

# ORDINANCE NO. 35

AN ORDINANCE AMENDING ORDINANCE NO. 35 OF THE TOWN OF WHITE BEAR (TOWNSHIP), RAMSEY COUNTY, MINNESOTA, DATED APRIL 17, 1942, AS AMENDED, AND ENTITLED ZONING ORDINANCE FOR THE TOWN OF WHITE BEAR (TOWNSHIP), RAMSEY COUNTY, MINNESOTA, RELATING TO AND REGULATING THE USE OF LAND FOR RESIDENCES, BUSINESS, INDUSTRY AND OTHER PURPOSES AND LOCATION AND HEIGHT OF STRUCTURES, SIZE OF YARDS AND OTHER OPEN SPACES, AUTOMOBILE PARKING LOTS, AND DENSITY OF POPULATION; DIVIDING THE TOWN INTO DISTRICTS OR ZONES; PROVIDING FOR ADMINISTRATION THEREOF; ESTABLISHING A BOARD OF APPEALS AND ADJUSTMENTS; AND PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE TOWN BOARD OF THE TOWN OF WHITE BEAR ORDAINS:

**SECTION 1. AMENDMENT AND REPEAL OF CONFLICTING ORDINANCES.** The Zoning Ordinance of the Town of White Bear (Township), Ramsey County, Minnesota, adopted April 17, 1942, as amended, is hereby amended to be as follows, and all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed. In all other respects all other Ordinances shall remain in full force and effect.

**1-1.** The Zoning Ordinance of the Town of White Bear (Township), Ramsey County, Minnesota, adopted September 18, 1972, as amended, is hereby amended to be as follows, and all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed. In all other respects all other Ordinances shall remain in full force and effect.

**SECTION 2. TITLE AND PURPOSES.** This Ordinance may be cited as the "ZONING ORDINANCE FOR THE TOWN OF WHITE BEAR (TOWNSHIP), RAMSEY COUNTY, MINNESOTA". This Ordinance is enacted pursuant to powers granted by Minnesota Statutes, Section 462.357 and other applicable sections, for the purpose of promoting the public health, safety, morals and general welfare, and for the purpose of:

**2-1.** Promoting orderly development of the residential, business, industrial, recreational and public areas.

**2-2.** Providing adequate light, air, and convenience of access to property.

**2-3.** Limiting congestion in the public right-of-ways.

**2-4.** Preventing over-crowding of land and undue concentration of structures by regulating the use of land and buildings in relating to the land and buildings surrounding them.

**2-5.** Providing for the compatibility of different land uses and the most appropriate use of land.

**2-6.** Conserving and developing natural resources.

**2-7.** Securing safety from flood.

**2-8.** Conserving the natural and scenic beauty and attractiveness of roadsides and lakeshores.

**2-9.** Providing for the administration of this Ordinance and amendments thereto.

**2-10.** Defining the powers and duties of the administrative officers and bodies.

**2-11.** Prescribing penalties for the violation of the provisions of this Ordinance or any amendment thereto.

**SECTION 3. DEFINITIONS.** Certain words used in this Ordinance are defined herein. Words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; and the word "shall" is mandatory and not permissive.

**3-0. ABANDONMENT.** The relinquishment of a project by the person issued the Zoning Certificate by not resuming substantial improvement and/or use of the site for a period of six (6) months.

**3-1. ACCESSORY APARTMENT.** A self-contained rental unit created within a house initially constructed as a single family dwelling. The accessory apartment is subordinate to the dwelling and may be located in any part of the house. It is defined as the rental unit when the owner also lives in the same structure.

**3-2. ACCESSORY STRUCTURE.** A structure detached from a principal building or single family dwelling and garage on the same parcel(s) of land customarily incidental and subordinate to the principal building or single family dwelling and garage, not used for living quarters.

**3-2.1. ACCESSORY STRUCTURE, LIMITED.** A structure detached from a principal building or single family dwelling and garage on the same parcel(s) of land incidental and subordinate to the principal building or single family dwelling and garage

and not used for living quarters which is limited in size to one-hundred and fifty (150) square feet and fifteen (15) feet maximum height.

**3-3. ACCESSORY USE.** A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same parcel(s) of land with such principal use.

**3-3.A. ADULT USES.** Adult body painting studios, adult bookstores, adult cabarets, adult carwashes, adult hotels or motels, adult motion picture theaters, adult mini-motion-picture theaters, adult massage parlors, adult health/sports clubs, adult saunas/steam rooms/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios, and all other premises, enterprises, establishments, businesses, and 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 the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by state-licenses. Activities classified as “obscene” as defined by Minnesota Statutes, Section 617.241 are not lawful and are not included in this definition.

**3-3.B. ADULT USE ACCESSORY.** The offering of goods and/or services classified as “adult uses” on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

**3-3.C. ADULT USE PRINCIPAL.** The offering of goods and/or services classified as “adult uses” as a primary or sole activity of a business or establishment and include but are not limited to the following:

**3-3.C(1). ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

**3-3.C(2). ADULT BOOKSTORE.** An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audiotapes, videotapes, computer or video disks, motion picture film, or any other similar materials, if such a shop is not open to the public generally, but only to one or more classes of the public, excluding any minor because of age, if more than 20 percent of the usable floor area of the establishment, building or business or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to specified sexual activities or specified anatomical areas.

**3-3.C(3). ADULT CABARET.** An establishment, building or business that provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, presented, display, depiction, or description of specified sexual activities or specified anatomical areas.

**3-3.C(4). ADULT CARWASH.** A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas.

**3-3.C(5). ADULT COMPANIONSHIP.** An establishment or business if such establishment excludes minors because of age or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**3-3.C(6). ADULT ENTERTAINMENT FACILITY.** A building or space in which an admission is charged for entrance or food or nonalcoholic beverages are sold or intended for consumption and in which may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas.

**3-3.C(7). ADULT ESTABLISHMENT.** An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices:

(1). Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage threat either by law or by the operators of such business; or

(2). Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.

Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion-picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult carwashes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, and adult body painting studios.

**3-3.C(8). ADULT HOTEL OR MOTEL.** A hotel or motel from which minors are

specifically excluded from patronage and in which materials is presented that is distinguishes or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**3-3.C(9). ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB.** A massage parlor or health/sport club that restricts minors because of age, which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**3-3.C(10). ADULT MINI-MOTION PICTURE THEATER.** A business or building or establishment in an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age or if such materials are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

**3-3.C(11). ADULT MODELING STUDIO.** An establishment or business whose major business is the provision to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in specified sexual activities or display specified anatomical areas while being observed, painting, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

**3-3.C(12). ADULT MOTION PICTURE ARCADE.** Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers, or other image-producing devices are operated that show images to five or fewer persons per machine at once and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

**3-3.C(13). ADULT MOTION PICTURE THEATER.** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if such business 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.

**3-3.C(14). ADULT NOVELTY BUSINESS.** A business that has at least 20 percent of its floor area as a principal activity for the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or relate to specified sexual activities or specified anatomical areas.

**3-3.C(15). ADULT SAUNA/STEAM ROOM/BATHHOUSE.** A sauna/steam room/bathhouse that excludes minors because of age or which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**3-3.C(16). NUDITY.**

- (1). The showing of the human male or female genitals or pubic area with less than a fully opaque covering;
- (2). The showing of the female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola; or
- (3). The depiction or showing of the covered male genitals in a discernibly turgid state.

**3-3.C(17). SEXUALLY ORIENTED BUSINESS.** An adult bookstore, adult body painting studio, adult carwash, adult cabaret, adult hotel or motel, adult companionship establishment, adult motion picture theater, adult mini-motion-picture theater, adult massage parlor, adult entertainment facility, adult health or sports clubs, adult novelty business, adult modeling studio, or adult sauna as defined in this section. Activities classified as “obscene” as defined by Minnesota Statutes, Section 617.241 are not lawful and are not included in the definition of adult uses.

**3-3.C(18). SPECIFIED ANATOMICAL AREAS.** Anatomical areas consisting of:

- (1). Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, anus, or female breast below a point immediately above the top of the areola or any combination of such; and
- (2). Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**3-3.C(19). SPECIFIED SEXUAL ACTIVITIES.** Activities consisting of the following:

- (1). Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock or female breast, flagellation or torture in a sexual relationship, or the use of excretory functions in a sexual relationship, and any of the following sexually oriented acts or conduct, analogous, buggery, coprophagy,

coprophilous, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, picquerism, sophism, sodomy, zooerasty.

(2). Human genitals in the state of sexual stimulation, arousal or tumescence.

(3). Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus, or masturbation.

(4) Fondling or touching of human genitals, pubic region or pubic hair, buttocks, or female breast.

(5) Situations involving persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person.

(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.

(7). Human excretion, urination, menstruation, vaginal or anal irrigation.

**3-4. AGRICULTURE.** The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations, or hybrids thereof, including the breeding and graving of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**3-4.A. ANIMAL UNIT.** Animal unit means a unit of measure used to compare differences in the production of animal manure's that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. The following equivalents shall apply:

- A. One mature dairy cow, 1.4 animal unit.
- B. On slaughter steer or heifer, 1.0 animal unit.
- C. One horse, 1.0 animal unit.
- D. One swine over 55 lbs., .4 animal unit.
- E. One duck, .2 animal unit.
- F. One sheep, .1 animal unit.
- G. One swine under 55 lbs., .5 animal unit.

- H. One turkey, .18 animal unit.
- I. One chicken, .1 animal unit.

For animals not listed in items A to I, the number of animal units shall be defined as the average weight of the animal divided by 1000 lbs.

**3-5. AREA.** Area of a parcel of land shall be calculated from the dimensions derived by horizontal projections of the site.

**3-5.A. AUTO REPAIR, LIMITED.** Repair of automobiles, trucks under 10,000 lb. GVW and RV's only. Excludes dispensing of automobile fuels.

**3-6. AUTOMOBILE SERVICE STATION.** Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories.

**3-6.A. BLUFF.** "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):

**3-6.A.(1).** Part or all of the feature is located in a shoreland area;

**3-6.A.(2).** The slope rises at least 25 feet above the ordinary high water level of the water body;

**3-6.A.(3).** The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

**3-6.A.(4).** The slope must drain toward the water body.

An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

**3-6.B. BLUFF IMPACT ZONE.** "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.

**3-6.C. BOATHOUSE.** "Boathouse" means a structure designed and used only for the storage of boats or boating equipment.

**3-7. BUILDING.** The definition of BUILDING as provided in Ordinance No. 8 (Building Code), Section 2-17, is hereby adopted by reference.

**3-8 BUILDING HEIGHT.** See Ordinance No. 8, Section 2-43 and 2-44 for the definition of building height.

**3-8.A. BUILDING LINE.** “Building line” means a line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

**3-9. BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the parcel(s) on which it is located.

**3-10. CLINIC.** Any establishment where human patients are examined and treated by doctors, dentists or where animals are examined and treated by veterinarians, but on an outpatient basis only.

**3-11. CLUB.** Any establishment operated for social, recreational or educational purposes, but open only to members and not the general public.

**3-11.A. COMMERCIAL PLANNED UNIT DEVELOPMENTS.** “Commercial planned unit developments” are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service oriented activities are commercial planned unit developments.

**3-11.B. COMMERCIAL USE.** “Commercial use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**3-11.C. COMMISSIONER.** “Commissioner” means the commission of the Department of Natural Resources.

**3-11.D. CONDITIONAL USE.** “Conditional use” means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the Zoning Ordinance (Ord. 35) exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

**3-11.E. CONSIGNMENT/THRIFT STORE.** “Consignment/thrift store” is a retail business where second hand merchandise is sold, and may include a place where people take new or used merchandise for resale and receive money from the retail store owner when the merchandise is sold.

**3-11.F. COMMERCIAL/RESIDENTIAL RECORDING STUDIO.** A commercial music, film and television production and post-production facility which houses the equipment necessary for such work and also allows for a residential living

area.

**3-12. COVERAGE.** That percentage of lot covered by principal and accessory use structures, parking areas, driveways and other hard, non-landscaped surfaces.

**3-12.A. CRITICAL STORM EVENT.** That run-off event of a certain duration that creates the highest water surface elevation.

**3-12.B. DECK.** “Deck” means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

**3-13. DENSITY, MAXIMUM NET.** The maximum number of dwellings per acre of buildable land exclusive of wetlands, drainage retention areas, floodplains, lakes, streams, public parks and the right-of-way of any public or private roadway.

**3-13.A. DANCE STUDIO.** A place in which dance is taught in individual or group sessions, including tap, ballet, jazz, lyrical, modern/contemporary, pointe, character/musical, theatre, pom pom, hip hop, and creative movement, specifically excluding dancing that is distinguished or characterized by an emphasis on the performance, presentation, display, depiction, or description of specific sexual activities or specified anatomical areas.

**3-14. DAY CAMPING.** Organized, outdoor, day time camping activities related to hiking, picnicking, nature study games and crafts, scheduled to occur during daylight and early evening hours. Overnight camping is not included as a day camping activity.

**3-15. DAYCARE CENTERS.** Any facility, public or private, which regularly provides care for persons of pre-school age for less than 24 hours per day. Included are pre-schools, nurseries, and nursery schools., All commercial daycare centers shall be licensed by Ramsey County. Excluded is daycare provided to relatives, nursing homes, or persons from a single unrelated family.

**3-15.A. DESIGN STUDIO.** A business devoted to the design and sale of goods and materials related to decorating the interior of a home or business office including: flooring, wall and window coverings, lighting fixtures, cabinets, bathroom or kitchen fixtures and related accessories.

**3-16. DEVELOPMENT.** The construction, installation or alteration of any structure, the extraction, clearing or other alteration of terrestrial or aquatic vegetation, land or the course, current or cross-section of any water body or the division of land into two or more parcels.

**3-17. DIMENSIONAL REQUIREMENTS.** The minimum and maximum setbacks, yard regulations, height and size regulations.

**3-18. DOMESTIC FARM ANIMAL.** Animals commonly kept for commercial food production and recreational purposes, including but not limited to: cattle, hogs, horses, ponies, sheep, goats, chickens, geese, ducks and bees.

**3-19. DRIVEWAY.** Private road from the street to a garage or off-street parking area.

**3-19.A. DUPLEX, TRIPLEX AND QUAD.** “Duplex, triplex, and quad” means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**3-20. DWELLING.** Any structure designed or used as the living quarters for one (1) or more families, but not including hotels and motels.

**3-21. DWELLING, MULTI-FAMILY.** A structure containing more than two (2) dwelling units.

**3-22. DWELLING, SINGLE-FAMILY.** A dwelling which is designed for and occupied by not more than one (1) family and surrounded by open space or yards, and which is not attached to any other dwelling by any means.

**3-22.A. DWELLING SITE.** “Dwelling site” means a designated location for residential use by one or more persons using a temporary or movable shelter, including camping and recreational vehicle sites.

**3-23. DWELLING, TOWNHOUSE.** A one-family (1) dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

**3-24. DWELLING, TWO-FAMILY.** A structure containing two (2) dwelling units, neither of which is an accessory apartment, each of which is totally separated from the other by an unpierced wall extending from ground to roof, or an unpierced ceiling and floor extending from exterior to both dwelling units.

**3-25. DWELLING UNIT.** One (1) or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**3-26. EASEMENT.** A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

**3-26.A. EXTRACTIVE USE.** “Extractive use” means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes.

**3-27. FAMILY.** The definition of FAMILY as provided in Ordinance No. 47 (Housing Maintenance Code), Section 4-6 is hereby adopted by reference.

**3-28. FARM CROPS.** The production of vegetables and fruits of all kinds, hay, grain, forage, pasture and nursery stock.

**3-29. FEEDLOT.** A relatively small, confined land area for fattening livestock or for the holding of livestock temporarily for shipment.

**3-29.A. FITNESS CENTER.** A place with facilities and equipment for people to maintain or improve their physical fitness.

**3-30. GARAGE, PRIVATE.** A building, shed or enclosure or a part thereof designated or used for the shelter or storage of motor vehicles containing flammable liquids.

**3-30.A. GARAGE SALES.** A sale of used merchandise located in a residential property, including the terms yard sale, rummage sale, estate sale, moving sale or auction (see Ord. No. 37 (Peddling) relating to auctions).

**3-31. GREEN AREA.** Land shown on a development plan, master plan, or official map for preservation, recreation, landscaping or park. Land which is not occupied by buildings, streets, parking or other hard surfaces.

**3-31.A. GUEST COTTAGE.** “Guest cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**3-31.B. HARDSHIP.** “Hardship” means the same as that term defined in Minnesota Statutes.

**3-31.C. HEIGHT OF BUILDING.** Defined in Ordinance No. 8 (Building Code), Sections 2-43 and 2-44.

**3-32. HOME OCCUPATION.** Any occupation that results in a product or service which is clearly secondary to the principal residential use of the premises as a dwelling.

**3-33. HOMEOWNERS ASSOCIATION.** A community association which is organized in a development in which individual owners share common interests in open space of facilities.

**3-34. INDIVIDUAL SEWAGE DISPOSAL SYSTEM.** A system for the disposal of sanitary sewage in the ground, which is so designed and constructed as to treat sewage in a manner that will retain most of the settled solids in the septic tank and discharge the liquid portion to an adequate disposal field.

**3-34.A. INITIATION OF A PERMIT.** “Initiation of a permit” means a permit application must be received, determined by the Town to be complete, and payment received to be considered initiated.

**3-35. INDUSTRIAL PARK.** A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

**3-35.A. IN-HOME CRAFT SALE (BOUTIQUE).** A temporary sale of crafts which is contained completely within residential property.

**3-35.B. INDUSTRIAL USE.** “Industrial use” means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**3-35.C. INTENSIVE VEGETATION CLEARING.** “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**3-35.D. INTERSECTION.** Intersection means (a) the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another, at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and (b) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

**3-35.E. LEGACY TREE.** A legacy tree is a tree that has been spared or has survived stand replacing disturbances. A legacy tree is any live tree greater than or equal to 21” DBH and greater than 150 years old, located in a non-old forest stand.

**3-36. LIGHT MANUFACTURING.** The processing and fabrication of certain

materials and products where no process involved will produce noise, vibrations, air pollution, fire hazard, or noxious emissions which will disturb or endanger neighboring properties. Light manufacturing includes, but is not limited to, the production of the following: home appliances, electrical instruments, office machines, precision instruments, electronic devices, timepieces, jewelry, optical goods, musical instruments, novelties, wood products, printed material, lithographic plates, type composition, machine tools, dies and gates, ceramics, apparel, lightweight non-ferrous metal castings, film processing, light sheet metal products, plastic goods, pharmaceutical goods, and food products, but does not include animal slaughtering, curing, or rendering of fats.

**3-36.A. LIMITED OUTSIDE STORAGE.** Raw materials or finished product stored outside of a light industrial building not to exceed 10% of the site must be screened with 100% opaque fence constructed of material which compliments the building. Material shall not be stacked so it exceeds the height of the fence. Fencing shall be complimented with landscaping. The 10% outside storage provision of this section shall become null and void and cease and desist effective June 1, at 11:59 p.m., 2003, and shall revert back to a maximum of 3% thereafter.

**3-37. LIVESTOCK.** Includes, but not limited to: cows, goats, horses, sheep, swine, and other hoofed animals.

**3-38. LOT.** A parcel of land occupied or capable of being occupied by one or more structures.

**3-39. LOT, DEPTH OF.** A mean horizontal distance between the front and rear lot lines.

**3-40. LOT, MINIMUM AREA OF.** The horizontally projected contiguous area of a lot computed exclusive of wetlands, drainage retention areas, floodplains, lakes, streams, public parks and the right-of-way of any public or private roadway.

**3-41. LOT OF RECORD.** Any lot which individually or as a part of a subdivision, has been recorded in the Office of the Register of Deeds of the County.

**3-42. LOT, WIDTH OF.** The distance between side lot lines measured at the right-of-way line of the public or private thoroughfare, except at a cul-de-sac or lot located on a curve, where lot width will be measured at the front yard setback. A curve will be determined based upon satisfying requirements established in Ordinance No. 15 (Subdivision).

**3-42.A. MAKER SPACE.** A public or private community center that provides technology manufacturing equipment and educational opportunities and makes available to the public or its private membership equipment and facilities allowing them to design,

proto-type, and manufacture items using tools that would otherwise be inaccessible or unaffordable. Maker Spaces are typically funded by membership fees.

**3-43. MANUFACTURED HOME.** A manufactured home means a structure, transportable in one (1) or more sections, which in the traveling mode, is eight (8') feet or more in width, or forty (40') feet or more in length or, when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements, and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and Urban Development and complies with these standards established under Minnesota Statutes 327, including the Manufactured Home Building Code adopted therein.

**3-44. MANUFACTURED HOME PARK.** The definition of MOBILE HOME PARK as provided in Ordinance No. 34 (MOBILE HOME ORDINANCE) Section 3-2, is hereby adopted by reference.

**3-45. MANUFACTURING.** The processing and fabrication of any article, substance or commodity, packaging, treatment, or assemble of products and materials.

**3-45.A. MASSAGE THERAPY – COMMERCIAL.** A building or portion of a building which is used to offer massage-like contact, including stroking, kneading, tapping or rolling of the body, for the purpose of pleasure, relaxation, physical fitness or beautification, for a fee or other valuable consideration. Institutions for the hospitalization or care of human beings by/or anyone licensed by the State of Minnesota to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry shall not be considered a massage practice per definition.

**3-45.B. MASSAGE THERAPY – ADULT.** A building or portion of a building which restricts minors by reason of age and/or which offers massage-like contract, including stroking, kneading, tapping or rolling of the body, for the purpose of pleasure, relaxation, physical fitness or beautification with an emphasis on “specified sexual activities” or “specified anatomical areas”, for a fee or other valuable consideration.

**3-46. MODEL HOME.** A residential structure which is similar to others in a development vehicle, is open to the public for inspection and for the purpose of selling other homes.

**3-47. MOTEL.** An establishment providing transient accommodations containing six (6) or more rooms with at least twenty-five (25%) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the

building.

**3-47.A. NEW WETLAND CREDIT.** New Wetland Credit or NWC means wetland replacement credit that can be used for any portion of wetland requirements.

**3-48. NON-CONFORMING STRUCTURES.** A structure designed, converted, or adapted for use prior to the adoption of provisions prohibiting such use in such location.

**3-49. NON-CONFORMING USE.** Non-conforming use is any use or arrangement of land legally existing at the time of enactment of this Ordinance or any of its amendments, which does not conform to the provisions of this Ordinance.

**3-49.A. NONCONFORMITY.** “Nonconformity” means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

**3-50. NUISANCE.** The definition of PUBLIC NUISANCE as provided in Ordinance No. 16 (NUISANCE ORDINANCE), is hereby adopted by reference.

**3-50.A. OFF PREMISE ADVERTISING SIGN (BILLBOARD).** A sign which directs attention to a business, profession, commodity, service or entertainment which is conducted, offered, sold or manufactured elsewhere than on the premises upon which the sign is placed.

**3-51. OFFICE BUILDING.** A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand.

**3-52. OPEN SPACE, ACTIVE.** Space which is not occupied by buildings, street or parking, or which is not part of the land required for building setback and suitable for active recreational use.

**3-52.A. ORDINARY HIGH WATER LEVEL.** “Ordinary high water level” means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominately aquatic to predominantly terrestrial. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**3-53. OUTDOOR STORAGE.** The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

**3-54. PARTY WALL.** A common shared wall between two (2) separate structures, buildings, or dwelling units.

**3-55. PERSON.** Any individual, firm, corporation, partnership, association or other private or governmental entity.

**3-55.A. PET DAYCARE & BOARDING FACILITY.** A facility which provides pet services including day care, boarding, grooming, training of pets, and retail sales of pet supplies.

**3-56. PLANNED UNIT DEVELOPMENT (PUD).** A tract of land which is developed as a unit under single or unified ownership control and which includes two or more buildings grouped or clustered in and around common open space area in accordance with a pre-arranged site plan.

**3-56A. PRACTICAL DIFFICULTIES.** “Practical difficulties means the same as that term defined in Minnesota Statutes.

**3-57. PRINCIPAL USE.** The primary or predominant use of any lot or building.

**3-58. PROFESSIONAL OFFICE.** The office of a member of a recognized profession maintained for the conduct of that profession.

**3-58.A. PUBLIC VALUE CREDIT OR PVC.** Public Value Credit or PVC means wetland replacement credit that can only be used for the portion of wetland replacement requiring greater than a 1:1 ratio.

**3-59.A. REPAIR SHOP.** General automotive, truck and heavy equipment repair.

**3-59.B. PUBLIC WATERS.** “Public waters” means any waters as defined in Minnesota Statutes.

**3-59. RECYCLING CENTER.** A facility in which small recyclable materials, including but not limited to paper, glass, plastics, aluminum, non-aerosol cans, and batteries are temporarily deposited to await transportation to an off-site processing facility. Specifically excluded are municipal non-recyclable solid wastes, motorized vehicles, recreational vehicles and salvage operations.

**3-59.B. REPLACEMENT WETLAND.** Replacement wetland means a wetland restored or created to replace area or public values lots at an impacted wetland.

**3-60. RESTAURANT.** An establishment where food and drink is prepared, served and consumed primarily within the principal building.

**3-61. RESTAURANT, DRIVE-IN.** A building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building.

**3-62. RESTAURANT, FAST-FOOD.** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption, either within the restaurant building or off premises.

**3-63. RESTRICTIVE COVENANT.** A restriction on the use of land usually set forth in the deed.

**3-64. RETAIL SALES.** Selling of goods or merchandise to the general public for personal or household consumption.

**3-65. RETAIL SERVICES.** Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries. Includes incidental repair, but not fabricating or manufacturing.

**3-65.A. SALVAGE OPERATION.** A facility collecting vehicles, construction materials and scrap metal for the express purpose of dismantling and sales.

**3-65.B. RIPARIAN LOT.** A lot with lake frontage; HOWEVER, where a road extends between the buildable portion of a lot and the unbuildable lake frontage portion, such a lot shall not be considered a riparian lot.

**3-65.C. RETAINING WALL.** Structure used to keep or hold back earthen material associated with a steep slope.

**3-66. SCHOOL.** Any building or part thereof which is designed, constructed or used for educational or instruction in any branch of knowledge.

**3-66.A. SEMI-PUBLIC USE.** "Semi-public use" means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**3-66.B. SENSITIVE RESOURCE MANAGEMENT.** “Sensitive resource management” means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

**3-66.C. SETBACK.** “Setback” means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

**3-66.D. SEWAGE TREATMENT SYSTEM.** “Sewage treatment system” means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described in Ordinance No. 70 (Individual Sewage Treatment Systems).

**3-66.E. SEWER SYSTEM.** “Sewer system” means pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**3-66.F. SHORE IMPACT ZONE.** “Shore impact zone” means land located between the ordinary high water level of public water and a line parallel to it at a setback of 50 percent of the structure setback.

**3-66.G. SHORELAND.** “Shoreland” means land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are founded by topographic divides which extend landward from the waters from lesser distances and when approved by the Commissioner.

**3-66.H. SIGNIFICANT HISTORIC SITE.** “Significant historic site” means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the national Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**3-66.I. SIGNIFICANT TREE.** A significant tree is an aspen (quaking & big tooth), honey locust, butternut, mountain ash, blue beech, tamarack, hickory, oaks, birch, pine, spruce, basswood, hackberry, walnut, maple (except silver maple), apple, cherry and other native fruit bearing trees and trees exceeding 15" in diameter as measured 4 ½' above the ground.

**3-67. SITE PLAN.** The development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot, including: topography, vegetation, drainage, floodplains, marshes and waterways; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices; and other information that reasonably may be required in order that an informed decision can be made by the approving authority.

**3-67.A. SIDEWALK.** Structure consisting of concrete or bituminous surface which provides access to an entryway.

**3-67.B. SPORTS PERFORMANCE TRAINING CENTER.** A place with facilities and equipment for people to train for a specific sports activity using instructors trained to coach a specific group of athletes.

**3-68. SPECIALTY SHOP.** A retail sales shop offering goods and services which caters to a specific market or shopper. The goods offered in such a shop may include high fashion apparel, accessories, flowers, arts and crafts, hobbies, gourmet foods, books, imports, consignment goods, etc.

**3-68.A. STEEP SLOPE.** "Steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12 percent; as measured over horizontal distances of 50 feet or more, that are not bluffs.

**3-69. STRUCTURAL ALTERATION.** Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

**3-70. STRUCTURE.** Anything constructed or erected, the use of which requires a fixed location on the ground or an attachment to something having a fixed location on the ground, including, in addition to buildings, carports, porches, and other building features, but not including fences, mailbox poles, newspaper box poles, public utility uses, flagpoles, lawn ornaments, paving stones, off-premises advertising signs

(billboards), and retaining walls.

**3-70.A. SUBDIVISION.** Defined in Ordinance No. 15 (Subdivision), Section 3-1.27.

**3-71. SUPPLY YARDS.** A commercial establishment storing or offering for sale building supplies, sell supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

**3-71.A. SURFACE WATER-ORIENTED COMMERCIAL USE.** “Surface water-oriented commercial use” means the use of land for commercial purposes, where access to the use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**3-71.B. TOE OF THE BLUFF.** “Toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

**3-71.C. TOP OF THE BLUFF.** “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

**3-71.D. TRAFFIC CONTROL SIGNAL.** Traffic control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

**3-72. TRAVEL TRAILER.** A mobile vehicle, with wheels, designed for overnight living or camping purposes, capable of being towed by a passenger automobile and having an overall length less than forty (40) feet and an overall width less than eight (8) feet.

**3-72.A. VARIANCE.** “Variance” means the same as that term as defined or described in Minnesota Statutes.

**3-73. WAREHOUSE.** A building used primarily for the storage of goods and materials.

**3-74. WAREHOUSING.** Terminal facilities for handling freight with or without maintenance facilities.

**3-74.A. WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.** “Water-oriented accessory structure or facility” means a small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because

of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

**3-75. WETLANDS, A WETLAND, THE WETLAND, OR WETLAND AREA.**

A. “Wetlands” means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this subpart, wetlands must:

- (1). Have a predominance of hydric soils;
- (2). Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3). Under normal circumstances, support a prevalence of hydrophytic vegetation.

B. “A wetland” or “the wetland” means a distinct hydrologic feature with characteristics of item A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. “Wetland area” means a portion of “a wetland” or “the wetland”.

C. Wetlands does not include public waters wetlands and public waters that are designated on the public waters inventory maps prepared under Minnesota Statutes.

**3-76. WHOLESale TRADE.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to such individuals or companies.

**3-77. YARD, FRONT.** A space extending across the front of a lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

**3-78. YARD, MINIMUM DEPTH.** A yard area between a lot line and a buildable area within which no structure shall be located except as provided in this Ordinance.

**3-79. YARD, REAR.** A space extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

**3-80. YARD, SIDE.** A yard between the side lines of the lot and the nearest building line.

**3-81. ZERO LOT LINE DEVELOPMENT.** A type of predetermined residential development that allows one (1) or more sides of the principal structure to locate immediately adjacent to the lot line.

**3-82. ZONING CERTIFICATE.** A document signed by the Town Clerk, as required by this Ordinance, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Ordinance.

**SECTION 4. ZONING MAP.** A map entitled "TOWN OF WHITE BEAR (TOWNSHIP) ZONING MAP", is hereby adopted as part of this Ordinance. The Zoning Map shall be kept on file for examination in the office of the Town Clerk and in the Town Hall.

**SECTION 5. COMPLIANCE.** No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or be designated to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of all permits and certificates required by this Ordinance.

**5-1.** Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinances, rules or regulations, the ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.

**5-2.** Whenever in any zoning district a use is not specifically authorized as a permitted or conditional use, the use shall be considered prohibited. In such case, the Town Board or the Planning Commission, on its own initiative or upon a request, may direct that a study be conducted to determine if a use is acceptable and in which zoning district such use would be most appropriate. The study would also examine what standards should be imposed relating to the development of such a use. The Town Board or Planning Commission, upon receipt of the study, may initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration, or shall find that the use is not compatible for development within the Town.

## **SECTION 6. DISTRICT REGULATIONS.**

**6-1. ZONING DISTRICTS.** The Town is divided up into the following districts as shown by the district boundaries on the Zoning Map:

"R-1"	Suburban Residential
"R-2"	Urban Residential
"R-3"	Multiple Family Residential
"B-1"	Limited Business
"B-2"	General Business
"I-1"	Light Industrial
"O-S"	Open Space
"C-W"	Conservation Wetland Overlay

## **6-2. DISTRICT PURPOSES:**

### **A. "R-1" Suburban Residential District (low density).**

Purpose: The purpose of the "R-1" Suburban Residential District is to provide for low density, high quality living areas, protected from conflicting uses. Uses provided for in this district include no more than one single family detached residential dwelling unit per buildable lot and directly related complementary uses, subject to the other provisions of this Ordinance.

### **B. "R-2" Urban Residential District (medium density).**

Purpose: The purpose of the "R-2" Urban Residential District, is to provide for low to medium density housing in single family, two family, and multiple family structures in a neighborhood with a more urban, but limited density.

### **C. "R-3" Multiple Family Residential District (high density).**

Purpose: The purpose of the "R-3" Multiple Family Residential District is to provide for higher density residential uses and directly related uses.

### **D. "B-1" Limited Business District.**

Purpose: The purpose of the "B-1" Limited Business District is to provide for the establishment of local businesses for convenient, limited office, retail or service outlets which deal directly with the daily requirements of the immediate neighborhood. These businesses are not intended to draw customers from the entire community.

### **E. "B-2" General Business District.**

Purpose: The purpose of the "B-2" General Business District is to provide for the establishment of commercial and service activities which draw from and serve customers from the entire community or region. Such activities may include businesses which serve other businesses as well as those catering to shopper needs. Because of their scale and traffic generation, these businesses should be located on major roadways. Buffering and screening from less intensive uses may be needed.

**F. "I-1" Light Industrial District.**

Purpose: The purpose of the "I-1" Light Industrial District is to provide for the establishment of warehousing, servicing and other light industrial uses which are not likely to create offensive noise, vibration, glare, dust, heat, smoke, odor, or cause any other objectionable impacts on adjacent property.

**G. "O-S" Open Space District.**

Purpose: The purpose of the "O-S" Open Space District, is to provide areas of natural quality, primarily for wildlife habitat and for nature oriented outdoor recreation, such as picnicking, boating, fishing, swimming, day camping, trail uses and nature study.

**H. "C-W" Conservation Wetland District.**

Purpose: The purpose of the "C-W" Conservation Wetland District is to:

- (1). Provide for the protection, preservation, proper maintenance and use of wetlands for water filtration and recharge.
- (2). To minimize the disturbance to wetlands and to prevent damage from excessive sedimentation, eutrophication, or pollution.
- (3). To prevent loss of fish and other aquatic organisms, wildlife, wildlife habitats, and vegetation.
- (4). To provide for the protection of the Town's fresh water supplies from the dangers of drought, overdraft, pollution, or mismanagement.
- (5). To reduce the financial burdens imposed upon the community through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding.
- (6). To prevent loss of life, property damage, and the losses and risks associated with flood conditions.
- (7). To preserve the location, character, and extent of natural drainage

courses.

**I. "A-S" Airspace and Land Use Safety Regulations Overlay District.**

Purpose: The purpose of the "A-S" Airspace and Land Use Safety regulations overlay district is to regulate the location, size and use of structures and density of population in airport hazard areas.

**J. "S-M" Shoreland Management Overlay District.**

Purpose: The purpose of the "S-M" Shoreland Management Overlay District is to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the use of waters and related land resources.

**K. "F-C" Flood Plain Management Overlay District.**

**L. "BEI" Bald Eagle Island District.**

Purpose: The purpose of the "BEI" Bald Eagle Island District is to provide for the establishment of a residential/commercial district which provides for use of a property for the recording of music and editing of film and also permits no more than one single family dwelling unit per lot and directly related complementary uses subject to other provision of this ordinance.

**M. "I-2" Industrial District.**

Purpose: The purpose of the "I-2" Industrial District is to provide for the establishment of adult uses and sexually oriented businesses.

**6-3. DISTRICT BOUNDARIES.** District boundaries shown within the lines of roads, streams and transportation right-of-ways, shall not affect the location of such district boundaries. When the Code Enforcement Officer cannot definitely determine the location of a district boundary by such centerline, by the scale, or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, the Code Enforcement Officer shall refuse action and the Board of Appeals and Adjustments, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and purposes set forth in all relevant provisions of this Ordinance.

**6-4. PERMITTED USES.** The permitted uses for each district are listed below, subject to Section 9-3 (Permitted Use Standards Permit Procedures). Uses not specifically listed shall not be permitted except when authorized in Section 6-5 (Conditional Uses).

"R-1" Suburban Residential

- (1). Agriculture (Section 7-12)
- (2). Home Occupations
- (3). Single Family Dwellings
- (4). In-Home Day Care Centers
- (5). Township Parks and Playgrounds and Green Area
- (6). Township Government Buildings

**"R-2" Urban Residential (Medium Density)**

- (1). Single Family Dwellings
- (2). Two Family Dwellings
- (3). Township Parks, Playgrounds and Green Area
- (4). Township Government Buildings
- (5). Home Occupations (Section 7-11)
- (6). In-Home Day Care Centers

**"R-3" Multiple Family Residential (High Density)**

- (1). Multiple Family Dwellings
- (2). Single Family Dwellings
- (3). Two Family Dwellings
- (4). Home Occupations (Sec. 7-11)
- (5). In-Home Daycare Centers
- (6). Township Parks, Playgrounds and Green Area
- (7). Township Government Buildings

**"B-1" Limited Business**

- (1). Accounting
- (2). Advertising/Marketing/Research Firm
- (3). Appraisal Service
- (4). Art Showroom (non-retail)
- (5). Attorney
- (6). Bank (Finance Company)
- (7). Broker, Office/Professional type
- (8). Carpet Showroom (non-retail)
- (9). Chiropractor
- (10). Township and County Government Office
- (11). Collection Agency
- (12). Computer/.com sales/service (non-retail)
- (13). Consulting Services including:
  - a. Advertising
  - b. Career
  - c. Employee/Benefits

- d. Engineering
  - e. Environmental
  - f. Financial
  - g. Human resource
  - h. Management
  - i. Wetland
  - j. Telecommunications
- (14). Contractor Office
  - (15). Copy & Business Equipment (non-retail)
  - (16). Dentist Office
  - (17). Designer/Design Studio (non-retail)
  - (18). Development/building Company
  - (19). Drafting/architecture/Surveyor
  - (20). Educational Services including:
    - a. Building education
    - b. Dyslexia
    - c. Legal education
    - d. Real estate education
    - e. Technology
  - (21). Employment Services
  - (22). Engineer
  - (23). Environmental Service – office use
  - (24). Financial Planner
  - (25). Insurance
  - (26). Manufacturer Representatives including:
    - a. Advertising materials
    - b. Clothing
    - c. Computer parts/discs
    - d. Food products
    - e. Marketing
    - f. Medical
    - g. Packaging
    - h. Paper products
    - i. Technological
  - (27). Mortgage Company
  - (28). Physical Therapy
  - (29). Physicians Specializing in the Following:
    - a. Anesthesiology
    - b. Arthritis
    - c. Audiology (Hearing) and Hearing Aids
    - d. Cardiology and Outpatient Surgery
    - e. Dermatology and Outpatient Surgery
    - f. Diabetes, Endocrinology and Metabolism

- g. Family Practice
- h. Gastroenterology (Stomach and Intestines) and Outpatient Surgery
- i. Geriatrics (Elder Care)
- j. Hematology (Blood) and Coagulation Disorders
- k. Immunology (Allergy and Asthma) and Outpatient Surgery
- l. Infertility and Outpatient Surgery
- m. Mammography and Outpatient Surgery
- n. Nephrology (Kidney)
- o. Neurology (Nerve)
- p. Nutrition
- q. Obstetrics (childbirth) and Gynecology (Female)
- r. Occupational Health
- s. Oncology
- t. Ophthalmology
- u. Optometry and Outpatient Surgery
- v. Osteoporosis and Outpatient Surgery
- w. Orthopedics and Outpatient Surgery
- x. Otolaryngology (Ear, Nose and Throat) and Outpatient Surgery
- y. Pain Control and Outpatient Surgery
- z. Pediatrics
- aa. Physical Medicine and Rehabilitation and Outpatient Surgery
- bb. Plastic and Reconstructive Surgery and Outpatient Surgery
- cc. Podiatry
- dd. Proctology and Outpatient Surgery
- ee. Psychiatry
- ff. Pulmonary (Lung)
- gg. Radiology
- hh. Rheumatology
- ii. Sleep Disorders
- jj. Sports Medicine
- kk. Urology and Outpatient Surgery
- (30). Psychologist
- (31). Real Estate
- (32). Religious/Non-Profit-Business/Office
- (33). Sales & Showroom (non-retail)
- (34). Secretary Service
- (35). Security Service
- (36). Telecommunications Offices
- (37). Title Company
- (38). Travel Agency

## "B-2" General Business

- (1). Township Parks, Playgrounds and Green Area
- (2). Convenience Store
- (3). Landscaping Material Storage and Sales
- (4). Animal Clinic
- (5). Grocery Store
- (6). Pharmacy
- (7). Bank
- (8). Restaurant
- (9). Fast Food Restaurants
- (10). Video Rental
- (11). Automobile Service Station
- (12). Daycare
- (13). Dentist office
- (14). Auto Repair, limited
- (15). Nail Salon
- (16). State of Minnesota Licensed Acupuncture and Chinese Herbology Business
- (17). Tanning Salon
- (18). Sporting Goods Store
- (19). Embroidery Shop
- (20). Indoor Batting Cages
- (21). Dry Cleaner – Pick-Up and Drop-Off only, Dry Plant
- (22). Fitness Center
- (23). Design Studio
- (24). Dance Studio
- (25). Consignment/Thrift Store

## "I-1" Light Industry

- (1). Light Manufacturing
- (2). Offices
- (3). Warehousing (enclosed in building)
- (4). Building Materials Sales (enclosed in building)
- (5). Offices, Workshops and Storage Buildings, but no exterior storage, for carpentry, plumbing, paper hanging, roofing, ventilating, electrical, welding, landscaping, sheet rocking, insulation, masonry general contractors
- (6). Township Government Buildings
- (7). School Bus Parking Lot
- (8). Township Parks, Playgrounds and Green Area
- (9). Catering and Food Preparation Studio

"O-S" Open Space

- (1). Preservation of natural resources and wildlife sanctuaries

"C-W" Conservation Wetlands Overlay

Permitted uses in the "C-W" Conservation Wetlands Overlay District shall comply with the requirements of Section 6-4 (Permitted Uses) for the underlying district, Section 9-3 (Permitted Use Standards Procedures) and Section 9-5 (Wetlands Permit Procedures).

"A-S" Airspace and Land Use Safety Regulations Overlay

Permitted uses in the "A-S" Airspace and Land Use Safety Overlay District shall comply with the requirements of Section 6-4 (Permitted Uses) for the underlying district, Section 9-3 (Permitted Use Standards Procedure) and Sections 7-4 (Airspace Zones) and 7-5 (Land Use Safety Regulations in Airport Hazard Areas).

"S-M" Shoreland Management Overlay

Permitted uses in the "S-M" Shoreland Management Overlay District shall comply with the requirements of Section 6-4 (Permitted Uses) for the underlying district, Section 9-3 (Permitted Use Standards Procedure) and Section 8 (Management of Shoreland Areas).

"F-C" Flood Plain Management Overlay District

Permitted uses in the F-C, Flood Plain Management Overlay District shall comply with the requirements of Section 6-4 (Permitted Uses) for the underlying district, Section 9-3 (Permitted Use Standards Procedure), and Ordinance No. 57, the Flood Plain Management Ordinance.

"BEI" Bald Eagle Island

- (1) Single Family Dwelling

"I-2" Industrial District

- (1). Township Parks & Playgrounds & Green Area
- (2). Township Government Buildings

**6-5. CONDITIONAL USES.** The following Conditional Uses shall be authorized for each district if the use complies with the requirements of Section 9-4 (Conditional Use Permit Procedures). The Conditional Use shall be inspected by the Code Enforcement Officer one year after the issuance of the permit and every three years thereafter to ensure compliance with the Zoning Ordinance.

"R-1" Suburban Residential

- (1). Cemeteries
- (2). Public and Parochial Schools
- (3). Two Family Dwellings
- (4). Stables and Riding Academies
- (5). Preschool Facilities
- (6). Churches
- (7). Planned Unit Development (single family and duplex units)
- (8). Accessory Apartment
- (9). In-Home Craft Sale (only if not qualified under Section 7-11.1(o) of this Ordinance)
- (10). Airport
- (11). Guest Cottage

"R-2" Urban Residential (Medium Density)

- (1). Multiple Family Dwellings
- (2). Churches
- (3). Residential Planned Unit Developments
- (4). Accessory Apartment
- (5). In-Home Craft Sale (only if not qualified under Section 7-11.1(o) of this Ordinance)
- (6). Funeral Homes Adjacent to County State Aid Highways and Intersections with a Traffic Control Signal, and Located in a Planned Unit Development
- (7). Repealed

"R-3" Multiple Family Residential (High Density)

- (1). Residential Planned Unit Developments

"B-1" Limited Business

- (1). Auto Repair, Limited.

## "B-2" General Business

- (1). Commercial Planned Unit Developments
- (2). Machine Shop
- (3). Construction Contractor Office/Storage
- (4). Theaters
- (5). Electrical Sub-assembly Supplier
- (6). Off-sale Liquor Sales
- (7). Hair Salon
- (8). Animal Supply retail store
- (9). Office Chair Manufacturing
- (10). Massage Therapy, Commercial
- (11). Self-Storage
- (12). Maker Space

## "I-1" Light Industrial

- (1). Wood Treating Facility
- (2). Electric Utility Substation
- (3). Uses Listed as Permitted with Limited Outside Storage
- (4). Paint Shop
- (5). Machine Shop
- (6). Repair Shops
- (7). Pottery Manufacturing and Sales
- (8). Antenna Structure
- (9). Advertising Signs
- (10). Sports Performance Training Center
- (11). Pet Daycare & Boarding Facility
- (12). New Automobile Storage

## "O-S" Open Space

- (1). Trails (Snowmobiles)
- (2). Archery Range
- (3). Non-Motor Multi-Use Recreational Trails  
(i.e. bicycle and equestrian)
- (4). Picnic Areas
- (5). Nature Center
- (6). Swimming Beach
- (7). Boat Launch
- (8). Day Camping
- (9). Fishing
- (10). Nature Hiking

- (11). Cross-Country Ski Trails
- (12). Composting Sites
- (13). Garages auxiliary to a nature center building, constructed in accordance with Ordinance No. 8, Section 5-29
- (14). Tree and Shrub Drop Off
- (15). Off Leash Dog Area
- (16). Lift Station Structure

"C-W" Conservation Wetlands Overlay

Conditional Uses in the "C-W" Wetlands Overlay District shall comply with the requirements of Section 6-5 (Conditional Uses) for the underlying district, Section 9-4 (Conditional Use Permit Procedures) and Section 9-5 (Wetlands Permit Procedures).

"A-S" Airspace and Land Use Safety Regulations Overlay

Conditional uses in the "A-S" Airspace and Land Use Safety Overlay District shall comply with the requirements of Section 6-5 (Conditional Uses) for the underlying district, Sections 9-4 (Conditional Use Procedure) and Sections 7-4 (Airspace Zones) and 7-5 (Land Use Safety Regulations in Airport Hazard Areas).

"S-M" Shoreland Management Overlay

Conditional Uses in the "S-M" Shoreland Management Overlay District shall comply with the requirements of Section 6-5 (Conditional Uses) for the underlying district, Section 9-4 (Conditional Use Procedure) and Section 8 (Management of Shoreland Areas).

"F-C" Flood Plain Management Overlay District

Conditional uses in the F-C, Flood Plain Management Overlay District shall comply with the restrictions of Section 6-5 (Conditional Uses) for the underlying district, Section 9-4 (Conditional Use Procedure), and Ordinance No. 57, the Flood Plain Management Ordinance.

"BEI" Bald Eagle Island

- (1). Commercial/residential recording and film post production studio with a single family dwelling

"I-2" Industrial District

- (1). Wood Treating Facility
- (2). Parking Lot
- (3). Adult Uses & Sexually Oriented Businesses

## **SECTION 7. GENERAL REGULATIONS.**

**7-1. LOT & YARD REGULATIONS.** The minimum lot area, minimum lot width, minimum front yard depth, minimum rear yard depth and minimum side lot width, for each zoning district, shall be published in Table 7-1.

**TABLE 7-1  
LOT, YARD AND DENSITY REGULATIONS**

	<b>MIN LOT AREA</b>	<b>MIN LOT WIDTH</b>	<b>MIN FRONT YARD DEPTH</b>	<b>MIN SIDE YARD DEPTH</b>	<b>MIN REAR YARD DEPTH</b>	<b>MAX NET DENSITY (units/acre)</b>	<b>MIN PERCENT GREEN AREA</b>
<b><u>R-1 SUBURBAN RESIDENTIAL</u></b>							
Single Family Dwellings (without sewer)	22,000 sq.ft.	100 ft.	35 ft.	10 ft.	20 ft.	2	75
Single Family Dwellings (with sewer)	12,000 sq.ft.	80 ft.	35 ft.	10 ft.	20 ft.	3	70
Two Family Dwellings (with sewer)	18,000 sq.ft.	100 ft.	35 ft.	20 ft.	20 ft.	3	70
<b><u>R-2 MULTIPLE FAMILY RESIDENTIAL (Medium Density)</u></b>							
Single Family Dwellings	12,000 sq.ft.	80 ft.	30 ft.	10 ft.	20 ft.	3	70
Two Family Dwellings	15,000 sq.ft.	100 ft.	30 ft.	20 ft.	20 ft.	6	60
Multi-Family Dwellings	None	100 ft.	30 ft.	30 ft.	30 ft.	6	60
<b><u>R-3 MULTIPLE FAMILY RESIDENTIAL (High Density)</u></b>							
Single Family Dwellings	12,000 sq.ft.	80 ft.	30 ft.	10 ft.	20 ft.	3	70
Two Family Dwellings	15,000 sq.ft.	100 ft.	30 ft.	20 ft.	20 ft.	6	60
Multi-Family Dwellings	None	100 ft.	30 ft.	30 ft.	30 ft.	10	60
<b><u>B-1 LIMITED BUSINESS</u></b>							
All Uses (with sewer)	None	80 ft.	30 ft.	15 ft.	30 ft.	---	50
All Uses (without sewer)	22,000 sq.ft.	100 ft.	30 ft.	15 ft.	30 ft.	---	70
<b><u>B-2 GENERAL BUSINESS</u></b>							
All Uses (with sewer)	None	80 ft.	30 ft.	15 ft.	30 ft.	---	40
All Uses (without sewer)	22,000 sq.ft.	100 ft.	30 ft.	15 ft.	30 ft.	---	60
Multi-Family Dwellings (with sewer)	None	100 ft.	30 ft.	15 ft.	30 ft.	10	30
<b><u>I-1 LIGHT INDUSTRIAL</u></b>							
All Uses	1 acre	150 ft.	35 ft.	15 ft.	30 ft.	---	30
<b><u>I-2 LIGHT INDUSTRIAL</u></b>							
All Uses	1 acre	150 ft.	35 ft.	15 ft.	30 ft.	---	30
<b><u>BEI BALD EAGLE ISLAND</u></b>							
	2 acres	125 ft.	35 ft.	15 ft.	20 ft.	2	75

**NOTES:**

1. Development in R-2 and R-3 Districts shall not be allowed without public sewer.
2. In all districts, structures shall be at least 50 feet from the one hundred (100) year/one percent (1%) storm elevation when a lot is adjacent to a lake, unless permitted by Section 8.
3. Corner lots shall meet the minimum lot width plus an additional twenty-five (25) feet of lot width along all streets except corner lots in the unsewered R-1 Zone which shall be a minimum width of 105 feet.
4. Accessory structures shall not be located less than ten (10) feet from a rear property line.
5. A corner lot shall be considered to have two front yards and two side yards.

**7-1.1. CORNER LOTS.** Lots which abut on more than one street shall meet the minimum front yard depth along each street, and shall provide an additional twenty-five (25) feet of lot width along both streets. This provision shall not be applicable to alley ways.

**7-1.2. ENCROACHMENTS.** All structures, whether attached to the principal structure or detached and whether open or enclosed (including porches, carports, balconies, decks and all other structures above or below grade level) shall not project into any minimum front, side, or rear yard setback.

**7-1.2(a).** Driveways and sidewalks consisting of poured concrete or bituminous paving shall be considered a structure and shall be allowed to encroach into minimum front yard setback areas but shall conform to minimum side and rear yard setback requirements.

**7-1.2(b).** Retaining walls may be allowed to encroach into minimum setback areas and may incorporate stairways into the structure.

**7-1.2(c).** Paved parking areas in the I-1 (Light Industrial) Zoning District shall have a minimum setback from a railroad right-of-way of 5 feet.

**7-1.2(d).** Paved parking areas in the I-1 (Light Industrial) Zoning District shall have a minimum setback from North Birch Lake Boulevard and a future street adjacent to Specialty Manufacturing Company of twenty (20) feet.

**7-1.2(e).** Monopoles with cellular phone antennas in an I-1 Zoning District shall have a minimum setback from a railroad right-of-way of 10 feet.

**7-1.2(f).** A garage or accessory structure in an R-1 – Suburban Residential District shall have a rear yard setback no less than 10’ when abutting an O.S. – Open Space Zoning District.

**7-1.2(g).** A 20’ rear yard setback is permitted when an industrial structure is proposed abutting an undeveloped property containing a wetland, provided that the distance from the wetland to the structure is no less than 30’.

**7-1.2(h).** Paved parking areas and driveways in the I-1 Light Industrial Zoning District shall have minimum side and rear yard setbacks of at least 5’ provided that the front yard setback exceeds 60’, green space exceeds 50%, all adjacent properties are zoned I-1 (light industrial), and the parcel area is 5 acres or less. The parking area/driveway shall be set back a

minimum of 15' from the ordinary high water elevation of a stormwater treatment pond or the edge of a delineated wetland.

**7-1.3. UNDERSIZED LOTS.** Any lot of record existing at the effective date of this Ordinance and held in separate ownership different from the ownership of adjoining lots, prior to October 5, 1972, may be used for the erection of a structure conforming to the use regulation of the district in which it is located, even though its area and/or width are less than the minimum requirements of this Ordinance. Such lot of record may be used in conformance with the use regulations of the district in which it is located, only upon the approval of the Town Board.

**7-1.3(a).** Any lot provided for in Section 7-1.3 that is served by public sewer may be used for a single family dwelling without the specific approval of the Town Board. Such lot and use shall comply with 60% of the requirements of Table 7-1 (Lot, Yard and Density Regulations) for minimum lot area and minimum lot width. In addition, the minimum side yard depth shall be based on the following formula:

$$\frac{\text{Minimum Required Lot Width}}{\text{Actual Lot Width}} = \frac{\text{Minimum Required Side Setback}}{\text{Allowable}}$$

In no instance shall the minimum side yard setback be less than 6 feet.

**7-1.3(b).** Any lot platted in an R-2 (Urban Residential District) between October 5, 1972 and January 24, 1984, that is served by public sewer, may be used for a single family dwelling unit without the specific approval of the Town Board. Such lot and use shall comply with the requirements of Table 7-1, Lot, Yard and Density Regulations, except that the minimum lot area shall be 9500 square feet and minimum lot width shall be 70 feet.

**7-1.4. NON-RESIDENTIAL STRUCTURES ADJACENT TO RESIDENTIAL DISTRICTS LOTS.** Non-residential structures or uses shall not be located or conducted closer to any lot line of any residentially used lot than the distance specified in the following schedule:

Minimum Side or Rear Yard  
abutting any lot in any  
"R" Residential District:

Use:

20 feet

Off-Street parking spaces and access drives for non-residential uses.

40 feet

Churches, schools and public or semi-public

structures.

70 feet

Recreation facilities, entertainment facilities, motels, all business uses and industrial uses.

**7-1.5. FRONT YARD SETBACK VARIANCES.** Front yard setback variances may be granted to conform to lesser setbacks of existing adjacent structures. For new structures, the minimum front yard setback shall not be less than twenty (20) feet.

**7-1.6. ZERO LOT LINE.** In all "B" Business Districts, "I" Industrial Districts, and for two family and multiple family dwelling structures in all "R" Residential Districts, the side and/or rear setback requirements may be waived by the Town Board. Pursuant to this provision, a building may be located on a lot so that one or more of its sides rest directly on a lot line. Uses sited with Zero Lot Line setbacks shall comply with all other applicable provisions of this Ordinance.

**7-1.7.** Each lot shall have access to a public street or way, or to a private way protected by a permanent easement which shall be of width and construction suitable to traffic requirements of the neighborhood in which the property is located. This shall not be construed to include alleys or service ways. Where a private easement is to be used, it shall require special permission by the Town Board.

**7-1.8.** In all zoning districts, structures shall conform to the minimum side and rear yard setback requirements indicated in Table 7-1, from all wetland as provided in Section 9-5.1.

**7-2. DENSITY REGULATIONS.** All uses shall comply with the density regulations provided in Table 7-1.

**7-3. HEIGHT REGULATIONS.**

**7-3.1. HEIGHT FOR ALL DISTRICTS EXCEPT THE SHORELAND MANAGEMENT DISTRICT.** The vertical distance of a structure measured from the lowest elevation at grade adjacent to the structure to the top of the roof shall not exceed 40 feet, except for water towers approved by the Town Board.

**7-3.2. HEIGHT IN SHORELAND MANAGEMENT DISTRICT.** For riparian lots in the Shoreland Management District the distance from the highest grade to the average of the highest gable shall be no more than 25 feet. For walkout basements in no event shall the height from the lowest point of a walkout basement to the top of a roof exceed 40 feet.

**7-3.3. REPEALED.** By amendment to Ordinance 35.

**7-3.3. EXCEPTION.** No structure may exceed forty (40) feet in Building Height, as defined in Section 3-8, except water towers approved by the Town Board in any district, and except in the "I-1" Light Industrial District, where structures in excess of forty (40) feet in building height, but not exceeding forty-six (46) feet, nor lying in a shoreland management district, will be identified as a Conditional Use. In addition to satisfying all of the requirements, procedures, standards, and performance provisions established in Section 9-4 – CONDITIONAL USE PERMIT PROCEDURES, structures in excess of forty (40) in the "I-1" District shall satisfy the following requirements:

The part of the structure that exceeds forty (40) feet:

1. Must house an essential part of business operation.
2. Shall not exceed 1,025 square feet in area or 2% of the building, whichever is less.
3. Shall be constructed of non-combustible material.
4. Shall be served by fire sprinklers.

**7-3.3(a).** No structure may exceed forty (40) feet in building height, as defined in Section 3-8, except water towers approved by the Town Board in any district, and except in the I-1 Light Industrial District where structures in excess of fifty (50) feet in height, but not exceeding seventy-five (75) feet nor lying in a shoreland management district, will be identified as a Conditional Use. In addition to satisfying all of the requirements, procedures, standards and performance provisions established in Section 9-4 – Conditional Use Permit Procedures, structures in excess of fifty (50) feet but no greater than seventy-five (75) feet in the I-1 District shall satisfy the following requirements:

The part of the structure that exceeds fifty (50) feet:

1. Shall not exceed 2% of the total lot area.
2. Shall be located at least 150 feet from all lot lines.
3. Must house essential part of business operations which requires requested height.
4. Shall be open to the ceiling, not divided by floors.
5. Shall not be used for storage space above ground floor.
6. Shall be constructed of non-combustible material.
7. Shall be served by fire sprinklers.
8. Shall not exceed 34,000 square feet, or more than 12% of the area of all buildings on the property.
9. That part of the structure that exceeds 40', but is not greater than 50', shall not exceed 21,000 square feet, and shall be designed to compliment higher portions of the building.

10. The property shall exceed 40 acres in size.

**7-3.3(b).** No antenna shall be located any higher on an antenna structure as defined in Section 3-2 of Ordinance No. 73, than is reasonably necessary for proper operation of the antenna. In no event shall antenna structures, including the antenna, exceed 165 feet in height above grade.

**7-3.3(c).** No structure may exceed forty (40) feet in building height, as defined in Section 3-8, except water towers approved by the Town Board in any district, and except in the I-1, Light Industrial District, where an off-premise advertising sign structure is approved in excess of 40' in height but not exceeding 48' in height, by Conditional Use Permit. In addition to satisfying all of the requirements, procedures, standards, and performance provisions established in Section 9-4 – Conditional Use Permit Procedures, advertising sign structures in excess of 40' in the I-1 District shall satisfy the following requirements:

That part of the structure that exceeds forty (40) feet:

- 1. Shall be limited to a roof structure covering the sign base and foundation.
- 2. Shall not exceed 5% of the area of the sign and sign structure.
- 3. Shall contain no advertising sign.
- 4. Shall be constructed of non-combustible material.

**7-3.4. REPEALED.** By amendment to Ordinance 35.

**7-4. AIRSPACE ZONES.** In order to carry out the purpose of this Ordinance as set forth above, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone and Transitional Zone, and whose locations and dimensions are as follows:

**7-4.1(a). PRIMARY ZONE:** All that land which lies directly under an imaginary primary surface longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface: one hundred and thirty (130) feet.

**7-4.1(b). HORIZONTAL ZONE:** All that land which lies directly under an imaginary horizontal surface one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary

surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is six thousand (6,000) feet.

**7-4.1(c). CONICAL ZONE:** All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of twenty to one (20:1) for a horizontal distance of four thousand (4,000) feet as measured radially outward from the periphery of the horizontal surface.

**7-4.1(d). APPROACH ZONE:** All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward to a slope twenty to one (20:1). The approach surface expands uniformly to a width of two thousand five hundred (2,500) feet at a distance of ten thousand (10,000) feet to the periphery of the conical surface.

**7-4.2. HEIGHT RESTRICTIONS.** Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure, tree or exposed transmission line and other public utility uses shall be constructed, altered, maintained, or allowed to grow in any airspace zone so as to project above any of the imaginary airspace surfaces described in said Section 7-4 hereof.

**7-4.3. BOUNDARY LIMITATIONS.** The Town may regulate the location, size and use of building and the density of population in that portion of an airport hazard area under the approach zones for a distance not exceeding two (2) miles from the airport boundary and may regulate height restriction zoning for a distance not to exceed one and one-half (1 1/2) miles beyond the perimeter of the airport boundary.

## **7-5. LAND USE SAFETY REGULATIONS IN AIRPORT HAZARD AREAS.**

**7-5.1. SAFETY ZONE BOUNDARIES.** In order to carry out the purpose of this Ordinance as set forth above, and also in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the existing airport, and furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

**7-5.1(a). SAFETY ZONE A:** All land in that portion of the approach zones of a runway, as defined

in Section 7-4.1(d) of Airspace Obstruction Regulations hereof, which extends outward from the end of primary surface, a distance equal to two-thirds (2/3) of the planned length of the runway.

**7-5.1(b). SAFETY ZONE B:** All land in that portion of the approach zones of a runway, as defined in Section 7-4.1(d) of Airspace Obstruction Regulations hereof, which extends outward from Safety Zone A to a distance equal to one-third (1/3) of the planned length of the runway.

**7-5.1(c). SAFETY ZONE C:** All that land which is enclosed within the perimeter of the horizontal zone, as defined in Section 7-4.1(b) of Airspace Obstruction Regulations hereof, and which is not included in Zone A or Zone B.

## **7-5.2. USE RESTRICTIONS.**

**7-5.2(a). GENERAL:** Subject at all times to the height restrictions set forth in Section 7-5.2 (Airspace Obstruction Regulations), no use shall be made of any land in any of the safety zones defined in Section 7-5.1 (Land Use Safety Requirements), which creates or causes interference with the operations of radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the land, taking off, or maneuvering of aircraft.

**7-5.2(b). ZONE A:** Subject at all times to the height restrictions set forth in Section 7-4.2 of Airspace Obstruction Regulations, and to the general restrictions contained in Section 7-5.2(d), of Land Use Safety Requirements, areas designated as Zone A shall contain no buildings, temporary structures, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to overhead electric transmission lines and such uses as agricultural (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and vehicle parking lots.

**7-5.2(c). ZONE B:** Subject at all times to the height restrictions set forth in Section 7-4.2 of Airspace Obstruction Regulations, and to the general restrictions contained in Section 7-5.2, areas designated as Zone B shall be restricted in use as follows:

(1). Each use shall be on a site whose area shall not be less than three (3) acres.

(2). Each use shall not create, attract, or bring together a site population that would exceed fifteen (15) times that of the site acreage.

(3). Each site shall have no more than one (1) building plot upon which any number of structures may be erected.

(4). A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at least (Acres)	But Less then (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (Sq. Ft.)	Maximum Site Population (15 Person/Ac)
3	4	12:1	10,900	45
4	6	10:1	17,400	60
6	10	8:1	32,700	90
10	20	6:1	72,600	150
20	and up	4:1	218,000	300

(5). The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly.

**7-5.2(d). ZONE C:** Zone C is subject only to height restrictions set forth in Section 7-4.2 of Airspace Obstruction Regulations, and to the general restrictions contained in Section 7-5.2.

**7-6. OFF-STREET PARKING.** Off-street parking spaces shall be provided in accordance with the specifications in Section 7-6.1, in any district, whenever any new use is established or existing use is altered. The off-street parking may be furnished by providing spaces so designated within the principal building or structure attached thereto.

**7-6.1.** Parking space requirements are established as follows:

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Bank	1 per 300 square feet of floor space
Bowling Alleys	5 for each alley
Church and School	1 per 4 seats in principal assembly room
Convenience Store	5 per 1,000 square feet of gross floor area
Day Care Center	1 per staff member plus 1 for each 5 students
Funeral Homes	1 for every 100 square feet of floor space
Hospital and Rest Homes	1 per 3 beds and 1 for each employee on the maximum working shift
Industrial	1 for each employee on the maximum working shift, plus 1 for each company owned vehicle, plus requirements for adequate visitor parking or 1 space per 500 square feet of gross floor area, whichever is greater. When the 1 space per 500 square feet requirement exceeds the 1 per each employee requirement, the difference between the lower required number and highest required number may be provided as proof of parking
Multiple Family Dwellings	2.5 per dwelling unit
Oil Change Shop	2 spaces per service station,

	plus 2 per service bay. Service bay is not a parking space
Printing and Publishing	1 space per 1,000 square feet gross floor area or 1 space per employee, whichever is greater
Private Club or Lodge	1 per 4 members
Professional Offices, Sales and Services, Wholesale Houses and Medial Clinics	1 space per 200 square feet of net lease able area on the ground floor and 1 space per 300 square feet of net lease able area in the basement areas and on all floors above first floor
Recreational Assembly Places: i.e., Dance Halls, Night Clubs	1 for every 50 square feet of floor space
Restaurant	2 spaces per 100 square feet of floor area
Restaurant, Fast Food	14 spaces per 1,000 square feet of gross floor area plus 5 off-street waiting spaces per drive lane
Shopping Center	1 space for each 100 square feet of useable floor area for the first 15,000 square feet, 1 space for each 125 square feet for the next 15,001 to 450,000 square feet of useable floor area
Single Family House/ Two Family House	2 per dwelling unit
Theater	1 per 3 seats
Warehouse	1 space for each two employees

or one space for each 1,000 square feet of floor area, whichever is greater

**7-6.1(a).** All off-street parking spaces in a parking lot shall be a minimum of 9 feet in width and 18 feet in length.

**7-6.2. PARKING ACCESSORY TO A RESIDENTIAL USE.**

**7-6.2(a).** Off-street parking facilities for residential use shall be utilized solely for the parking of currently licensed and operable vehicles of 15 passengers or less and trucks not to exceed 84" in height or 255" in length or a maximum gross vehicle rating of 15,000 lbs. Boats, travel trailers, campers and camping buses are excluded from these maximum size requirements.

**7-6.2(b).** Boats, travel trailers, campers and camping buses are allowed to park on or adjacent to a driveway from April 1<sup>st</sup> to November 1<sup>st</sup> of each year. Snowmobiles may be parked from November 1<sup>st</sup> to March 31<sup>st</sup>. Boats, snowmobiles, travel trailers, campers, camping buses and antique cars may be stored in rear or side yards at any time of the year if they are currently licensed and operable and the combined area of parking for all recreational vehicles and trailers do not exceed 300 square feet.

**7-7. OFF-STREET LOADING.** One off-street loading berth of not less than thirty-five (35) feet by ten (10) feet shall be provided for every business and industrial use with a floor area of more than ten thousand (10,000) square feet, with one (1) additional berth required for each additional twenty-five thousand (25,000) square feet of floor area.

**7-8. REPEALED.** By Amendment to Ordinance 35.

**7-9. ACCESSORY STRUCTURES.**

**7-9.1. STANDARDS.** All Accessory Structures are subject to the following standards.

**7-9.1(a).** Accessory buildings shall be so located on the property as to conform to the minimum side yard setback and the minimum rear yard setback requirements of this Ordinance, and shall be located behind the principal structure on the property. Such accessory structures shall not be located within a utility easement, except limited accessory structures as provided in Section 7-9.1(a).2.

**7-9.1(a).1.** An accessory structure shall be located a minimum of 10' from a rear lot line in a residential zoning district, shall be incidental and subordinate to both the single family dwelling and garage, shall not be located over any drainage and utility easement and shall not exceed 15' in height. Accessory structures exceeding 15' in height shall conform to the minimum rear yard setback requirements of this Ordinance.

**7-9.1(a).2.** Limited accessory structures with no foundation, or supported on grade by wood or other non-permanent material, shall be located a minimum of 5 feet from rear lot lines and 5 feet from side lot lines.

**7-9.1(b).** The architectural style and facing materials of accessory structures shall be compatible with that of the principal structure.

**7-9.1(c).** Not more than one accessory building, in addition to an attached or detached garage, may be located on a property in any "R" Residential District. The requirements of this section shall not apply to structures used in accordance with the provisions of Section 7-12 (Agricultural Operations).

**7-9.1(d).** All accessory structures shall meet the requirements of Section 5-29 of Ordinance No. 8.

**7-9.2. ACCESSORY APARTMENT STANDARDS.** Accessory apartments provide an alternate use of single family dwelling units. Such use allows an expanded choice of housing for sole occupants.

**7-9.2(a).** Accessory apartments shall be located only within single family dwelling units. In no event shall more than one (1) accessory apartment be allowed in a single family dwelling unit.

**7-9.2(b).** Single family dwelling units having accessory apartments shall be owner occupied, may not have a separate entrance to the outside and there must be free movement between the accessory apartment and the single family portion of the house.

**7-9.2(c).** The exterior architectural design and facing materials of the single family dwelling unit shall not be altered by an accessory apartment.

**7-9.2(d).** Accessory apartments shall be subordinate to the principal single family dwelling units in which they are located. An accessory apartment shall not comprise more than twenty-five (25%) percent of the total combined area of the single family dwelling unit and accessory apartment. In no event shall the area proposed for use as an accessory apartment

reduce the total remaining area proposed for use as a single family dwelling unit to less than the minimum area required by Ordinance No. 8 (Building Code).

**7-9.2(e).** One (1) off-street parking space, in addition to the requirements of Section 7-6 (Off-Street Parking), shall be required of a single family dwelling unit having an accessory apartment.

**7-9.2(f).** Repealed by amendment to Ordinance No. 35.

### **7-9.3. PROCEDURE.**

**7-9.3(a).** Accessory apartments shall be processed in accordance with the application, review and performance requirements of Section 9-4 (Conditional Use Permit Procedure) and the provisions of Ordinance No. 8 (Building Code). Applications for accessory apartments shall be accompanied by a fee established by Town Ordinance.

**7-9.3(b).** In addition to the requirements of Section 9-4 (Conditional Use Permit Procedure) the Town Board may impose such conditions as deemed necessary to the approval of any accessory apartment use, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provisions of this section.

**7-9.3(c).** If an application for an accessory apartment is denied, no proceeding for an accessory apartment involving the same property shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-9.3(d).** The Town Board reserves the right, upon allowing any accessory apartment, to inspect the premises in which the apartment is being located, to insure compliance with the provisions of this section or any conditions additionally imposed.

**7-9.3(e).** Failure of an accessory apartment permittee to comply with the provisions of this section or any conditions imposed in the Zoning Certificate, shall result in the revocation of such permit, after notice and hearing by the Town Board.

**7-9.4. REPEALED.** By amendment to Ordinance 35.

**7-9.5. REPEALED.** By amendment to Ordinance 35.

**7-9.6. POLE BARNs.** Metal post and beam buildings, metal sided or so called pole barns are prohibited in all districts.

**7-9.6(a).** Post and beam construction shall be permitted for hangars at all airports in Land Use Safety Zone C. The exterior of any post and beam building shall utilize horizontal vinyl, wood or metal siding or vertical prepainted metal siding, using a minimum of 29 gauge thickness, painted an earth tone color.

**7-9.6(b).** Post and beam construction shall be permitted for agricultural properties greater than 5 acres in size. The exterior of any post and beam building shall utilize horizontal vinyl, wood or metal siding, painted an earth tone color.

**7-9.7. GUEST COTTAGE.** A guest cottage may be permitted in the R-1 Zoning District on lots which are at least 24,000 square feet in size in sewerred areas and one acre or larger in size in unsewerred areas, if all of the following criteria and standards are met:

**7-9.7(a).** The structure, design, building materials and color shall be compatible with the principal structure and surrounding land uses.

**7-9.7(b).** The structure shall not be used for rental purposes.

**7-9.7(c).** The guest cottage shall maintain one (1) service for each utility serving the property. Each dwelling unit shall pay two (2) times the sanitary sewer service charge as provided by Ordinance No. 18 (Regulating Use of Sewer) and two (2) times the water service charge as provided by Ordinance No. 12 (Regulating the Use of Water).

**7-9.7(d).** A guest cottage shall not cover more than 700 square feet of land surface and shall not exceed 15' in height.

**7-9.7(e).** Any guest cottage located in the Shoreland Management Overlay Zone shall be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, and other means acceptable to White Bear Township, assuming summer leaf-on conditions.

**7-9.8. PROCEDURE.**

**7-9.8(a).** Guest cottages shall be processed in accordance with the application, review and performance requirements of Section 9-4 (Conditional Use Permit Procedure) and the provisions of Ordinance No. 8 (Building Code). Applications

for a guest cottage shall be accompanied by a fee established by Town Ordinance.

**7-9.8(b).** In addition to the requirements of Section 9-4 (Conditional Use Permit procedure), the Town Board may impose such conditions as deemed necessary to the approval of any guest cottage, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provision of this section.

**7-9.8(c).** If an application for a guest cottage is denied, no proceeding for a guest cottage involving the same property shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-9.8(d).** The Town Board reserves the right, upon allowing any guest cottage, to inspect the premises in which the guest cottage is located, to insure compliance with the provisions of this section or any conditions additionally imposed.

**7-9.8(e).** Failure of a guest cottage permittee to comply with the provisions of this section or any conditions imposed in the Zoning Certificate, shall result in a revocation of such permit, after notice and hearing by the Town Board.

**7-10. RESIDENTIAL PLANNED UNIT DEVELOPMENTS.** Residential Planned Unit Developments provide more flexibility in site plan and building plan designs than otherwise allowed by the strict application of the Lot, Yard and Density Regulations of this Ordinance and the provisions of Ordinance No. 15 (Subdivision Ordinance). All Residential Planned Unit Developments shall comply with the provisions of Ordinance No. 9 (Construction of Streets).

**7-10.1. STANDARDS.** A Residential Planned Unit Development application shall be approved if it is found to meet all standards set forth in the following provisions.

**7-10.1(a). HOMEOWNERS ASSOCIATION.** A Homeowners Association shall be required in all Residential Planned Unit Developments having multiple family dwelling units. Membership in the Homeowners Association shall be mandatory for all owners of such multiple family dwelling units. The Homeowners Association shall maintain legal ownership and keep in good repair private driveways, parking spaces and common areas.

**7-10.1(b). USES.** Land uses shall comply with the permitted or conditional use regulations of the Zoning District in which the residential planned unit development is located.

**7-10.1(c). MINIMUM AREA.** The minimum area of land for a Residential

Planned Unit Development shall be not less than five (5) acres, exclusive of lakes, streams, wetlands and the right-of-way of public thoroughfares.

**7-10.1(d). LOT REQUIREMENTS.** The minimum lot area, minimum lot width, minimum front yard set back, minimum side yard set back, minimum rear yard set back, minimum percentage of green area and off-street parking space requirements shall comply with the zoning district regulations in which the Residential Planned Unit Development is proposed to be located. Departures from such regulations may be permitted where the resulting requirements will not have an adverse effect upon the health, safety and welfare of the Town. In no event shall single family dwelling units in a Residential Planned Unit Development have a minimum lot area of less than nine thousand five hundred (9,500) square feet, a minimum lot width of less than seventy (70) feet and a minimum corner lot width of less than ninety-five (95) feet. Where departures from such regulations are permitted the average lot area shall be no less than the minimum lot area in the zoning district.

**7-10.1(e). DENSITY.** The maximum net density of dwelling units per acre shall not be greater than the density regulation of the zoning district in which the Residential Planned Unit Development is proposed to be located.

**7-10.1(f). MINIMUM GREEN AREA.** A minimum of thirty-five (35%) percent of the area of a Residential Planned Unit Development having multiple family dwelling units shall be reserved for passive recreational open spaces. Areas for passive recreational open space shall be exclusive of lakes, streams, wetlands and the right-of-way of public thoroughfares. Passive recreational open space shall be located within the Residential Planned Unit Development so as to abut parks, playgrounds, trails, open spaces, lakes, streams or wetlands on adjacent properties.

**7-10.1(g). RECREATIONAL AREAS.** Active recreational areas shall be provided in all Residential Planned Unit Developments. The amount of area provided for active recreational use shall be in the proportion of two (2) acres of land per one hundred (100) dwelling units. In no event shall less than one-half (1/2) acre of land be provided for active recreational use. Areas for active recreational use shall be exclusive of lakes, streams, wetlands and the right-of-way of public thoroughfares. Active recreational areas shall be provided in addition to the requirements of Section 7-10.1(f) (Minimum Green Area) and to the park land dedication requirements of Ordinance No. 15 (Subdivision Ordinance).

**7-10.1(h). PUBLIC UTILITIES.** All Residential Planned Unit Developments

shall be served by public sanitary sewer and public water services. Utilities, such as electricity, natural gas, telephone and cable television, shall be provided to Residential Planned Unit Developments in a manner approved by the Town.

**7-10.1(i). ACCESS.** All uses in a Residential Planned Unit Development shall abut a public street or abut a private street which has adequate access to a public street. The alignment and design of all private streets shall comply with the provisions of Ordinance No. 9 (Street Ordinance).

**7-10.1(j). DRIVEWAYS.** All driveways for multiple family dwelling units in a Residential Planned Unit Development shall be provided and maintained in good repair, by the developer and the successor Homeowner's Association, in a manner approved by the Town.

**7-10.1(k). STORAGE AREAS.** Screened storage areas shall be provided for each multiple family dwelling unit in a Residential Planned Unit Development. The minimum area for screened storage shall be one hundred (100) square feet per dwelling unit. The Town Board may waive the requirements for screened storage where the Homeowner's Association maintains and enforces restrictive covenants upon the property. Such restrictive covenants shall prohibit the exterior storage of building materials, boats, recreational vehicles, snowmobiles and other similar personal property, except in a screened storage area approved by the Town Board. Also, the Residential Planned Unit Development shall reserve an area adequate for providing the necessary screened storage pursuant to the requirements of this section.

**7-10.1(l). ENVIRONMENTAL DESIGN.** An environmental design preserving the natural amenities of the existing landscape as well as providing for landscape buffering as to adjacent properties shall be incorporated into all Residential Planned Unit Developments.

**7-10.1(m). ARCHITECTURAL DESIGN.** The architectural design of all structures in a Residential Planned Unit Development shall be compatible with one another and with structures located on adjacent properties.

**7-10.1(n). NO VARIANCES.** Notwithstanding the provisions of Section 8-6 (Variances), no variances shall be granted to the site plan and building plan designs of an approved Planned Unit Development.

## **7-10.2. PROCEDURE.**

**7-10.2(a).** Residential Planned Unit Developments shall be processed in accordance with the application, review and performance requirements of Section 9-4 (Conditional Use Permit Procedure) and the provisions of Ordinance No. 15 (Subdivisions). Applications for Residential Planned Unit Developments shall be accompanied by a fee established by Town Ordinance.

(1). In addition to the requirements of Section 9-4 (Conditional Use Permit Procedure) the application shall include ten (10) copies of the proposed Charter, By-Laws and restrictive covenants of the Homeowner's Association.

**7-10.2(b).** In addition to the requirements of Section 9-4 (Conditional Use Permit Procedure) the Town Board may impose such conditions as deemed necessary to the approval of any Residential Planned Unit Development, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provisions of this section.

**7-10.2(c).** Upon approval of a "B-2" General Business District use in a Residential Planned Unit Development, a business license shall be issued for the balance of the calendar year, and renewed for periods of one year each. All applications for business license renewal shall be processed administratively by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business license shall result in notice and hearing by the Town Board for revocation of the licensee's Zoning Certificate.

**7-10.2(d).** If an application for a "B-2" General Business District use in a Residential Planned unit Development is denied, no proceeding for a "B-2" General Business District use in a Residential Planned Unit Development involving the same property and the same business shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-10.2(e).** The Town Board reserves the right, upon allowing any "B-2" General Business District use in a Residential Planned Unit Development, to inspect the premises in which the occupation is being conducted, to insure compliance with the provisions of this section or any conditions additionally imposed.

**7-10.2(f).** Failure of a "B-2" General Business District use in a Residential Planned Unit Development to comply with the provisions of this section or any conditions imposed in the Zoning Certificate, shall result in the

revocation of such permit, after notice and hearing by the Town Board.

**7-10.3. REPEALED.** By Amendment to Ordinance 35.

**7-10.4. REPEALED.** By Amendment to Ordinance 35.

**7-10.5. REPEALED.** By Amendment to Ordinance 35.

**7-10.6. REPEALED.** By Amendment to Ordinance 35.

**7-10.7. REPEALED.** By Amendment to Ordinance 35.

**7-10.8. REPEALED.** By Amendment to Ordinance 35.

**7-10.9. REPEALED.** By Amendment to Ordinance 35.

**7-10.10. REPEALED.** By Amendment to Ordinance 35.

**7-10.11. REPEALED.** By Amendment to Ordinance 35.

**7-10.12. REPEALED.** By Amendment to Ordinance 35.

**7-10.13. REPEALED.** By Amendment to Ordinance 35.

**7-10.14. REPEALED.** By Amendment to Ordinance 35.

**7-10.15. REPEALED.** By Amendment to Ordinance 35.

**7-11. HOME OCCUPATIONS.** The intent of the HOME OCCUPATIONS section of this Ordinance is to provide opportunities for home based work with other uses permitted in the residential districts and to assure peace, quiet and domestic tranquility within residential neighborhoods.

**7-11.1. STANDARDS.** All home occupations are subject to the following standards.

**7-11.1(a).** No equipment or machinery shall be used in the home occupation which will create electrical interference to surrounding properties.

**7-11.1(b).** Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall be compatible with the surrounding residential

uses.

**7-11.1(c).** No home occupation shall require internal or external structural alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.

**7-11.1(d).** There shall be no exterior storage of equipment or materials used in the home occupation, except personal vehicles. Outside storage of vehicles shall comply with Section 7-6.2 of this Ordinance.

**7-11.1(e).** The home occupation shall comply with the provisions of Ordinance No. 8 (Building Code), and Ordinance No. 46 (Uniform Fire Code).

**7-11.1(f).** There shall be no exterior evidence of the home occupation other than signs which are in conformance with Ordinance No. 33 (Sign Ordinance).

**7-11.1(g).** All home occupations shall comply with the provisions of Ordinance No. 16 (Public Nuisances).

**7-11.1(h).** No home occupations shall be conducted between the hours of 9:00 p.m. to 6:30 a.m., Monday through Friday, after 6:00 p.m. on Saturday or at any time on Sunday, except as provided in Section 7-11.1(m) or unless said occupation is contained entirely within the principal dwelling and will not require any on-site parking facilities.

**7-11.1(i).** No home occupation shall generate traffic in volumes greater than would normally be expected in a residential neighborhood.

**7-11.1(j).** Sewer and water use and refuse generation shall not exceed normal residential use.

**7-11.1(k).** Any construction, alteration, or electrical or mechanical equipment shall not change the fire rating of the structure.

**7-11.1(l).** The maximum number of business visitors shall not exceed eight vehicle trips per 60 minute periods or 20 vehicle trips per day. One vehicle trip shall include both arriving and departing.

**7-11.1(m).** Gatherings for the purpose of selling merchandise, taking orders or providing training for sale or marketing shall not be held more than

twice per month and shall cease prior to 9:00 p.m. and shall not have more than ten passenger automobiles with not more than six passenger automobiles parked on the street with all on-street parking to occur on one side of the street only.

**7-11.1(n). GARAGE SALE.** No more than two (2) per calendar year and shall not exceed a total of six (6) days per calendar year.

**7-11.1(o). IN-HOME CRAFT SALES (BOUTIQUES).** An in-home craft sale (boutique) shall be allowed as a home occupation subject to the following requirements:

1. Sales shall be limited to no more than 8 consecutive days or a total of 10 days per calendar year.
2. No more than one paid employee shall be permitted.
3. There shall be a minimum of 2 lighted exits.
4. Any sign used for advertising shall meet the requirements set forth in Ordinance No. 33 (Sign Ordinance).
5. Customer parking shall be limited to one side of the street for all streets adjacent to the residence. The Town shall post the "No Parking" signs.
6. Sales shall be limited to no more than 10 hours per day between the hours of 8:00 a.m. to 8:00 p.m.
7. The Town shall be notified of the dates of the sale.
8. All State, Federal and local laws shall be complied with.
9. Any in-home craft sale (boutique) which cannot comply with these requirements may apply for a Conditional Home Occupation Permit as established in Section 9-4 of Ordinance No. 35 (Zoning Ordinance).

**7-11.2. PERMITTED HOME OCCUPATION STANDARDS.** Home occupations listed in Section 6-4 (Permitted Uses) shall be permitted if operated in compliance with all of the conditions established in Section 7-11.1. and the following conditions:

**7-11.2(a).** No person other than those who customarily reside on the premises shall be employed.

**7-11.2(b).** All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings, attached or detached garages.

**7-11.2(c).** Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, so that no vehicle is parked closer than three (3) feet from the curb line or edge of road surface.

**7-11.2(d).** REPEALED. By Amendment to Ordinance 35.

**7-11.3. SPECIAL HOME OCCUPATION STANDARDS.** Home occupations not classified as a Permitted Home Occupation pursuant to Section 7-11.2, shall be classified as Special Home Occupations. Special Home Occupations shall require a Special Home Occupation Permit which may be approved or denied by the Town Board, after recommendations by the Planning Commission. Special Home Occupations must be in compliance with all of the standards established in Section 7-11.2, except for those superseded by the following provisions:

**7-11.3(a).** No person other than a resident and one employee shall conduct the home occupation.

**7-11.3(b).** The home occupation may be conducted in the principal dwelling and one accessory building or in the garage.

**7-11.3(c).** Special Home Occupation Permits shall not run with the land. Such permits shall be issued to specific persons and shall not be transferable.

**7-11.3(d).** For residential properties when the home is no less than 1/3 mile from any other home, more than one employee may conduct the home occupation.

#### **7-11.4. PROCEDURE.**

**7-11.4(a).** Special Home Occupations shall be processed in accordance with the application, review and performance requirements of Section 9-4 (Conditional Use Permits Procedure). Applications for Special Home Occupations shall be accompanied by a fee established by Town Ordinance.

**7-11.4(b).** In addition to the requirements of Section 9-4 (Conditional Use Permit Procedure), the Town Board may impose such conditions as deemed necessary to the approval of any Special Home Occupation Permit, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provisions of this Section.

**7-11.4(c).** Upon approval of a Special Home Occupation Permit, a business license shall be issued for the balance of the calendar year, and renewed for periods of one year each. All applications for business license renewal shall be processed administratively by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business license shall result in notice and hearing by the Town Board for revocation of the licensee's Zoning Certificate.

**7-11.4(d).** If an application for a Special Home Occupation Permit is denied, no proceeding for a Special Home Occupation Permit involving the same property and the same business shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-11.4(e).** The Town Board reserves the right, upon issuing any Special Home Occupation Permit, to inspect the premises in which the occupation is being conducted, to insure compliance with the provisions of this section or any conditions additionally imposed.

**7-11.4(f).** Failure of a Special Home Occupation permittee to comply with the provisions of this section or any conditions imposed in the Zoning Certificate, shall result in the revocation of such permit, after notice and hearing by the Town Board.

**7-12. AGRICULTURAL OPERATIONS.** Agricultural operations meeting the following criteria may be allowed in an "R-1" Suburban Residential District in the Town:

**7-12.1.** Agricultural operations may occur on tracts of two (2) acres or more, not including the minimum lot area required in the "R-1" Suburban Residential District.

**7-12.2.** Agricultural operations may include the production and storage of farm crops, as well as the keeping of domestic farm animals.

**7-12.3.** The raising or keeping of livestock is permitted only if there are a minimum of two (2) acres fenced property available. The ratio of livestock shall not exceed four (4) animal units per each two (2) acres. No slaughter operations are permitted.

**7-12.4.** Agricultural operation shall not produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

**7-12.5.** Equipment or machinery shall not be used in the agricultural operation which will create electrical interference to surrounding properties.

**7-12.6.** Agricultural operations may include accessory uses necessary to treat, store, or produce retail farm market products provided, however, that such accessory uses shall be clearly incidental and secondary to the agricultural operation.

**7-12.7.** Agricultural operations shall not include commercial livestock pen feeding (feed lots).

**7-12.8.** All agricultural operations shall maintain pasture areas so as to have a grass covered surface.

**7-12.9.** All corral and paddock areas shall be graded so as to prevent the accumulation of drainage and storm water run-off.

**7-12.10.** All stable, corral and paddock areas shall be maintained in a clean and sanitary manner so as to prevent the breeding of insects.

**7-12.11.** The agricultural operation shall comply with the provisions of Ordinance No. 8 (Building Code) and Ordinance No. 46 (Uniform Fire Code).

**7-12.12.** All agricultural operations shall comply with the provisions of Ordinance No. 16 (Public Nuisance).

**7-12.13.** All agricultural operations keeping livestock, shall comply with the provisions of Ordinance No. 5 (Animal Control).

### **7-13. NON-CONFORMING USES.**

**7-13.1. STANDARDS.** The following provisions shall apply to all Non-Conforming Uses.

**7-13.1(a).** A Non-Conforming Use may be continued, but may not be extended, expanded, or changed unless to a conforming use, except as permitted by the Town Board in accordance with the provisions of this Ordinance.

**7-13.1(b).** A Non-Conforming Use Permit shall be obtained by the owner of any non-conforming use, except single family residential homes and related garages and accessory buildings, as evidence that the use lawfully existed prior to the adoption of the provision which made the use non-conforming.

**7-13.1(c).** A Non-Conforming Use Permit shall not be issued for a period of more than five (5) years. Such permit may be renewed only upon re-application for a Non-Conforming Use Permit, pursuant to the procedures and requirements established in this section.

**7-13.1(d).** Any non-conforming use damaged by fire, flood, explosion or other casualty may be re-established and used as previously permitted if such re-establishment is approved by the Town Board. Such non-conforming use shall be re-established within twelve (12) months of the casualty to having no greater size or intensity than before the casualty.

**7-13.1(e).** In the event that any non-conforming use ceases or is abandoned voluntarily, for a period of one (1) year, such non-conforming use shall not be resumed.

## **7-13.2. PROCEDURE.**

**7-13.2(a).** Non-Conforming Use Permits shall be applied for in accordance with the application, review and performance requirements of Section 9-4 (Conditional Use Permit Procedure). Applications for Non-Conforming Use Permits shall be accompanied by a fee established by Town Ordinance.

**7-13.2(b).** In addition to the requirements of Section 9-4 (Conditional Use Permit Procedure) the Town Board may impose such conditions as deemed necessary to the approval of any Non-Conforming Use Permit, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provisions of this section.

**7-13.2(c).** Upon approval of a Non-Conforming Use Permit, a business or contractor's license shall be issued for the balance of the calendar year and renewed for periods of one year each. All applications for business licensee renewal shall be processed by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business or contractor's license shall result in notice and hearing by the Town Board for revocation of the licensee's Non-Conforming Use Permit.

**7-13.2(d).** In the event the Town administratively renews a business or

contractor's license after the expiration of a Non-Conforming Use permit, such Non-Conforming Use Permit shall be extended for a period concurrent with the renewed business or contractor's license, or until the Town initiates proceedings for the revocation of such Non-Conforming Use Permit.

**7-13.2(e).** If an application for a Non-Conforming Use Permit is denied, no proceeding for a Non-Conforming Use Permit involving the same property and the same business shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-13.2(f).** The Town Board reserves the right, upon issuing any Non-Conforming Use Permit, to inspect the premises in which the occupation is being conducted, to insure compliance with the provisions of this section or any conditions additionally imposed.

**7-13.2(g).** Failure of a non-conforming use permittee to comply with the provisions of this section or any conditions imposed in the Non-Conforming Use Permit, shall result in the revocation of such permit, after notice and hearing by the Town Board.

**7-14. DWELLING UNITS PROHIBITED.** No cellar, garage, tent, travel trailer, basement with unfinished structure above, or accessory building, shall at any time be used as a dwelling unit.

**7-15. ZONING COORDINATION.** Any proposed amendment to land use on land that borders another town or city shall be referred to such town or city for review and comment prior to action by the Town Board. A period of no more than forty-five (45) days shall be provided for receipt of such comments. Any comments received by the Town Board shall be regarded as advisory only.

**7-16. MODEL HOMES.** Model homes may be permitted in any "R" Residential District.

**7-16.1. STANDARDS.** The following provisions apply to all model homes.

**7-16.1(a).** A model home shall be limited to operating between the hours of 9:00 a.m. and 8:00 p.m. Monday through Friday, and between 9:00 a.m. and 6:00 p.m. Saturday and Sunday.

**7-16.1(b).** Parking related to the use of a model home shall be limited to a total of not more than ten (10) automobiles, with no more than six (6) automobiles parked on the street. All on-street parking shall be limited to one (1) side of the street only.

**7-16.1(c).** A model home shall not be used to promote the sale of properties or buildings outside of the subdivision in which the model home is located.

**7-16.1(d).** Exterior lighting of a model home shall be limited to the site and the building and shall comply with the provisions of Ordinance No. 16 (Public Nuisance). In no event shall exterior lighting be illuminated beyond the hours of operation.

## **7-16.2. PROCEDURE.**

**7-16.2(a).** Model homes shall require a Model Home Permit which may be approved and issued by the Town Clerk. Model Home Permits shall be applied for in accordance with provisions of this section.

(1). If the Town Clerk recommends that a Model Home Permit be denied, then it shall be applied for in accordance with the application, review and performance requirements of Section 9-3 (Permitted Use Standards Procedure).

**7-16.2(b).** An application fee in an amount established by Town Ordinance shall accompany the application.

**7-16.2(c).** The applicant shall provide five (5) copies of the site plan and building plans together with all supporting data. This information shall be submitted in the following manner.

(1). The site plan shall contain the following data:

(i). A scale no greater than one inch equal to twenty feet (1" = 20"), and no less than one-quarter inch equals one foot (1/4" = 1").

(ii). The location of the site and the use within the subdivision.

(iii). Site grading and drainage plan having a contour interval of no greater than two (2) feet.

(iv). Delineation of all lot and yard setbacks.

(v). Location of all buildings, open spaces, recreation areas,

utility areas, service areas, access drives, parking areas, storage areas, proposed utility lines, existing utility lines and easements.

**(vi).** Location and description of all other site improvements including driveways, fences, walls, signs, lighting, walkways, patios, decks and barriers.

**(vii).** Delineation of all areas to be paved or surfaced, including a description of the surfacing material to be used, and location and function of all yards.

**(viii).** Narrative description of hours of operation, illumination of site and a parking plan for visitors to site.

**(2).** Building site plans shall indicate the size, location and intended use of all structures, and preliminary architectural plans for all proposed structures including exterior finishes, floor plans and elevations.

**(3).** The application shall include a time schedule for the proposed construction and development of the use.

**(4).** The Town may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Town may waive any of the requirements of Section 9-3.2(b), where such information is deemed not necessary for review of the application.

**7-16.2(d).** In addition to the requirements of Section 9-3 (Permitted Use Standards Procedure) the Town may impose such standards as deemed necessary to the approval of any Model Home Permit, based upon the health, safety and welfare of the Town, in order to carry out the purpose and provisions of this section.

**7-16.2(e).** Upon approval of a Model Home Permit, a business or contractor's license shall be issued for the balance of the calendar year and renewed for periods of one year each. All applications for business license renewal shall be processed by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business or contractor's license shall result in notice and hearing by the Town Board for revocation of the licensee's Model Home Permit.

**7-16.2(f).** In the event the Town administratively renews a business or contractor's license after the expiration of a Model Home Permit, such Model Home Permit shall be extended for a period concurrent with the renewed business or contractor's license, or until the Town initiates proceedings for the revocation of such Model Home Permit.

**7-16.2(g).** If an application for a Model Home Permit is denied, no proceeding for a Model Home Permit involving the same property and the same business shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**7-16.2(h).** The Town reserves the right, upon issuing any Model Home Permit, to inspect the premises in which the occupation is being conducted, to insure compliance with the provisions of this section or standards additional imposed.

**7-16.2(i).** Failure of a model home permittee to comply with the provisions of this section or any standards imposed in the Model Home Permit, shall result in the revocation of such permit, after notice and hearing by the Town Board.

**7-17. VACATED STREETS.** When any street, alley, easement or public way is vacated by official action, the zoning district abutting the center line of the said vacated area shall not be affected by such proceeding.

**7-18. ADVERTISING SIGN OVERLAY AREA.** An advertising sign overlay area is created consisting of all industrially zoned lots adjacent to I-35/694 where no suburban or urban residential or open space zoning district is located directly across the freeway, and the adjacent land is generally higher than the freeway, allowing construction without the requirement of a variance for height, and readability for the lower profile monument style required by the Town's sign ordinance, Ordinance No. 33. A map is attached which identifies the overlay area.

## **7-19. ADULT USES AND SEXUALLY ORIENTED BUSINESSES.**

**7-19.1. FINDINGS AND PURPOSES.** The purpose of this section is to control, through licensing and zoning regulations, certain land uses that have a direct and detrimental effect on the character of the Town's residential and commercial neighborhoods.

**7-19.2.** The Town Board makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the Town's neighborhoods. In making the findings, the Board accepts the recommendation

of its commission that has studied the experiences of other urban areas about such businesses. Based on studies and findings, the Town Board concludes:

**7-19.2(a).** Adult uses and sexually oriented businesses can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the Town/County crime prevention programs and law enforcement services.

**7-19.2(b).** Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are located. This situation could lessen the amount of desirable housing for residents.

**7-19.2(c).** The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of urban life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating, and the result can be devastating. That is, other businesses move out of the vicinity and residents flee from the area. Lower property values that can result from the concentration of such businesses erode the Town tax base and contribute to urban blight.

**7-19.2(d).** Adult uses and sexually oriented businesses have adverse secondary impacts of the types discussed in subsections 7-19.2(a-c) of this section.

**7-19.2(e).** It is necessary to provide for the special and express regulation of businesses, establishments or commercial enterprises that operate as adult body painting studios, adult bookstores, adult cabarets, adult carwashes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult mini-motion-picture theaters, adult modeling studios, adult motion picture arcades or theaters, adult novelty businesses, adult saunas, and similar adult-oriented services operating under different names to protect the public health, safety and welfare and to guard against the inception and transmission of disease.

**7-19.2(f).** The commercial enterprises such as the types described in Section 7-19.2(e) of this Section and all other similar establishments whose services include sessions offered to adults conducted in private by

members of the same or opposite sex and employing personnel with no specialized training are susceptible to operations contravening, subverting, or endangering the morals of the Town by being the site of acts of prostitution, illicit sex, and occasions of violent crimes and thus, requiring close inspection, licensing and regulation.

**7-19.2(g).** Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the sheriff's department and other departments of the Town. It is necessary for the Town to provide services to all of the Town without concentrating the public services in one area. The concentrated use of Town services detracts from and reduces the level of service available to the rest of the Town. Thus, these types of establishments can diminish the ability of the Town to protect and promote the general health, welfare, morals and safety of the Town.

**7-19.2(h).** The Board adopts the land-use and licensing regulations in this section, recognizing that it has an interest in the present and future character of the Town's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of the Town.

**7-19.3.** It is not the intent of the Town Board to prohibit adult uses or sexually oriented businesses or establishments from having an opportunity to locate in the Town. It also is not the intent of the Board to regulate these businesses on the basis of content, but only on the basis of likely adverse secondary effects.

#### **7-19.4. LICENSE.**

**7-19.4(a). REQUIRED.** No person shall own or operate an adult use or sexually oriented business in the Town without having first secured a license as provided in this Section. Licenses shall be one or two types:

(1). Adult use principal.

(2). Adult use accessory.

**7-19.4(b). APPLICATION.** The Town shall prepare an application for an adult use principal or sexually oriented business license. This application shall include the following:

(1). The name, residence, phone number and birth date of the applicant, if an individual, and if a corporation, the names, residences, phone numbers and birth dates of those owners holding more than five percent of the issued and outstanding stock of the corporation.

(2). The name, address, phone number and birth date of the operator and manager of such operation, if different from the owner.

(3). The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.

(4). A statement detailing each gross misdemeanor or felony relating to a sex offence and/or the operation of adult uses and related activities of which the applicant or, for a corporation, the owners of more than five percent of the outstanding stock of the corporation have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other communities.

(5). The activities and types of business to be conducted.

(6). The hours of operation.

(7). The provisions made to restrict access by minors.

(8). A building plan of the premises detailing all internal operations and activities.

(9). A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

**7-19.4(c). FEES: GROUNDS FOR DENIAL OR REVOCATION.**

(1). Each application for a license required under this division shall be accompanied by a receipt from the Town for payment in full of the required application and investigative fee for the license established by the Town Board. All fees shall be paid into the general fund of the Town.

(2). All licenses shall expire on December 31 of each year. The

Town shall issue each license for one year. However, if part of the license year has elapsed when the application is made, the Town may issue a license for the remainder of the year for a prorated fee. In computing such fee, the Town shall count any unexpired fraction of a month as one month.

**(3).** The annual fee for an adult use or sexually oriented business shall be as set for in Ordinance No. 54 (Fees & Charges).

**(4).** No part of the fee paid for any license issued under this section shall be refunded except for events listed in this section upon application to the Town Clerk within thirty (30) days from the happening of the event. The Town shall refund a prorated portion of the fee for the unexpired period of the license, computed monthly, when operation of the licensed business ceases not less than one month before expiration of the license because of the following:

**(i).** Destruction or damage of the licensed premises by fire or other catastrophe.

**(ii).** The licensee's illness.

**(iii).** The licensee's death.

**(iv).** A change in the legal status making it unlawful for the licensed business to continue.

**(5).** Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the Town Board by the applicant or licensee. If such changes take place during the investigation, the data shall be provided to the Ramsey County Sheriff or Town Clerk in writing, and he shall report the changes to the Town Board. Failure to report such changes by the applicant or the licensee may result in a denial or revocation of a license.

**7-19.4(d). INVESTIGATION; HEARING; ISSUANCE OR DENIAL; TRANSFERABILITY.**

(1). The Town shall investigate all facts set out in the application for the license required under this section. After the Town finishes its investigation, the Town shall hold a public hearing and shall give everyone a chance to be heard for or against the granting of the license. After the investigation and public hearing, the Town Board shall grant or refuse the application.

(2). The Town shall only issue the license to the applicant. The license shall not be transferred to another holder. The Town shall only issue each license for the premises or location described in the application. No license may be transferred to another place without the approval of the Town Board.

**7-19.4(e). INELIGIBLE PERSONS.**

(1). Is under 21 years of age.

(2). Has been convicted of a felony or of violating any state law.

(3). Is not the proprietor of the establishment for which the license is issued.

(4). He has not paid the license and investigative fees required by this ordinance.

(5). Is not a citizen of the United States or a lawful resident alien.

(6). Has had an adult use or similar license or permit revoked under a chapter or statute similar to this article.

**7-19.4(f). INELIGIBLE PLACES.**

(1). No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this ordinance or where any license issued under this section has been revoked for cause until one year has elapsed after such conviction or revocation.

(2). Except users lawfully existing on the effective date of the ordinance from which this section derives, no license shall be granted for any adult use or sexually oriented business that does not meet all requirements of this Ordinance, all building and fire code requirements and all provisions of state and federal law.

**7-19.4(g). NON-CONFORMING USES.** Any adult use or sexually oriented business existing on the effective date of the ordinance from which this section derives may be continued subject to the following:

- (1). No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with this section.
- (2). A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the Town. The Town requires a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

**7-19.4(h). CONDITIONS OF ISSUANCE GENERALLY.**

- (1). Every license required under this section shall be granted subject to the conditions in this section and all other sections of this ordinance or state and federal law.
- (2). All licensed premises shall have the license posted in a conspicuous place.
- (3). No minor shall be allowed in or on the premises of an adult use or sexually oriented business.
- (4). Any designated inspection officer or law enforcement officer of the Town shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (5). Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of this ordinance.
- (6). No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.

**7-19.4(e). CONDITIONS OF ISSUANCE FOR ADULT USE PRINCIPAL.** The Town permits adult use principal and sexually oriented businesses only in the I-2 – Industrial Zoning District subject to the following:

- (1). No adult use principal or sexually oriented business shall be located closer than 1,000 feet from any other adult use principal or sexually oriented business in any community. Measurements shall be made in a straight line, without regard to community boundaries,

intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.

**(2).** No adult use principal or sexually oriented business shall be located closer than 500 feet from any residential lot line, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library, or licensed child care or day care center in any community. Measurements shall be made in a straight line, without regard to community boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library, or licensed child care or day care center.

**(3).** No adult use principal or sexually oriented business shall be located closer than 500- feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in any community. Measurements shall be made in a straight line, without regard to community boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).

**(4).** All adult uses and sexually oriented businesses must follow all of the sections of this Ordinance.

**(5).** The Town prohibits any building owner or operator from having more than one of the following uses, tenants or activities in the same building or structure:

**(i).** Adult body painting studio.

**(ii).** Adult bookstore.

**(iii).** Adult cabaret.

- (iv).** Adult carwash.
- (v).** Adult companionship establishment.
- (vi).** Adult entertainment facility.
- (vii).** Adult hotel or motel.
- (viii).** Adult modeling studio.
- (ix).** Adult sauna/steam room/bathhouse.
- (x).** Adult motion picture theater.
- (xi).** Adult mini-motion-picture theater.
- (xii).** Adult massage parlor.
- (xiii).** Adult health/sports club.
- (xiv).** Adult novelty business.
- (xv).** Adult novelty business
- (xvi).** Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas that the public could see.

**(6).** An adult use principal or sexually oriented businesses shall not sell or dispense non-intoxicating or intoxicating liquors, nor shall it be located in a building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors.

**(7).** No adult use principal or sexually oriented business entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any section of this Ordinance or the laws of the State or the United States. Nothing in this ordinance shall be constructed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including not but limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material

generally or the exhibition, sale or distribution of specified materials to minors.

**(8).** No adult use principal or sexually oriented business shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

**(9).** All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two feet of the door-opening device of the adult use establishment or section of the establishment devoted too adult books or materials which states: "This business sells or displays material containing adult themes. Persons under age 18 years of age shall not enter."

**(10).** No person under the age of 18 shall be permitted on or in the premises of any adult use or sexually oriented business establishment. No person under the age of 18 shall be permitted access to material displayed, offered for sale, given, transferred, conveyed or rented by an adult use or sexually oriented business.

**(11).** Adult use principal and sexually oriented businesses shall not be opened between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday.

**7-19.4(f). CONDITIONS OF ISSUANCE FOR ADULT USE ACCESSORY.**

The Town may issue adult use accessory licenses to businesses or establishments located in the I-2 zoning district subject to the following requirements:

**(1).** The adult use accessory shall comprise no more than 20 percent of the floor area or up to 500 square feet, whichever is smaller, of the establishment, space, structure or building in which it is located.

**(2).** Display areas for adult movie or videotape, or C/D rentals or other products shall be restricted from general view and shall be located within a separate room, for which the access is in clear view and in the control of the person responsible for the operation.

**(3).** Magazines and publications or other similar products classified or qualified as adult uses shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

**(4).** Adult use accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

**7-19.4(g). REVOCATION, SUSPENSION OR NON-RENEWAL.**

**(1).** The Town Board may revoke, suspend, or not renew a license issued under this section upon recommendation of the Town Clerk that shows the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

**(i).** Fraud, deception or misrepresentation about securing the license.

**(ii).** Habitual drunkenness or intemperance in the use of drugs, including but not limited to the use of drugs defined in Minnesota Statutes.

**(iii).** Engaging in conduct involving moral turpitude or permitted or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees from engaging in conduct involving moral turpitude.

**(iv).** Failure to follow any requirements of sections of this Ordinance or other Town ordinances about sanitary and safety conditions, zoning requirements, building code requirements or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this ordinance.

**(v).** Conviction of an offense involving moral turpitude.

**(vi).** The certificate holder may appeal such suspension, revocation or nonrenewal to the Town Board. The Board shall consider the appeal at a regularly scheduled public hearing on or after ten days from service of the notice of

appeal to the Town Clerk. At the conclusion of the hearing, the Board may order:

(a). The revocation, suspension or non-renewal be affirmed.

(b). The revocation, suspension or non-renewal be lifted and the certificate be returned to the certificate holder.

(c). The imposition, at its discretion, of any additional terms, conditions or stipulations for the suspension or issuance of the certificate.

## **SECTION 8. MANAGEMENT OF SHORELAND AREAS.**

### **8-1. STATUTORY AUTHORIZATION AND POLICY.**

**8-1.1. Statutory Authorization.** This shoreland overlay district is adopted pursuant to the authorization and policies contained in Minnesota Statutes.

**8-1.2. Policy.** The uncontrolled use of shorelands of White Bear Township, Minnesota, affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the use of waters and related land resources. This responsibility is hereby recognized by White Bear Township.

### **8-2. GENERAL PROVISIONS.**

**8-2.1. Jurisdiction.** The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 8-4. of this ordinance.

**8-2.2. Compliance.** The use of any shoreland of public water; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this ordinance and other

applicable regulations.

**8-2.3. Enforcement.** The Code Enforcement Officer is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 8-10.1 of this Ordinance.

**8-2.4. 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 shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of this inconsistency only.

**8-3. DEFINITIONS.** Defined in Section 3 of this Ordinance.

**8-4. SHORELAND CLASSIFICATION SYSTEM.**

**8-4.1. Shoreland Classification System.** The public waters of White Bear Township have been classified below consistent with the criteria found in Minnesota Regulations and the Protected Waters Inventory Map for Ramsey County, Minnesota.

**8-4.2.** The shoreland area for the water bodies listed in this section shall be as defined in Section 3-66.G and as shown on the Official Zoning Map.

Lakes.

			Protected Waters
A. <u>Natural Environment Lakes</u>	<u>Common Name</u>	<u>Inventory I.D.#</u>	
Ox Lake	Ox Lake	62-25	
(Unnamed)	Oak Ridge Pond	62-23	
Rice Lake	Rice Lake	62-32	
Tamarack Lake	Tamarack Lake	62-21W	
Unnamed	Fish Lake	62-22W	
Poplar Lake	Poplar Lake	62-44	
			Protected Waters
B. <u>Recreational Development Lakes</u>		<u>Inventory I.D.#</u>	
Goose Lake		62-33	

Protected Waters

C. <u>General Development Lakes</u>	Inventory I.D.#
Bald Eagle Lake	62-2
White Bear Lake	82-167P

D. Tributary Streams

County Ditch #14 connecting Goose Lake to Rice Lake. The Tributary connecting Bald Eagle Lake with Otter Lake.

\*All protected watercourses in White Bear Township shown on the Protected Waters Inventory Map for Ramsey County, a copy of which is hereby adopted by reference shall be considered "Tributary".

**8-5. LAND USE DISTRICTS.** Land use districts are provided in this ordinance.

**8-6. ZONING PROVISIONS.**

**8-6.1. Purpose.** To manage the effects of shoreland and water surface crowding, to prevent pollution of surface and ground waters of the state, to provide ample space on lots for sewage treatment system, to minimize flood damages, to maintain property values, to maintain historic values of significant historic sites, and to maintain natural characteristics of shorelands and adjacent water areas, shoreland controls must regulate lot sizes, placement of structures, and alterations of shoreland areas.

**8-6.2.** Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 8-6.3. may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of the shoreland controls are met. Necessary variances from setback requirements must be obtained before any use, sewage treatment system, or building permits are issued for the lots. In evaluating all the variances, boards of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lots and shall deny the variances if adequate facilities cannot be provided. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 8-6.3, the lots must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the

requirements of Section 8-6.3. as much as possible.

**8-6.3.** Lot area and width standards for single and duplex residential development; lake classes. The lot area and width standards for single and duplex residential developments for the lake classes are:

**8-6.3(a).** Natural Environment, no sewer:

Lot area (square feet)	Riparian lots	Nonriparian lots
Single	80,000	80,000
Duplex	Not allowed	Not allowed
Lot width (feet)		
Single	200	200

**8-6.3(b).** Recreational Development, no sewer:

Lot area (square feet)	Riparian lots	Nonriparian lots
Single	40,000	40,000
Duplex	Not allowed	Not allowed
Lot width (feet)		
Single	150	150

**8-6.3(c).** General Development, no sewer:

Lot area (square feet)	Riparian lots	Nonriparian lots
Single	22,000	40,000
Duplex	Not allowed	Not allowed
Lot width (feet)		
Single	100	150

**8-6.3(d).** Natural Environment, sewer:

Lot area (square feet)	Riparian lots	Nonriparian lots
Single	12,000	12,000
Duplex	15,000	15,000
Duplex in R-1 District	18,000	18,000
Lot width (feet)		
Single	80	80
Duplex	100	100

**8-6.3(e).** Recreational Development, sewer:

Lot area (square feet)	Riparian lots	Nonriparian lots
Single	12,000	12,000
Duplex	15,000	15,000
Duplex in R-1 District	18,000	18,000
Lot width (feet)		
Single	80	80
Duplex	100	100

**8-6.4. Placement and Height of Structures and Facilities on Lots.** When more than one setback requirement applies to a site, structures and facilities must be located to meet all setbacks. The placement of structures and other facilities on all lots must be managed by shoreland controls as follows:

**8-6.4(a). Structure Setbacks.** The following minimum setbacks presented in the following table for each class of public waters apply to all structures, except water-oriented accessory structures and facilities that are managed according to Section 8-6.5:

Structure setback standards (in feet) from 100-year 1% Storm Elevation Level:

Class	100-year 1% Storm Elevation level setback (feet)		Setback from top of bluff (feet)
	Unsewered	Sewered	
Natural environment	75	50	30
Recreational development	75	50	30
General development	75	50	30
Tributary Stream	75	50	30

**8-6.4(b). Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the water body:

Setback From:	Setback (In feet)
Unplatted cemetery	50
Right-of-way line of federal or state highway; and	50
Right-of-way line of county highway, town road, public street, or other roads or streets not classified.	35

**8-6.4(c). Height of Structures.** All structures in residential shoreland management districts must not exceed 25 feet in height for riparian lots, 35 feet in height for nonriparian lots.

**8-6.4(d). High Water Elevations.** In addition to the setback requirements of Section 8-6.4(a), local shoreland controls must regulate placement of structures in relation to high water elevation. Where state-approved, local flood plain management controls exist, structures must be placed at an elevation consistent with the controls. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

**8-6.4(d)(1).** For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the 100-year 1% storm elevation level, whichever is higher.

**8-6.4(d)(2).** Water-oriented accessory structures may have the

lowest floor placed lower than the elevation determined in this section if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

**8-6.4(d)(3). Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

**8-6.4(d)(4). Uses Without Water-oriented Needs.** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

**8-6.4(d)(5). Steep Slopes.** The Town Code Enforcement Officer shall evaluate possible soil erosion impacts and development visibility from public water before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

**8-6.4(d)(6). Accessory Structures and Facilities.** Each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

(1). The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(2). The setback of the structure or facility from the critical storm event level must be at least ten feet.

(3). The structure or facility must be treated to reduce visibility

as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, assuming summer, leaf-on conditions.

(4). The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(5). The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(6). As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(7). Any accessory structures or facilities not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.

**8-6.4(d)(7). Stairways, Lifts, and Landings.** Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1). Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

(2). Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments.

(3). Canopies or roofs are not allowed on stairways, lifts, or landings.

(4). Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(5). Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

(6). Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items (1) to (5) are complied with in addition to the requirements or Minnesota Statutes.

**8-6.4(d)(8). Decks.** Except as provided in Section 8-6.4(d)(5), decks must meet the structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

(1). A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.

(2). The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback off the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(3). The deck is constructed primarily of wood, and is not roofed or screened.

**8-6.5. Shoreland Alterations.** Vegetative alterations and excavations or grading and filling necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this subdivision and separate permit requirements for grading and filling. However, the grading and filling conditions of

this subdivision must be met for issuance of permits for structures and sewage treatment systems. Public roads and parking areas, as regulated by Section 8-6.6, are exempt from the provisions of this part.

**8-6.5(a).** Removal or alterations of vegetation is allowed according to the following standards:

**(1).** Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

**(2).** Limited clearing of trees and shrubs and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, as well as providing a view to the water from the principal dwelling site, in shore and bluff impact zones and on steep slopes is allowed, provided that:

**(i).** The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

**(ii).** The above provisions are not applicable to the removal of vegetation that is dead, diseased, hazardous or storm damaged;

Must be removed to prevent the spread of diseases or insect pests, as diagnosed and recommended by a licensed arborist;  
Removal of invasive non-native species;

Restoration and erosion control activities consistent with a plan approved by the Town Board and Rice Creek Watershed District or VLAWMO.

**(iii).** Tree removal in the Shore Impact Zone is limited to 10% of the existing significant trees.

**(iv.)** Legacy trees shall not be removed unless they are dead, diseased, dying, hazardous, or storm damaged as defined by Town Staff or a licensed arborist.

**(v).** The Town may approve removal of existing significant trees on a lot exceed 10% of the Shore Impact Zone limitation when a re-landscaping plan is approved by the Town Board.

**(3).** Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earthy, vegetation, or both.

**8-6.5(b).** Before grading and filling on steep slopes or within shore or bluff impact zones involving the movement of more than ten cubic yards of material or anywhere else in a shoreland area involving movement of more than 50 cubic yards of material. The following conditions must also be considered during subdivision, variance, building permit, and other conditional use permit reviews.

**(1).** Before authorizing any grading or filling activity in any type 2, 3, 4, 5, 6, 7 or 8 wetland, the Town Board shall consider how extensively the proposed activity would affect the following functional qualities of the wetland:

**(i).** sediment and pollutant trapping and retention;

**(ii).** storage of surface runoff to prevent or reduce flood damage.

**(iii).** fish and wildlife habitat;

**(iv).** recreational use;

**(v).** shoreline or bank stabilization; or

**(iv).** noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

**(2).** Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(3). Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(4). Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(5). Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(6). Fill or excavated material must not be placed in a manner that creates an unstable slope.

(7). Plans to place fill or excavate material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.

(8). Fill or excavated material must not be placed in bluff impact zones.

(9). Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes.

(10). Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(11). Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

**8-6.5(c). Connections to Public Waters.** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors shall meet the requirements set forth in Section 9-5.5(b). Permission may be given only after the commissioner has approved the proposed connection to public waters.

**8-6.6.** Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

**8-6.6(a). Placement and Design of Roads, Driveways, and Parking Areas.** Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

**8-6.6(b).** Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

**8-6.6(c).** Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private ramps Section 8-6.5(b) must also be met.

**8-6.7. Standards for Commercial, Industrial, Public and Semi-Public Uses.**

**8-6.7(a).** Surface water-oriented commercial uses and industrial, public, or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(1). In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(2). Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(3). Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(i). No advertising signs or supporting facilities for signs may

be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

**(ii).** No signs shall be placed on the lakeside portion of a property.

**(iii).** Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

**8-6.7(b).** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

#### **8-6.8. Storm water Management.**

**8-6.8(a).** The following are general standards:

**(1).** When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.

**(2).** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

**(3).** When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

**8-6.8(b).** The following are specific standards:

- (1). Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- (2). When constructed facilities are used for storm water management, they must be designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- (3). New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**SECTION 8-7. CONTROLLED ACCESS TO PUBLIC WATERS.**

**8-7.1.** Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

- (1). They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
- (2). If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth), must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- (3). They must be controlled or owned by the Town or be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided

riparian access rights to the access lot; and

**(4).** Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

## **SECTION 8-8. WATER SUPPLY AND SEWAGE TREATMENT.**

**8-8.1. Water Supply.** Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

**8-8.2. Sewage Treatment.** Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

**8-8.2(a).** Publicly-owned sewer systems must be used where available.

**8-8.2(b).** All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance and Ordinance No. 70 (Individual Sewage Treatment System).

**8-8.2(c).** On-site sewage treatments systems must be set back from the ordinary high water level in accordance with the following table:

Sewage Treatment System Setback Standards

Class	Setback from ordinary high water level (feet)
Natural environment	150
Recreational development	75
General developments	50
Tributary Streams	75

**8-8.2(d).** All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub items (1)-(4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- (1). Depth to the highest known or calculated ground water table or bedrock;
- (2). Soil conditions, properties, and permeability;
- (3). Slope;
- (4). The existence of lowlands, local surface depressions, and rock outcrops;

**8-8.2(e).** Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 8-8.3 of this Ordinance.

### **8-8.3. Nonconforming Sewage Treatment Systems.**

**8-8.3(a).** A sewage treatment system not meeting the requirements of Section 8-8 of this Ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of these provisions, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

**8-8.3(b).** The governing body of White Bear Township has, by formal resolution, notified the commissioner of its program to identify nonconforming sewage treatment systems. White Bear Township will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two (2) years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes in

effect at the time of installation may be considered as conforming unless they are determined to be failing, except that system , cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

**SECTION 8-9. SUBDIVISION PROVISIONS:** Subdivision regulations are provided in Ordinance No. 15 (Subdivision) of the Township code.

**8-9.1. Land Suitability.** Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit or government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

**8-9.2. Platting.** All subdivisions that create five or more lots or parcels that are 2 1/2 acres or less in size are processed as plats in accordance with Minnesota Statutes.

**8-9.3.** Consistency with other controls.

**8-9.4. Information Requirements.** Provided in Ordinance No. 15 (Subdivision) of the Township.

**8-9.4(a).** Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

**8-9.4(b).** All surface water features required by Minnesota Statutes, shall be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

**8-9.4(c).** Adequate soil information to determine suitability for building on on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.

**8-9.4(d).** Information regarding adequacy of domestic water supply; extent

of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities; and

**8-9.4(e).** Location of 100-year flood plain areas from existing maps or data.

**8-9.4(f).** A line or contour representing the critical storm event level and elevation, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

**8-9.5. Dedications.** If local governments require land or easement dedications, they must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

## **8-10. PLANNED UNIT DEVELOPMENTS (PUD'S)**

**8-10.1. Types of PUD's Permissible.** Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.

**8-10-2. Processing of PUD's.** Planned unit developments must be processed as a conditional use. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

**8-10-3. Applicant for PUD.** The applicant for a PUD shall be processed in accordance with the application review and performance of Section 8-4, (Conditional Use Permit Procedure) of this ordinance and Ordinance No. 15 (Subdivision). The following shall also be provided:

**8-10.3(a).** Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 8-10.6 of this ordinance.

**8-10.3(b).** When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

**8-10.3(c).** Those additional documents as requested by the Town Board that are necessary to explain how the PUD will be designed and will function.

**8-10.4. Site "Suitable Area" Evaluation.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 8-10.5.

**8-10.4(a).** The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes- first tier	200	200
General development lakes- second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

**8-10.4(b).** The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

**8-10.5. Residential and Commercial PUD "Base" Density Evaluation:** The procedures for determining the "base" density of a PUD and density increase multipliers are as follows: Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.

**8-10.5(a). Residential PUD "Base Density Evaluation".**

**(1).** The suitable area within each tier is divided by the single residential lot size standard for lakes, or for rivers, the single residential lot width standard times the tier depth. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 8-

10.6. The density of any residential PUD shall not exceed 6 units per acre.

**8-10.5(b).** Commercial PUD "Base" Density Evaluation.

(1). Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(2). Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development  
Floor Area Ratios\*  
Public Waters Classes

*Average unit floor area (sq ft)	Sewered general development lakes; first tier on unsewered general development lakes urban tributary river segments	Second and Additional tiers on unsewered general development lakes; recreational development lakes	Natural environment lakes
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1000	.108	.054	.027
1100	.116	.058	.029
1200	.125	.064	.032
1300	.133	.068	.034
1400	.142	.072	.036
1500	.150	.075	.038

\* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1500 square feet. For recreational camping areas, use the ratios listed at 400 square

feet.

**(3).** Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

**(4).** Divide the total floor area by tier computed in Item (3) above by the average inside living area size determined in Item (1) above. This yields a base number of dwelling units and site for each tier.

**(5).** Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section 8-10.6.

**8-10.5(c).** Density Increase Multipliers:

**(1).** Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 8-6 are met or exceeded and the design criteria in Section 8-10.6 are satisfied. The allowable density increase in Item 2 below will only be allowed in structure setbacks from the ordinary high water level which are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

**(2).** Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

**8-10.6.** Maintenance and Design Criteria.

**8-10.6(a).** Maintenance and Administration Requirements.

(1). Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

**(2). Open Space Preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

(i). Commercial uses prohibited (for residential PUD's);

(ii). Vegetation and topographic alterations other than routine maintenance prohibited;

(iii). Construction of additional buildings or storage of vehicles and other materials prohibited; and

(iv). Uncontrolled beaching of watercraft prohibited.

**(3). Development Organization and Functioning.** Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

(i). Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

(ii). Each member must pay pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

(iii). Assessments must be adjustable to accommodate changing conditions; and

(iv). The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

**8-10.6(b). Open Space Requirements.** Planned unit developments must contain open space meeting all of the following criteria:

- (1). At least 50 percent of the total project area must be preserved as open space;
- (2). Dwelling units or sites, road right-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures of facilities, are developed areas and shall not be included in the computation of minimum space;
- (3). Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites and unplatted cemeteries;
- (4). Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- (5). Open space may include subsurface sewage treatment systems if the use of the space is restricted to void adverse impacts on the systems;
- (6). Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- (7). The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- (8). The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of the new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.

**8-10.6(c). Erosion Control and Storm water Management.** Erosion control and storm water management plans must be developed and the PUD must:

- (1). Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after

construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

(2). Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved storm water management plan and consistency with Section 6-5.

**8-10.6(d). Centralization and Design of Facilities.** Centralization and design of facilities and structures must be done according to the following standards:

(1). Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 6-4 and 8 of this Ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement or treatment system for each sewage system;

(2). Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification; setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 8-10.5 of this Ordinance for developments with density increases;

(3). Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them.

Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercial used harbor). Launching ramp facilities including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

(4). Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(5). Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(6). Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 8-6.4 of this ordinance and are centralized.

**8-10.7. Conversions.** Existing land uses and facilities may be converted to residential planned unit developments if all of the following standards are met:

**8-10.7(a).** Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

**8-10.7(b).** Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

**8-10.7(c).** Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(1). Removal of extraneous buildings, docks, or other facilities that

no longer need to be located in shore or bluff impact zones;

(2). Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water, and

(3). If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

**8-10.7(d).** Existing dwelling units or dwelling site densities that exceed standards in Section 8-10.5 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improvement vegetative screening, centralizing shore recreation facilities, installing new sewage treatments systems, or other means.

## **SECTION 8-11. ADMINISTRATION.**

**8-11.1. Permits Required.** A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 8-6.5 of this ordinance. Application for a permit shall be made to the building official. The application shall include the necessary information so that the building official can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

**8-11.1(a).** A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by the Ordinance No. 70 (Individual Sewage Treatment Systems), shall be reconstructed or replaced in accordance with the provisions of this ordinance.

**8-11.2. Certificate of Zoning Compliance.** The building official shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 8-11.1 of this Ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation

of this ordinance and shall be punishable as provided in Section 8-2.3 of this Ordinance.

**8-11.3. Variances.** Variances may only be granted in accordance with Minnesota Statutes, as applicable. They may not circumvent the general purposes and intent of the official controls. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, boards of adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent property.

**8-11.4. Conditional Uses.** The following standards along with the requirements of Section 9-4, are incorporated into local controls and used for reviewing conditional uses located in shoreland area:

**8-11.4(a).** A thorough evaluation of the topographic, vegetation, and soil conditions on the site to ensure:

- (1). Prevention of soil erosion or other possible pollution of public waters, both before and after construction;
- (2). Limiting visibility of structures and other facilities as viewed from public waters; and
- (3). Adequacy of the site for water supply and on-site sewage treatment; and

**8-11.4(b).** An assessment of the types, uses, numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

**8-11.5. Non-conformities.**

**8-11.5(a).** On-site sewage treatment systems identified as nonconforming under Minnesota Statutes in effect at the time of installation, may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation

above groundwater than required by Ordinance No. 70 (Individual Sewage Treatment Systems) , shall be considered nonconforming.

**8-11.5(b).** All non-conformities other than on-site sewage treatment systems must be managed according to applicable state statutes and local government official controls.

#### **8-11.6. Notification Procedures.**

**8-11.6(a).** Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notice of hearings to consider proposed plats must include copies of the plats.

**8-11.6(b).** A copy of approved amendments and plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

### **SECTION 9. ADMINISTRATION AND ENFORCEMENT.**

**9-1. CODE ENFORCEMENT OFFICER.** The Code Enforcement officer shall be appointed by the Town Board and shall:

**9-1.1.** Administer and enforce the provisions of this Ordinance in accordance with it's literal terms and shall not have the power to permit any use or change of use which does not conform to this Ordinance.

**9-1.2.** Issue Zoning Certificates, building permits, and Certificates of Occupancy.

**9-1.3.** Maintain a permanent file of all permits, Zoning Certificates and Certificates of Occupancy.

**9-2. ZONING CERTIFICATE.** The issuance of a Zoning Certificate by the Town Clerk certifies that a person has complied with all administrative requirements to proceed with a use. The Town Clerk may revoke a Zoning Certificate that has been issued in error.

**9-2.1.** A Zoning Certificate shall be obtained before any person may act pursuant to a:

**9-2.1(a).** Residential Planned Unit Development

**9-2.1(b).** Special Home Occupation Permit

**9-2.1(c).** Non-conforming Use Permit

**9-2.1(d).** Permitted Use Standards

**9-2.1(e).** Conditional use Permit

**9-2.1(f).** Wetlands Permit

**9-2.1(g).** Variance

**9-2.2.** Applications for a Zoning Certificate and related permit shall be accompanied by a plot plan showing clearly and completely the location, dimensions and nature of any structure involved and for such other information as the Town Clerk may require for administration of this Ordinance, together with a filing fee required in accordance with a schedule adopted by Town Ordinance.

**9-2.3.** Activities authorized by a Zoning Certificate shall be initiated within six (6) months after issuance of the Zoning Certificate, or the Zoning Certificate shall lapse and be of no further force and effect. The Town Board may grant one (1) extension of six (6) months, pursuant to Section 9-2.3(a) of this Ordinance.

**9-2.3(a). Extensions.** The Town Board may grant one extension of time to commence activities authorized by a Zoning Certificate. The permittee shall file with the Town Clerk a written report prior to the date established for commencement of activities. The written request shall set forth the reasons for the requested extensions.

**9-2.3(b). Abandonment.** A project that has been authorized by a Zoning Certificate but has been abandoned for a period of six (6) months, will cause that Zoning Certificate to lapse and be of no further force and effect. An abandoned project will not be granted any extension under 9-2.3(a) of this Ordinance.

### **9-3. PERMITTED USE STANDARDS PROCEDURE.**

**9-3.1. GENERAL.** All permitted uses as specified in Section 6-4 (Permitted Uses) shall comply with the Permitted Use Standards approved by the Town Board, after recommendations by the Planning Commission, in accordance with the following provisions:

**9-3.1(a).** The requirements of this section shall not apply to permitted single family dwellings, garages and accessory buildings auxiliary to single family dwellings, and permitted home occupations.

**9-3.1(b).** All Special Use Permits issued pursuant to this Ordinance, as amended on September 18, 1978, and all Design Standards Permits issued pursuant to this Ordinance, as amended on January 9, 1984, shall be adopted by reference as Permitted Use Standards and controlled by the provisions of this section.

**9-3.2. APPLICATIONS.** Applications for Permitted Use Standards shall be filed with the Town Clerk together with the review and approval of all governmental agencies having such authority.

**9-3.2(a).** An application fee in an amount established by Town Ordinance shall accompany the application.

**9-3.2(b).** The applicant shall provide ten (10) copies of the site plan and building plans together with all supporting data. This information shall be submitted in the following manner:

**(1).** The site plan shall contain the following data:

**(i).** A scale no greater than one inch equal to one hundred feet (1" = 100'), and no less than one-quarter inch equals one foot (1/4" = 1').

**(ii).** The location of the site and the use of adjacent land.

**(iii).** Existing topography having a contour interval of no greater than two (2) feet.

**(iv).** Site grading and drainage plan having a contour interval of no greater than two (2) feet.

**(v).** Delineation of all streams, water bodies and wetlands including the Minnesota Department of Natural Resources classification, water depth and one hundred (100) year/one (1%) percent storm elevation.

**(vi).** Location of all buildings, open spaces, recreation areas, utility areas, service areas, access drives, parking areas, storage areas, proposed utility lines, existing utility lines and

easements.

**(vii).** Location and description of all other site improvements including fences, walls, signs, lighting, walkways, patios, decks and barriers.

**(viii).** Delineation of all areas to be paved or surfaced, including a description of the surfacing material to be used, and location and function of all yards.

**(ix).** A proposed landscaping plan, showing all existing trees over six (6) inches in diameter, and large shrub massings.

**(2).** Building plans shall indicate the size, location and intended use of all structures, and preliminary architectural plans for all proposed structures including exterior finishes, floor plans and elevations.

**(3).** The application shall include a time schedule for the proposed construction and development of the use.

**(4).** The Town Board may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Town Board may waive any of the requirements of Section 9-3.2(b) where such information is deemed not necessary for review of the application.

### **9-3.3. REVIEW**

**9-3.3(a).** The Town Clerk shall forward the copies of the application to appropriate staff and consultants for review and comment.

**9-3.3(b).** The application, together with staff, consultant and agency reviews, shall be forwarded to the Planning Commission for its review and recommendation.

**9-3.3(c).** The Town Clerk shall forward all comments and recommendations to the Town Board for a decision following the Planning Commission meeting.

**9-3.3(d).** The Town Board shall approve the Permitted Use Standards, consistent with the provisions of this Ordinance. All affected permitted uses shall be entitled to the issuance of Permitted Use Standards.

**9-3.3(e).** The Town Board may attach such standards as deemed necessary to the approval of any Permitted Use Standards, based upon the health, safety and welfare of the Town. All development, construction and use shall be in accordance with the approved plans, unless an amended application is submitted and approved. Any development or use contrary to the approved plan and Permitted Use Standards shall constitute a violation of this Ordinance.

**9-3.4. STANDARDS.** A Permitted Use Standards application shall be approved if it is found to meet all standards set forth in this section.

**9-3.4(a).** The use shall be planned, designed, constructed and maintained to avoid:

- (1). Unnecessary detracting from the appearance of adjacent properties or from the Town as a whole.
- (2). Aesthetic incompatibility.
- (3). Aural Incompatibility.
- (4). Damage to vegetation.
- (5). Traffic pattern incompatibility.
- (6). Erosion of soil.
- (7). Unnecessary loss of existing natural features (vegetation, steep slopes, wetlands, water bodies).
- (8). Increased flood potential.

**9-3.4(b).** No development shall be allowed which will result in unusual maintenance or repair costs of road, parking areas or utility lines.

**9-3.4(c).** Development shall be permitted only in such a manner that the maximum number of trees shall be preserved. It shall be the duty of the applicant to demonstrate that there are no feasible alternatives to the cutting of trees on the site.

**9-3.4(d).** The types and density of land use proposed for the site shall be suited to the site conditions and shall adequately correct problems due to soil limitations, including but not limited to, bearing strength, shrink-swell

potential, slope stability, high groundwater, or wetness.

**9-3.4(e).** The proposed use shall be sited, designed, oriented and landscaped to produce a harmonious relationship of building and grounds to buildings and properties in the neighborhood.

**9-3.4(f).** The proposed use shall show sufficient landscaping to screen undesirable features and to enhance the development.

**9-3.4(g).** The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the policy and recommendations of the Comprehensive Plan.

**9-3.4(h).** Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters and Town Board shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

#### **9-3.5. PERFORMANCE.**

**9-3.5(a).** In order to determine whether a proposed permitted use will conform to the requirements of this Ordinance, the Town Board may obtain the services of qualified professional consultants, the costs of which shall be borne by the applicant, to review the Permitted Use Standards application.

**9-3.5(b).** Activities authorized by the Permitted Use Standards shall be initiated within six (6) months after approval by the Town Board. If such activity is not initiated within such time period, the approval shall be void, unless an extension is approved by the Town Board pursuant to Section 9-2.3 of this Ordinance.

**9-3.5(c).** Upon approval of Permitted Use Standards for a business or industrial use, a business license shall be issued for the balance of the calendar year, and renewed for periods of one (1) year each. All applications for business license renewals shall be processed administratively by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business license shall be a violation of this Ordinance.

**9-3.5(d).** The Town Board reserves the right, upon issuing Permitted Use Standards, to inspect the premises in which the use is being conducted to insure compliance with the provisions of this section and any standards

additionally imposed.

**9-3.5(e).** Failure of a permitted use standards grantee to comply with the provisions of this section or any standards additionally imposed in the Permitted Use Standards shall result in the revocation of such permit, after notice and hearing by the Town Board.

#### **9-4. CONDITIONAL USE PERMIT PROCEDURE.**

**9-4.1. GENERAL.** A conditional use as specified in Section 6-5 (Conditional Uses) may be approved or denied by the Town Board, after recommendations by the Planning Commission, in accordance with the following provisions.

**9-4.2. APPLICATIONS.** Applications for Conditional Use Permits shall be filed with the Town Clerk together with the review and approval of all governmental agencies having such authority.

**9-4.2(a).** An application fee in an amount established by Town Ordinance shall accompany the application.

**9-4.2(b).** The applicant shall provide ten (10) copies of the site plan and building plans together with all supporting data. This information shall be submitted in the following manner:

**(1).** The site plan shall contain the following data:

**(i).** A scale no greater than one inch equals one hundred feet (1" = 100'), and no less than one-quarter inch equals one foot (1/4" = 1').

**(ii).** The location of the site and the use of adjacent land.

**(iii).** Existing topography having a contour interval of no greater than two (2) feet.

**(iv).** Site grading and drainage plan having a contour interval of no greater than two (2) feet.

**(v).** Delineation of all streams, water bodies and wetlands including the Minnesota Department of Natural Resources classification, water depth and one hundred (1) year/one (1%) percent storm elevation.

(vi). Location of all buildings, open spaces, recreation areas, utility areas, service areas, access drives, parking areas, storage areas, proposed utility lines, existing utility lines and easements.

(vii). Location and description of all other site improvements including fences, walls, signs, lighting, walkways, patios, decks and barriers.

(viii). Delineation of all areas to be paved or surfaced, including a description of the surfacing material to be used, and location and function of all yards.

(ix). A proposed landscaping plan, showing all existing trees over six (6) inches in diameter, and large shrub massings.

(2). Building plans shall indicate the size, location and intended use of all structures, and preliminary architectural plans for all proposed structures including exterior finishes, floor plans and elevations.

(3). The application shall include a time schedule for the proposed construction and development of the use.

(4). The Town Board may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Town Board may waive any of the requirements of Section 9-4.2(b), where such information is deemed not necessary for review of the application.

### **9-4.3. REVIEW.**

**9-4.3(a).** The Town Clerk shall forward the copies of the application to appropriate staff and consultants for review and comment.

**9-4.3(b).** The application, together with staff, consultant and agency reviews, shall be forwarded to the Planning Commission for its review and recommendation.

**9-4.3(c).** The Town Clerk shall forward all comments and recommendations to the Town Board for a decision following the Planning Commission meeting.

**9-4.3(d).** An optional public hearing by the Planning Commission may be

held before it has made a recommendation to the Town Board, and so long as the Town Board has not approved or denied a Conditional Use Permit. The optional public hearing may be initiated by the Planning Commission or by an application of not less than five (5) Town residents who are freeholders. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town, at least ten (10) days prior to the day of the hearing.

**9-4.3(e).** The Town Board shall conduct a public hearing to determine whether a Conditional Use Permit shall be approved or denied. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town, at least ten (10) days prior to the day of the hearing.

**9-4.3(f).** The Town Board may attach such conditions as deemed necessary to the approval of any Conditional Use Permit, based upon the health, safety and welfare of the Town. All development, construction and use shall be in accordance with the approved plans, unless an amended application is submitted and approved. Any development or use contrary to the approved plan and Conditional Use Permit shall constitute a violation of this Ordinance.

**9-4.4. STANDARDS.** A Conditional Use Permit application shall be approved if it is found to meet all standards set forth in the following provisions.

**9-4.4(a).** The proposed use shall be planned, designed, constructed and maintained to avoid:

- (1). Unnecessary detracting from the appearance of adjacent properties or from the Town as a whole.
- (2). Aesthetic incompatibility.
- (3). Aural Incompatibility.
- (4). Damage to vegetation.
- (5). Traffic pattern incompatibility.
- (6). Erosion of soil.
- (7). Unnecessary loss of existing natural features (vegetation, steep slopes, wetlands, water bodies).
- (8). Increased flood potential.

**9-4.4(b).** The proposed use shall meet all reasonable requirements, as set forth by the Town Board, in order to protect the health, safety and welfare of the Town. Uses proposed for "O-S" Open Space districts shall provide for a level of police protection and civilian supervision as set forth by the Town

Board to ensure supervision and maintenance of said districts.

**9-4.4(c).** Fire prevention and fighting equipment acceptable to the Board of Fire Underwriters and Town Board shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.

**9-4.4(d).** The proposed use shall bear the cost of all additional water availability (W.A.C.) charges, pursuant to Ordinance No. 12 (Regulating Use of Water), and sewer availability (S.A.C.) charges, pursuant to Ordinance No. 36 (Sewer Service Availability and Charges), where the proposed use expands upon a pre-existing use.

**9-4.4(e).** The proposed use shall not result in the destruction, loss or damage of a natural, scenic, environmental or historic feature of the Town.

**9-4.4(f).** The proposed use shall not depreciate the value of adjacent properties.

**9-4.4(g).** The proposed use shall be sited, oriented, designed, landscaped and maintained to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.

**9-4.4(h).** The proposed use shall organize vehicular access and parking to minimize traffic congestion to adjacent properties.

**9-4.4(i).** The proposed use shall preserve and incorporate the site's natural and scenic features into the development design.

**9-4.4(j).** The proposed use shall have no negative impact of noise, glare or odor effects on adjacent properties.

**9-4.4(k).** The proposed use shall preserve the objectives of this Ordinance and shall be consistent with the policy and plan recommendations of the Comprehensive Plan.

#### **9-4.5. PERFORMANCE.**

**9-4.5(a).** In order to determine whether a proposed conditional use will conform to the requirements of this Ordinance, the Town Board may obtain the services of qualified professional consultants, the costs of which shall be borne by the applicant, to review the Conditional Use Permit application.

**9-4.5(b).** Activities authorized by a Conditional Use Permit shall be initiated within six (6) months after approval of the Town Board. If such activity is not initiated within such period, the Conditional Use Permit shall be void, unless an extension is approved by the Town Board pursuant to Section 9-2.3 of this Ordinance.

**9-4.5(c).** Upon approval of a Conditional Use Permit for a business or industrial use, a business license shall be issued to such use for the balance of the calendar year, and renewed for periods of one (1) year each. All applications for business license renewals shall be processed administratively by the Town Clerk and shall be accompanied by a fee established by Town Ordinance. Failure of a licensee to renew a business license shall result in notice and hearing by the Town Board for revocation of the licensee's Conditional Use Permit.

**9-4.5(d).** If an application for a Conditional Use permit is denied, no proceeding for a Conditional Use permit involving the same property and the same conditional use shall be initiated within one (1) year from the date of its denial, unless authorized by the Town Board.

**9-4.5(e).** The Town Board reserves the right, upon issuing any Conditional Use Permit, to inspect the premises in which the use is being conducted to insure compliance with the provisions of this section and any conditions additionally imposed.

**9-4.5(f).** Failure of a conditional use permittee to comply with the provisions of this section or any conditions imposed in the Conditional Use Permit shall result in the revocation of such permit, after notice and hearing by the Town Board.

## **9-5. WETLANDS OVERLAY DISTRICT PERMIT PROCEDURE.**

**9-5.1. OVERLAY DISTRICT BOUNDARIES.** This section shall apply to the wetland areas which are specifically delineated on the official Zoning Map of the Town of White Bear, as well as such other land areas having a predominance of hydric soils that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. For purposes of determining the application of this section to any particular parcel of land or water, an on-site field investigation will be required prior to all development. The above referenced map shall be on file in the office of the Town Clerk and shall be available for inspection and copying.

**9-5.1(a). STANDARDS ADOPTED BY REFERENCE.** This Ordinance hereby adopts by reference Minnesota Rules Chapter 8420, Sections 8420.0100, 8420.0102, 8420.0103, 8420.0105, 8420.0110, 8420.0112, 8420.0115, 8420.0120, 8420.0122, 8420.0200, 8420.0210, 8420.0220, 8420.0225, 8420.0230, 8420.0235, 8420.0240, 8420.0245, 8420.0250, 8420.0260, 8420.0268, 8420.0270, 8420.0280, 8420.0290, 8420.0300, 8420.0350, 8420.0400, 8420.0500, 8420.0505, 8420.0510, 8420.0520, 8420.0530, 8420.0540, 8420.0550, 8420.0600, 8420.0610, 8420.0620, 8420.0630, 8420.0650, 8420.0700, 8420.0710, 8420.0720, 8420.0730, 8420.0740, 8420.0750, 8420.0760, 8420.1010, 8420.1020, 8420.1030, 8420.1040, 8420.1050, 8420.1060, and 8420.1070, as amended, being the sections containing the wetland permit procedures.

**9-5.2. GENERAL.** Except as hereinafter provided in this section, no development, filling, grading, draining, excavation, burning of vegetation, hardcover, temporary or permanent structure, obstructions, septic systems, wells or other alterations shall be allowed within a wetland overlay district without first having obtained a Wetland Permit from the Town.

**9-5.2(a). Exceptions.** The permit requirements established by this section shall not apply to:

**(1). Emergencies.** Emergency work may be performed when necessary to preserve life or property. Prior to the commencement of emergency work, a person shall first report the pertinent facts relating to the need for such work to the Town. The Town shall review such pertinent facts and determine whether an emergency exists. Upon finding that an emergency exists, the Town shall, by written memorandum, authorize the commencement of this emergency exception. A person performing emergency work shall, within ten (10) days following the commencement of such work, apply for the issuance of a Wetland Permit. Upon the issuance thereof, the permittee shall be required to perform such work as is determined to be reasonably necessary to correct any impairment to the wetland occasioned by such emergency work.

**(2).** Activities necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained.

**(3).** Activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland.

(4). Activities in a wetland created solely as a result of beaver dam construction; blockage or culverts through roadways maintained by a public or private entity; actions by public entities that were taken for a purpose other than creating the wetland; or any combination thereof.

(5). Activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland.

(6). Activities associated with emergency repair and normal maintenance or existing public utilities, highways, roads, streets, and bridges, provided that the activities do not result in the draining or filling, wholly or partially, of a wetland.

(7). Normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the drainage or filling, wholly or partially, of a wetland.

**9-5.2(b).** Although a Wetland Permit may not be required for the exempted activities listed in Section 9-5.2(a), a certification of exception must be obtained from the Town for each activity prior to the commencement of any work in a wetland overlay district.

**9-5.3. APPLICATIONS.** Applications for Wetlands Permits shall be filed with the Town Clerk together with the review and approval of all governmental agencies having such authority.

**9-5.3(a).** An application fee in an amount established by Town Ordinance shall be filed with the Town Clerk.

**9-5.3(b).** The applicant shall provide ten (10) copies of the site plan together with all supporting data. This information shall be submitted in the following manner:

(1) The site plan shall contain the following data:

(i). A scale no greater than one inch equals one hundred feet (1" = 100'), and no less than one-quarter inch equals one foot (1/4" = 1').

(ii). The location of the site and the use of adjacent land.

(iii). Existing topography having a contour interval of no greater than (2) feet.

(iv). Site grading and drainage plan having a contour interval of no greater than two (2) feet.

(v). Delineation of all public waters and wetlands in accordance with the laws of Minnesota including existing water depth, and the flood elevation resulting from the runoff of the critical storm event based upon pre- and post-development conditions.

(vi). Location of all buildings, open spaces, recreation areas, utility areas, service areas, access drives, parking areas, storage areas, proposed utility lines, existing utility lines and easements.

(vii). Location and description of all other site improvements including fences, walls, signs, lighting walkways, patios, decks and barriers.

(viii). Delineation of all areas to be paved or surfaced, including a description of the surfacing material to be used, and location and function of all yards.

(ix.) A proposed landscaping plan, showing all existing trees over six (6) inches in diameter, and large shrub massings.

(2). The application shall include a time schedule for the proposed construction and/or specific use of the site.

(3). The Town Board may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Town Board may waive any of the requirements of Section 9-5.3(b), where such information is deemed not necessary for review of the application.

**9-5.4. REVIEW.** Applications for Wetlands Permits shall be filed and reviewed in accordance with Section 9-9 (Amendments (Rezoning)). Prior to such review by the Planning Commission and Town Board, the application shall be processed in the following manner.

**9-5.4(a).** If the application is approved by all governmental agencies having such authority, the Town Clerk shall forward the copies of the application to appropriate staff and consultants for review and comment.

**9-5.4(b). REPEALED.** By Amendment to Ordinance No. 35.

**9-5.4(c).** The application, together with staff, consultant and agency reviews, shall be forwarded to the Planning Commission for review and recommendations.

**9-5.4(d).** The application shall, thereupon, be reviewed in accordance with Section 9-9 (Amendments (Rezoning)).

**9-5.5. STANDARDS.** No Wetlands permit shall be issued unless the Town Board finds and determines that the proposed development complies with the following standards:

**9-5.5(a). Filling.** A minimum amount of filling may be allowed for the reasonable use of property but only when it will not have a substantial or significant adverse effect, upon the ecological and hydrological characteristics of the water or wetland, as determined by the Town Board. However, in no case shall the restrictions set out below on total amount of filling, be exceeded.

**(1) AVOIDANCE.** The applicant must demonstrate that the proposed filling is the least environmentally damaging practical alternative.

**(i).** In evaluating a filling proposal, it shall be determined whether the proposed development requires or is dependent upon proximity to water or wetlands. If the development activity does not require proximity to water or wetlands, it is presumed that other alternatives to filling are available.

**(ii).** Any reasonable alternative which does not involve filling is presumed to have a less adverse impact upon the aquatic system to filling.

**(iii).** In evaluating filling, avoidance of a proposal for compensatory wetland replacement can not be considered.

**(2). MINIMIZATION.** All reasonable steps of project modification must be taken to decrease the adverse impact to a wetland to the

least possible degree.

**(3). REPLACEMENT.** Total wetland replacement shall be required for adverse impacts which remain after all avoidance and minimization actions have been taken. Wetland replacement shall be provided on an areal basis of 2 to 1 within the boundary limits of the Town, or at a minimum replacement on an areal basis of 1 to 1 within the site of development or specific use. Wetland replacement will include the following actions in descending order of acceptance.

**(i).** Restoration of existing wetlands which have been degraded by filling or draining. Wetland restoration shall occur within the same watershed as the development site or specific use.

**(ii).** Creation of on-site man-made wetlands within or contiguous to the development site or specific use.

**(4).** Any filling shall not cause the total flood storage capacity of the wetland to fall below the projected volume it would hold following the critical rainfall event over the developed drainage area.

**(5).** Only fill which is free of chemical pollutants and organic wastes, as determined by the Town Board, may be used.

**(6). DEMINIMUS.** For projects proposing wetland fill and meeting the avoidance and minimization criteria, a wetland replacement plan shall not be required for draining or filing up to 400 square feet of wetland in a shoreland management zone or up to 2,000 square feet outside of a shoreland management zone, regardless of the total amount of wetland filled as part of a project. The deminimis exception shall be permitted only one time for any project and/or property.

**9-5.5(b). Excavation.** Excavation may be allowed only when it will not have a substantial or significant adverse effect upon the ecological and hydrologic characteristics of the water or wetland. Excavation, when allowed, shall be limited as follows:

**(1).** Excavation shall be located so as to maximize the activity in the areas of lowest vegetation density.

**(2).** Disposal of the excavated material shall not result in a

significant change in the current flow, or in substantial destruction of vegetation, fish spawning areas, or water pollution.

(3). Work in the wetland will not be performed during the breeding season of waterfowl or fish spawning season.

(4). Excavation of only one (1) boat channel or marina shall be allowed per large-scale development.

(5). In other residential developments, excavating shall be located so as to provide for the use of boat channels and marinas by two (2) or more adjacent property owners.

(6). The width of the boat channel to be excavated shall be no more than the minimum required for the safe operation of boats at minimum operating speed.

**9-5.5(c). Storm Water Run-Off.** Storm water run-off from a development or construction site may be directed to a water or wetland only after pre-treatment within a wet detention pond facility designed and constructed in accordance with the Town's Local Water Management Plan and the requirements of Ordinance No. 87 relating to stormwater management. A minimum increase in volume of storm water run-off to wetlands from a development over the natural volume of run-off may be allowed when necessary for use of property but only when it will not have a substantially or significantly, as determined by the Town Board, adverse effect upon the ecological and hydrological characteristics of the wetlands; however, in no case shall the restrictions on run-off set out below be exceeded. Since the total increase in run-off which can be permitted is limited, the Town Board when considering permit applications shall consider the equal apportionment of run-off increase opportunity to wetland property within the same wetland zoning district.

(1). Storm water detention ponds shall be designed in accordance with the criteria contained in the Town's Local Water Management Plan and requirements of the Town's Ordinance No. 87 relating to stormwater management. Storm water detention ponds will normally be constructed within upland areas. However, detention pond construction in wetland areas may be considered by the Town Board if no other practical alternative exists allowing a reasonable use of the property.

(2). The proposed action shall not cause storm water run-off from

the wetland to take place at a rate which will exceed the natural rate of run-off.

(3). The quality of water infiltrated to the water table or aquifer shall remain substantially, as determined by the Town Board, unchanged by the development of the site.

(4). The allowed total increase in run-off, in combination with total fill allowed, shall not cause the total natural flood storage capacity of the wetland to fall below the projected volume of run-off from the whole developed wetland watershed generated by the critical rainfall event in 24 hours.

**9-5.5(d). Building Constraints.**

(1). The lowest floor elevation of buildings, if used for living quarters or work area, shall be at least three (3) feet above the critical storm event level of the wetland.

(2). Development which will result in unusual road maintenance costs or utility line breakage's due to soil limitations, including high frost action, shall not be permitted.

**9-5.5(e). Vegetation.** Removal of vegetation within a wetland shall be permitted only when such activities have been approved by the Town in accordance with this Ordinance, and only when reasonably required for the placement of structures and use of property.

**9-5.5(f). Additional Requirements.** Wetlands Permit conditions may, among other requirements, limit the size, kind, or character of the proposed work; require the construction of protective structures; require the replacement of vegetation; require that monitoring procedures and maintenance activities be performed; require that work be performed in intervals; and require the alteration of the site design to insure buffering from other wetlands.

**9-5.5(g).** The following actions are eligible for replacement credit or wetland banking credit.

(1). Reestablishment of permanent vegetative cover on a wetland that was planted with annually seeded crops, was in a crop rotation seeded to pasture grasses or lagoons, or was required to be set aside to receive price supports or other payments under United States Code, Title 7, Sections

1421 to 1469, in six of the last ten years prior to January 1, 1991. Replacement credit may not exceed 50 percent of the total wetland area vegetatively restored;

(2). Buffer areas of permanent vegetative cover established on upland adjacent to replacement wetlands, provided that the upland buffer must be established at the time of wetland replacement and replacement credit or the buffer may not exceed 75 percent of the replacement wetland area and may only be used as public value credits for replacement above 1:1 ratio;

(3). Wetlands restored for conservation purposes under terminated easements or contracts, provided that up to 75 percent of the restored wetland area is eligible for new wetland credit and adjacent upland buffer areas reestablished to permanent vegetative cover are eligible for public value credit above a 1:1 ratio in an amount not to exceed 25 percent of the restored wetland area;

(4). Water quality treatment ponds constructed to pretreat storm water runoff prior to discharge to wetlands, public waters, or other water bodies, provided that the water quality treatment ponds must be associated with an ongoing or proposed project that will impact a wetland and replacement credit for the treatment ponds may not exceed 75 percent of the treatment pond area and may only be used for public value credit above a 1:1 ratio.

**9-5.6. PERFORMANCE.** A financial surety shall be required of the permittee to insure compliance with the standards specified in this section and the Wetlands Permit. The Town Board may require the conveyance of certain lands, or an interest therein, to the Town of White Bear for public purposes.

**9-5.6(a).** In order to determine whether a proposal for development in a wetland will conform to the requirements of this Ordinance, the Town Board may obtain the services of qualified professional consultants, the costs of which shall be borne by the applicant, to review the Application for Wetlands Permit.

**9-5.6(b). Permit Time.** Activities authorized by a Wetlands Permit shall be initiated within the time period provided in Section 9-2.3 (Zoning Certificate) after approval by the Town Board, or by such different date granted in an Extension. The Permittee shall complete the activities within eighteen (18) months, or by such different date granted in a Renewal. If such activities are not initiated or completed within such time periods, the Wetlands Permit shall be void.

**(1). Extensions.** The Town Board may grant an extension of time to commence activities. The permittee shall file with the Town Clerk a written request prior to the date established for commencement of activities in the Wetlands Permit. The written request shall set forth the reasons for the requested extension.

**(2). Renewals.** The Town Board may grant a renewal of a Wetlands Permit which has exceeded the specified time limits. The permittee shall file with the Town Clerk a written request together with a renewal fee in an amount established by Ordinance No. 54 (Fees & Charges). The written request shall set forth the reasons for the requested renewal.

**9-5.6(c).** The permittee shall notify the Town at least twenty-four (24) hours prior to the commencement of activities authorized by a Wetlands Permit. The Town Board reserves the right, upon issuing any Wetlands Permit, to inspect the premises at which development is being conducted to insure compliance with the provisions of this section and any standards additionally imposed.

**9-5.6(d).** The permittee shall notify the Town in writing when the activities authorized by the Wetlands Permit has been completed. The Town shall conduct a final inspection to validate compliance with the provisions of this section and the Wetlands Permit.

**9-5.6(e).** Failure of a permittee to comply with the provisions of this Section, or any standards imposed in the Wetland Permit, shall result in a finding of non-compliance by the Town Board and shall require further proceedings pursuant to Section 9-9.3(c) of this Ordinance.

**9-5.6(f). Responsibility.** Neither the issuance of a Wetlands Permit nor compliance with the conditions thereof, nor with the provisions of this Ordinance, shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any Wetlands Permit hereunder serve to impose any liability on the Town of White Bear, its officers or employees for injury or damage to persons or property. A Wetlands Permit issued pursuant to this Ordinance shall not relieve the permittee of the responsibility of complying with any other requirements established by law, regulation or ordinance.

## **9-6. VARIANCES.**

**9-6.1. GENERAL.** The Town Board shall have the exclusive power to order the

issuance of variances from the terms of this Ordinance including restrictions placed on non-conformities. Variances from the literal provisions of this Ordinance shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance, and when the terms of the variance are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the provisions of this Ordinance. "Practical Difficulties", as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this Ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes, when in harmony with this Ordinance. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Town Board may impose conditions in granting a variance that are directly related to and in rough proportion to an impact created by the variance.

**9-6.2. APPLICATIONS.** Applicants for variances shall be filed with the Town Clerk together with the review and approval of all governmental agencies having such authority.

**9-6.2(a).** An application fee in an amount established by Town Ordinance shall accompany the application.

**9-6.2(b).** The applicant shall provide ten (10) copies of the site plan and building plans together with all supporting data. This information shall be submitted in the following manner:

**(1).** The site plan shall contain the following data:

**(i).** A scale no greater than one inch equals one hundred feet (1" = 100'), and no less than one-quarter inch equals one foot (1/4" = 1').

**(ii).** The location of the site and the use of adjacent land.

**(iii).** Existing topography having a contour interval of no greater than two (2) feet.

**(iv).** Site grading and drainage plan having a contour interval of no greater than two (2) feet.

**(v).** Delineation of all streams, water bodies and wetlands including the Minnesota Department of Natural Resources classification, water depth and one hundred (100) year/one (1%) percent storm elevation.

**(vi).** Location of all buildings, open spaces, recreation areas, utility areas, service areas, access drives, parking areas, storage areas, proposed utility lines, existing utility lines and easements.

**(vii).** Location and description of all other site improvements including fences, walls, signs, lighting walkways, patios, decks and barriers.

**(viii).** Delineation of all areas to be paved or surfaced, including a description of the surfacing material to be used, and location and function of all yards.

**(ix).** A proposed landscaping plan, showing all existing trees over six (6) inches in diameter, and large shrub massings.

**(2).** Building plans shall indicate the size, location and intended use of all structures, and preliminary architectural plans for all proposed structures including exterior finishes, floor plans and elevations.

**(3).** The application shall include a time schedule for the proposed construction and development of the use.

**(4).** The application shall include a Certificate of Survey prepared by a registered land surveyor.

**(5).** The Town Board may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Town Board may waive any of the requirements of Section 9-6.2(d), where such information is deemed not necessary for review of the application.

**9-6.2(c).** Repealed by amendment to Ordinance No. 35.

### **9-6.3. REVIEW.**

**9-6.3(a).** The Town Clerk shall forward the copies of the application to

appropriate staff and consultants for review and comment.

**9-6.3(b).** The application, together with staff, consultant and agency reviews, shall be forwarded to the Variance Board for its review and recommendation.

**9-6.3(c).** The applicant, together with staff, consultant, agency and Variance Board reviews, shall be forwarded to the Planning Commission for its review and recommendation.

**9-6.3(d).** The Town Clerk shall forward all comments and recommendations to the Town Board for a decision following the Planning Commission meeting.

**9-6.3(e).** No variance shall be adopted until a public hearing, public information meeting, or administrative review has been conducted.

**(1). Public Hearing.** The Town Board shall conduct a public hearing to determine whether a variance shall be approved or denied for requests of setbacks that are less than twenty (20) feet from a public right-of-way, twenty (20) feet from the front lot line, six (6) feet from a side lot line, ten (10) feet from a rear lot line, or fifty (50) feet from the one hundred (100) year/one (1%) percent storm elevation adjacent to a lake or requirements for variances from Section 7-1.3(a) of this Ordinance. A notice of the time, place and purpose of the public hearing shall be published in the official newspaper of the Town, at least ten (10) days prior to the day of the hearing, and mailed notice to property owners lying within 350 feet of the affected property.

**(2). Public Information Meeting.** The Town Board shall conduct a public information meeting to determine whether a variance shall be approved or denied for variance requests to Table 7-1, Lot, Yard and Density Regulations where such requests are less than the minimum setback requirements, but greater than twenty (20) feet from a public right-of-way, twenty (20) feet from a front lot line, six (6) feet from a side lot line, ten (10) feet from a rear lot line, or, on property not served by sanitary sewer, fifty (50) feet from the one hundred (100) year/one (1%) percent storm elevation adjacent to a lake. The applicant shall provide a statement signed by affected property owners recording their comments relative to the requested action. Affected property owners are defined as those having a recorded legal or equitable ownership interest in property adjacent to the

property to which the action relates.

**(3). Administrative.** The Town Board hereby delegates to the Town Clerk the authority to approve or deny variances for the replacement or resurfacing of existing paved driveways in “R-1” Suburban Residential and “R-2” Urban Residential zones. The driveway shall have a legal non-conforming side yard setback existing at the effective date of this Ordinance or have previously been granted a variance by the Town Board. The applicant shall provide a statement signed by affected property owners recording their approval of the requested action. Affected property owners are defined as those having a recorded legal or equitable ownership interest in property adjacent to the property to which the action relates. All variances shall be ratified by the Town Board. Upon a denial by the Town Clerk, the applicant may proceed with review of their variance request pursuant to the public hearing or public information meeting process.

**9-6.3(f).** For a variance to be finally approved, the applicant must execute an access agreement with the Town. Such access agreement shall authorize entry by the Town onto the subject property to enforce the provisions of this Ordinance and any conditions additionally imposed.

**9-6.3(g).** All development, construction and use shall be in accordance with the approved plans, unless an amended application is submitted and approved. Any development contrary to the variance shall constitute a violation of this Ordinance.

**9-6.4. STANDARDS.** In considering all requests for variance and in taking subsequent action, the Town Board shall approve the variance only if the following facts are established:

**(1).** Without issuance of a variance, the provisions of this Ordinance would deprive the applicant of a reasonable use of property under the terms of this Ordinance.

**(2).** That the special conditions and circumstances do not result from the actions of the applicant.

**(3).** That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

(4). That the proposed action will not unreasonably increase the congestion on public streets.

(5). That the proposed action will not increase the danger of fire or endanger the public safety.

(6). That the proposed action will not unreasonably diminish or impair established property values within the neighborhood or in any other way be contrary to the intent of this Ordinance.

#### **9-6.5. PERFORMANCE.**

**9-6.5(a).** In order to determine whether a proposed variance will conform to the requirements of this Ordinance, the Town Board may obtain the services of qualified professional consultants, the costs of which shall be borne by the applicant, to review the variance application.

**9-6.5(b).** Activities authorized by a Variance shall be initiated within six (6) months after approval of the Town Board. If such activity is not initiated within such period, the variance shall be void, unless an extension is approved by the Town Board pursuant to Section 9-2.3 of this Ordinance.

**9-6.5(c).** Failure of a variance grantee to comply with the provisions of this section or any conditions imposed in the variance shall result in the revocation of such variance, after notice and hearing by the Town Board.

**9-6.5(d).** Upon revocation of a variance, the grantee shall be given a reasonable amount of time to restore the subject property to a condition consistent with the provisions of this Ordinance. If the grantee fails to comply with the terms of the revocation, the Town shall enter onto and so restore the subject property to a condition consistent with the provisions of this Ordinance. The cost of such restoration shall be levied against the subject property.

**9-7. BOARD OF APPEALS AND ADJUSTMENTS.** The Town Board, sitting as the Board of Appeals and Adjustments for the Town shall be established. The Town Board may act as the Board of Appeals and Adjustments or, in the alternative, the Town Board may appoint a Board of Appeals and Adjustments. The Board shall elect a chair and shall appoint a recording secretary. It shall hold meetings, keep minutes and, pursuant to notice, shall conduct hearings, take testimony and render decisions consistent with the provisions of Section 9-8 (Appeals and Adjustments).

#### **9-8. APPEALS AND ADJUSTMENTS.**

**9-8.1. GENERAL.** Appeals and adjustments to any reasonable condition imposed by this Ordinance may be granted where there is an error in any order, requirement, decision or determination made by the Code Enforcement Officer, by any other officer of the Town, or by the Town Board in the enforcement of this Ordinance.

**9-8.2. APPLICATION.** Applications for Appeals and Adjustments shall be filed with the Town Clerk together with the review and approval of all governmental agencies having such authority.

**9-8.2(a).** An application fee in an amount established by Town Ordinance shall accompany the application.

**9-8.2(b).** The applicant shall provide ten (10) copies of the site plan and building plans together with all supporting data. This information shall be submitted in the following manner:

**(1).** The site plan data required shall be that of the applicable section which is the subject matter of the appeal and adjustment.

**(2).** Building plans shall indicate the size, location and use of all structures, and preliminary architectural plans for all structures including exterior finishes, floor plans and elevations.

**(3).** The Board of Appeals and Adjustments may require the applicant to provide additional information where such information is deemed necessary for review of the application. The Board of Appeals and Adjustments may waive any of the requirements of Section 9-8.2(b), where such information is deemed not necessary for review of the application.

**9-8.3. REVIEW.**

**9-8.3(a).** An application for appeals and adjustment shall be transmitted by the Town Clerk to the Board of Appeals and Adjustments within sixty (60) days after filing. In the interim, the Town Clerk shall forward the copies of the application to the appropriate staff and consultants for review and comment.

**9-8.3(b).** If the application is denied by any governmental agency having such authority, the Town Clerk shall terminate the review process and return the application to the applicant.

**9-8.3(c).** If the application is approved by all governmental agencies having such authority, the application, together with staff, consultant and agency reviews, shall be forwarded to the Planning Commission for its review and recommendation.

**9-8.3(d).** The Town Clerk shall forward all comments and recommendations to the Board of Appeals and Adjustments following the Planning Commission meeting.

**9-8.3(e).** The Board of Appeals and Adjustments shall schedule a public hearing. A notice of the time, place and purpose of the public hearing shall be given by mail to the applicant and shall be published in the official newspaper of the Town, at least ten (10) days prior to the day of the hearing.

**9-8.3(f).** The Board of Appeals and Adjustments shall thereafter consider the application, the Planning Commission recommendation together with the staff, consultant and agency reviews, and thereupon render a decision in writing within forty-five (45) days after the proceedings have been closed. Such decision shall be consistent with the provisions of this Ordinance.

**9-8.4. STANDARDS.** The standards applied shall be those of the applicable section which is the subject matter of the appeal and adjustment.

**9-9. AMENDMENTS (REZONING).** An amendment to this Ordinance may be initiated by the Town Board, the Planning Commission or by a petition of affected property owners residing in or owning property within the Town. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and may not be acted upon by the Town Board until it has received the recommendation of the Planning Commission on the proposed amendment, or until sixty (60) days have elapsed from the date of reference of the amendment without a report by the Planning Commission.

**9-9.1. AFFECTED PROPERTY OWNERS.** Affected property owners are defined as those having a recorded legal or equitable ownership of property to which the amendment relates, as well as those having legal or equitable ownership or property within the Town situated wholly or partially within three hundred fifty (350') feet of the property to which the amendment relates.

**9-9.2. PETITION FOR AMENDMENT.** A petition for an amendment, not initiated by the Planning Commission or the Town Board, shall be signed by at least fifty (50%) percent, by number, of the affected property owners and shall be

accompanied by an abstractor's certificate identifying the affected property owners. Such petition shall be filed with the Town Clerk, together with the fee established by the Town Ordinance. When an amendment involves changes in district boundaries affecting an area of five (5) acres or less, the abstractor's certificate shall include each owner of property situated wholly or partly within three hundred fifty (350') feet of the property to which the amendment relates.

**9-9.3. NOTICE AND HEARING.** No amendment to this Ordinance shall be adopted until a public hearing has been held thereon by the Town Board. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town, at least ten (10) days prior to the day of hearing. When an amendment involves changes in district boundaries affecting an area of five (5) acres or less, a similar notice shall be mailed, at least ten (10) days before the day of the hearing, to each owner of affected property and property situated wholly or partly within three hundred fifty (350') feet of the property to which the amendment relates. For the purpose of giving mailed notice, the Town Clerk may use any appropriate records to determine the names and addressees of owners. 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 Town Clerk and shall be made a part of the records of the proceedings.

**9-9.3(a). Wetlands.** A hearing for an amendment involving changes to the district boundaries (Rezoning) of the "C-W" Conservation Wetlands Overlay District shall be separated into two (2) proceedings.

(1). The first proceeding shall be a public hearing, held pursuant to the provisions of this section, to determine whether a Wetlands Permit shall be approved or denied. If a Wetlands Permit is approved, a second proceeding shall be conducted.

(2). The second proceeding shall be for the purpose of considering granting a rezoning. The rezoning proceeding shall be a continuation of the public hearing, held pursuant to the provisions of this section, to determine whether a rezoning shall be approved. The continued public hearing shall determine compliance with the provisions of Section 9-5 (Wetlands Permit Procedure) and any standards imposed by the Wetlands Permit. It shall be scheduled by the Town Board at the time of the conclusion of the Wetland Permit proceeding. In no event shall the rezoning proceeding be conducted before the work authorized by the Wetlands Permit has been completed by the permittee.

**9-9.3(b).** Upon a finding of compliance with the provisions of Section 9-5

(Wetlands Permit Procedure) and any standards imposed by the Wetland Permit, the Town Board shall approve the amendment to the district boundaries (Rezoning).

**9-9.3(c).** Upon a finding of non-compliance with the provisions of Section 9-5 (Wetlands Permit Procedure) and any standards imposed by the Wetlands Permit, the Town Board shall not approve the amendment to the district boundaries (Rezoning) and proceed in the following manner:

(1). Continue the public hearing and, pursuant to Section 9-5.6(b)(2) (Renewals), grant a renewal of the Wetlands Permit to secure compliance with the standards specified in Section 9-5 (Wetlands Permit Procedure) and the Wetlands Permit; or

(2). Continue the public hearing and, pursuant to Section 9-5.6 (Performance), levy execution upon the financial surety and secure compliance with the standards specified in Section 9-5 (Wetlands Permit Procedure) and the Wetlands Permit; or

(3). Deny the amendment and, pursuant to Section 9-5.6 (Performance), levy execution upon the financial surety and restore the wetlands to its condition prior to the activities conducted pursuant to the Wetlands Permit.

**9-9.4. AMENDMENT DENIAL.** If a petition for an amendment involving changes in district boundaries (Rezoning) is denied, no proceeding for an amendment involving changes for the same area may be initiated within one (1) year from the date of the Town Board's order of denial, unless authorized by the Town Board.

**9-10. ENFORCEMENT REMEDIES.** In case any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Town Board may institute in the name of the Town, any appropriate actions or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation.

**SECTION 10. PENALTIES.** Every person convicted of a violation of any provision of this Ordinance shall be punished as provided by Ordinance No. 26 (Maximum Fines). Each three (3) days that a violation continues shall constitute a separate offense.

**SECTION 11. SEVERABILITY.** Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part

hereof, other than the part held to be invalid.

**SECTION 12. EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after its passage and publication.

Passed by the Town Board of Supervisors of the Town of White Bear, Ramsey County, Minnesota, this 21st day of September, 1998.

APPROVED:

\_\_\_\_\_  
ROBERT J. WEISENBURGER, Chairman

ATTEST:

\_\_\_\_\_  
WILLIAM F. SHORT, Clerk-Treasurer

Town Board of Supervisors:  
ROBERT J. WEISENBURGER, Chairman  
RICHARD A. SAND, Supervisor  
LINDA J. FORD, Supervisor

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