Hall. After hearing public testimony and with due deliberation, the Council of the City of Blue Earth voted to adopt this Ordinance.