

XIII. ZONING CODE

1301. ADMINISTRATION

§1301.010 TITLE AND APPLICATION

Subd. 1. Title. This Code shall be known as the "White Bear Lake Zoning Code" except as referred to herein, where it shall be known as "this Code".

Subd. 2. Intent and Purpose. The intent of this Code is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience to access to property; to prevent congestion in the public right-of-way; to prevent over crowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Code, to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Board of Adjustments and Appeals, the Planning Commission, and the City Council in relation to the Zoning Code.

Subd. 3. Relation to Comprehensive Municipal Plan. It is the policy of the City of White Bear Lake that the enforcement, amendment, and administration of this Code be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the City. Any requests to amend the Comprehensive Municipal Plan shall be accompanied by a fee of six hundred and fifty (\$650) dollars. The Council recognizes the City Comprehensive Plan as the policy for regulating land use and development in accordance with the policies and purpose herein set forth. (Ref. Ord. No. 10-1-1061, 1/12/10)

Subd. 4. Standard, Requirement. Where the conditions imposed by any provision of this Code are either more or less restrictive than comparable conditions imposed by other code, ordinance, rule or regulation of the City, the code, ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

Subd. 5. In their interpretation and application, the provisions of this Code shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

Subd. 6. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Code.

Subd. 7. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Code.

Subd. 8. Uses Not Provided for Within Zoning Districts. Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study shall, if

appropriate, initiate an amendment to the Zoning Code to provide for the particular use under consideration, or shall find that the use is not compatible for development within a District or the City.

Subd. 9. Severability. It is hereby declared to be the intention of the City that the several provisions of this Code are severable in accordance with the following:

- a) If any court of competent jurisdiction shall adjudge any provision of this Code to be invalid, such judgment shall not effect any other provisions of this Code not specifically included in said judgment.
- b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

Subd. 10. Authority. This Code is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.

Subd. 11. Comprehensive, Revision. The Council intends this Code to be a comprehensive revision to Ordinance No. 456 of the City, as amended. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Code is not affected by its enactment.

Subd. 12. Repeal. Ordinance No. 456 as amended, of the City of White Bear Lake is hereby repealed.

§1301.020 RULES.

The language set forth in the text of this code shall be interpreted in accordance with the following rules of construction.

Subd. 1. The singular number includes the plural, and the plural the singular.

Subd. 2. The present tense includes the past and the future tenses, and the future the present.

Subd. 3. The word "shall" is mandatory while the word "may" is permissive.

Subd. 4. The masculine gender includes the feminine and neuter.

Subd. 5. Whenever a word or term defined hereinafter appears in the text of this Code, its meaning shall be construed as set forth in such definition thereof.

Subd. 6. All measured distances expressed in feet shall be the nearest tenth of a foot.

§1301.030 DEFINITIONS.

The following words and terms, whenever they occur in this Code, shall be interpreted as herein defined:

Subd. 1. "A" Definitions

Abutting. Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way or navigable waters.

Accessory Apartment. A single rental housing unit for no more than two (2) persons, one of whom is at least 55 years of age or handicapped as defined by the Minnesota State Statutes. The unit is subordinate to the principal single family dwelling unit use, which can only be established by Conditional Use Permit, and which is subject to specific performance standards. (Ref. Ord. No. 770, 9/14/88)

Accessory Building or Use. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or principal use. Examples include garages, sheds, gazebos, greenhouses, driveways, patios, detached decks and the like. (Ref. Ord. No. 10-1-1061, 1/12/10)

Accessory Structure, Recreational. A small, above ground building or other improvement, except stairways, fences and retaining walls, used primarily for recreational purposes. Examples of such structures shall include gazebos, screen houses, detached decks and similar structures, but not including attached or detached garages, storage sheds, stored ice fishing houses and the like. (Ref. Ord. 915, 12/13/94)

Accessory Structure, Storage Shed. A small, above ground building or other improvement which is intended for and used to store materials and equipment and is not capable of automobile storage. The height of a storage shed shall not exceed 12 feet in height and shall be measured from ground grade to the top of the roof. (Ref. Ord. 10-10-981, 10/10/00)

Accessory Structure, Water-oriented. A small, above ground building or other improvement, except stairways, fences, piers, 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 principal structure setback. Examples of such structures and facilities include gazebos, screen houses, pump houses, lock boxes, patios and detached decks, but not including attached or detached garages, storage sheds, stored ice fishing houses and the like. (Ref. Ord. 915, 12/13/94, 10-1-1061, 1/12/10)

Addition. A physical enlargement of an existing structure.

Affordable Housing Unit. Housing with a sales price or rental amount within the means of a household with a gross annual household income of not more than 60% of area median income (AMI), adjusted for household size, for the Twin City Metropolitan Area as determined by the U.S. Department of Housing and Urban Development. In the case of dwelling units for sale, affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of such gross annual household income for a household of the size that may occupy the unit in question. In the case of dwelling units for rent, affordable means housing for which the rent and utilities constitute no more than 30% of gross annual household income for a household of the size that may occupy the unit in question. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable and/or Transit-Oriented Housing Development Agreement. A written agreement between an applicant for a development and the City of White Bear Lake containing specific requirements to ensure the continuing affordability of housing included in the development. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable Housing Dwelling Unit. Any affordable housing subject to covenants or restrictions requiring such dwelling units to be sold or rented at prices preserving them as affordable housing for a period to be determined and agreed to by the City. (Ref. Ord. 09-01-1054, 1/13/09)

Affordable Housing Unit. Either a housing unit subsidized by the federal or state government or an affordable dwelling unit. (Ref. Ord. 09-01-1054, 1/13/09)

Agriculture Uses. Those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in season of products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feed lots, and kennels.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Animals.

- a) Domestic-House Pet. For purposes of this Code, a domestic house pet shall be defined as those animals such as dogs, cats and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to said structure requiring a building permit from the City of White Bear Lake
- b) Domestic-Farm. Cattle, hogs, sheep, goats, roosters, turkeys, horses and other commonly accepted farm animals. (Ref. Ord. 1085, 5/14/13; Ref. Ord. 16-04-2011, 4/12/16)
- c) Domestic-Hobby. Pigeons and bees. (See Municipal Code Section 702.043 and 702.045, respectively.) (Ref. Ord. 1085, 5/14/13)
- d) Non-domestic. All animals unable to fit the definition of domestic house pet animal, including any "protected" animal species or others not protected, and not commonly recognized as a farm animal in the State of Minnesota. "Protected" shall be construed as protection in time or manner of taking, as defined in Minnesota State Statutes, Chapter 97.40.

Apartment. A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit.

Aquifer Recharge Areas. All land surface areas which by nature of their surface and/or subsurface soil characteristics are determined to contribute to the replenishment of subsurface water supplies.

Arcade. Any structure or building in which the principal purpose and use is to provide amusement or entertainment through the operation of mechanical amusement devices.

Artificial Obstruction. Any obstruction which is not a natural obstruction (see obstruction).

Assisted and Congregate Care Senior Housing. A multiple dwelling for seniors, fifty-five (55) years of age or older, which provides at least two meals per day for each of its residents and may include other supportive services including housekeeping, home health care, and transportation. (Ref. Ord. 00-04-979, 4/11/00)

Automobile Repair - Major. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

Automobile Repair - Minor. Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under "Automobile Repair - Major".

Automobile Wrecking or Junk Yard. Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

Awning. A temporary hood or cover which projects from the wall of a building and of a type which can be retracted, folded or collapsed against the face of a supporting building.

Subd. 2. "B" Definitions

Balcony. A landing or porch projecting from the wall of a building and which serves as a means of egress.

Basement. That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (see "Story").

Basement (Flood Plain). Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level. (Ref. Ord. 10-4-1068, 4/13/10)

Bay. Cantilevered area of a room.

Block. That property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-way or unsubdivided acreage.

Boarding (House) Home - foster Children. A family dwelling where children out of their own homes are cared for.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment. (Ref. Ord. 915, 12/13/94)

Boulevard. The portion of the street right-of-way not occupied by pavement.

Brewer Taproom. Facility on the premises of a malt liquor beverage production facility/brewery intended for the on-sale and consumption of malt liquor produced by the brewer pursuant to Minnesota Statute Section 340A.301 Subdivision 6.b. A brewer taproom may include a restaurant. (Ref. Ord. 12-07-1081, 7/10/12)

Buffer yard. A required portion of an interior side or rear yard setback that shall be maintained with a screen fence and/or landscape material to provide screening from abutting residential properties. (Ref. Ord. 1012, 12/9/03)

Buildable Area. The portion of a lot remaining after required yards have been provided.

Building. Any structure used or intended for supporting or sheltering of any use or occupancy.

Building Height. A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

Building Line. An imaginary line extending from any face of a principal structure, parallel and coincident with that face, extending to and intersecting with the lot line. (Ref. Ord. 704, 11/12/85).

Business. Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

Subd. 3. "C" Definitions

Caliper Inches. The length of a straight line measured through the trunk of a tree twelve (12) inches above the ground. (Ref. Ord. 876, 8/11/92)

Canopy of a Tree. See Tree Canopy. Ref. Ord. 888, 3/9/93)

Caregiver. An individual 18 years of age or older who provides care for a mentally or physically impaired person; and is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring. (Ref. Ord. 16-10-2019, 10/11/16)

Carport. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on one (1) or more sides.

Cellar. That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Central Business District. A centralized area of commercial and service activities which draw from and serve customers from the entire community or region. For the purpose of this Code, the White Bear Lake ultimate Central Business District boundary shall be that area located east of T.H. 61 between 2nd Street and 7th Street and between Highway 61 and Cook Avenue. The current boundaries are as defined in Section 1303.160, Subd. 1, and on the most current Zoning Map.

Channel. A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

Church. A building, together with its accessory buildings and use; where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

City Council. The governing body for the City of White Bear Lake.

Clear-Cutting. The removal of an entire stand of trees.

Club or Lodge. A club or lodge that is a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

Clubs and lodges. This use includes buildings and facilities that are operated by a corporation, association, or membership organization for a social, service, or recreational purpose primarily for members and their guests, and not primarily for profit or to render a service that is customarily carried on as a business. (Ref. Ord. 1012, 12/9/03)

Common Front Building Line. In residential districts, the common front building line shall be a line between the two corners of the structure closest to the street right-of-way, except for structures on a corner lot, where the common front building line shall be the longest line between two corners of the structure, which are adjacent to a street right-of-way. (Ref. Ord. 04-10-1024, 10/12/04)

Commercial Planned Unit Developments [See Planned Unit Development, Commercial] (Ref. Ord. 915, 12/13/94)

Commercial Recreation. Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theatre, firearms range, boat rental, amusement rides, bingo halls, campgrounds, park, live music and dancing, and similar uses.

Commercial Vehicles. (Ref. Ord. No. 803, 3/14/90; 839, 6/11/91; 989, 3/12/02)

A motor vehicle that meets any of the following:

• Commercial Vehicle – Type I

A van or pickup truck modified through the installation of a roof attachment, ladder rack, or similar feature provided the vehicle is not greater than 8'-6" in height or 22' in length. (Ref. Ord. 02-03-989, 3/12/02)

• Commercial Vehicle – Type II

- a) Tractors other than those intended for residential purposes;
- b) Trucks, and pickups which have a capacity greater than one (1) ton or having a gross vehicle weight over twelve thousand (12,000) pounds, whichever is less.
- c) Step vans designed or modified for the transportation of cargo, freight, construction machinery, equipment, materials or implements, dump trucks, cargo trucks, cube vans, tow trucks, semi trailer tractors, tank trucks, boom trucks, bucket trucks and fire trucks. (Ref. Ord. 02-03-989, 3/12/02)
- d) Any vehicle (not including recreational vehicles as defined in City Code) which are greater than 8'-6" in height or 22' in length. (Ref. Ord. 02-03-989, 3/12/02)

Note: Vehicles with signage affixed to the exterior body of the vehicle are not commercial vehicles unless they also meet the definition of a commercial vehicle in this section of the code. (Ref. Ord. No. 839, 6/11/91; 989, 3/12/02)

Commercial Use - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services. (Ref. Ord. 915, 12/13/94)

Commissioner - The commissioner of the Department of Natural Resources. (Ref. Ord. 915, 12/13/94)

Conditional Use - 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 (1) certain conditions as detailed in the zoning ordinance exist, and (2) the use or development conforms to the comprehensive land use plan and (3) is compatible with the existing neighborhood. (Ref. Ord 915, 12/13/94)

Conditional Use Permit. A permit issued by the City Council in accordance with procedures specified in this Code, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

Convenience Food Establishment. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

Convenience Commercial Centers. A limited commercial office, retail, service outlet which deals directly with the customer for whom the goods or services are furnished. The centers are to provide services or goods for the surrounding neighborhoods and are not intended to draw customers from the entire community.

Cooperative (Housing). A multiple family dwelling owned and maintained by the residents and subject to the provisions of MS 290.09 and 290.13. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Comprehensive Plan. The group of maps, charts and texts that make up the comprehensive long range plan of the City.

Court. An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of the buildings.

Crowding Potential. The ratio of total acreage to shore miles.

Subd. 4. "D" Definitions

Day Care. The care of children outside of their own homes for a part of the twenty-four (24) hour day by persons unrelated to them by blood or marriage. Day Care includes family day care, group family day care, and care in group-day-care centers.

Day Care facility. A program providing day care for eleven (11) or more children at any one time, including the provider's or helper's own children under school age. (3-27-85)

Day Care - Family. A program providing day care for no more than five (5) children at one time, including the family-day-care provider's own children under school age.

Day Care - Group Nursery. A program providing day care for more than five (5), but fewer than eleven (11) children at any one time, including the provider's or helper's own children under school age.

Deck - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached to or detached from a principal building. (Ref. Ord 915, 12/13/94)

Density Bonus. An increase in the number of market-rate or affordable housing units on a site in order to provide an incentive for the construction of affordable and transit-oriented housing pursuant to this ordinance. (Ref. Ord. 09-01-1054, 1/13/09)

Department Store. A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

Deposition. Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, flood plains or wetlands.

Dimensionally Non-Conforming Structure. A structure which does not conform to the dimensional requirements established by this Code for minimum building setbacks or maximum building heights. (Ref. Ord. 923, 5/9/95)

District. A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use allowed therein.

Diversion. A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

Dog Kennel. Any place where four (4) dogs or more over six (6) months of age are boarded, bred and/or offered for sale, except a veterinary clinic.

Draining. The removal of surface water or groundwater from land.

Dredging. To enlarge or clean out a waterbody, watercourse, or wetland.

Drip Line of a Tree. An imaginary vertical line which extends from the outermost branches of a tree's canopy to the ground. (Ref. Ord. 876, 8/11/92)

Drive-in Facility. An establishment, such as an outdoor movie theatre or a drive-up restaurant, which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment are customarily consumed within the vehicle while parked on the site. (Ref. Ord. No. 810, 3/14/90, No. 10-1-1061, 1/12/10)

Drive-through Facility. An establishment, such as a bank or fast food restaurant, which allows the customers to purchase a good or service or otherwise conduct an exchange, typically through a window, while remaining in their vehicles. Food purchased from a drive-through is customarily consumed off site. (Ref. Ord. No. 10-1-1061, 1/12/10)

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple family dwellings, but not including hotels, motels, boarding houses, mobile homes or trailers.

Dwelling, Multiple (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

Dwelling, Single Family. A dwelling unit designed exclusively for occupancy by one (1) family.

a) Attached. A dwelling which is joined to another at one or more sides by a party wall.

b) Detached. A dwelling unit not attached to another dwelling or structure.

Dwelling Site - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites. (Ref. Ord. 915, 12/13/94)

Dwelling, Two-Family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

- a) Double Bungalow. A two-family dwelling with two (2) units side-by-side.
- b) Duplex. A two-family dwelling with one (1) unit above the other.

Dwelling Unit - A residential building or portion thereof consisting of one or more rooms physically arranged so as to create an independent housekeeping establishment intended for occupancy by one (1) family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourists homes or trailers. (Ref. Ord. 915, 12/13/94)

Subd. 5. "E" Definitions

Earth Sheltered Dwelling Unit. A structure which complies with applicable building standards and which is constructed so that:

- a) Eighty (80) percent or more of the roof area is covered with a minimum depth of twelve (12) inches of earth; and
- b) Fifty (50) percent or more of the wall area is covered with a minimum depth twelve (12) inches of earth.

Elderly Senior Citizen Housing. A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.

Efficiency Apartment. A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

Elevator Penthouse. An enclosure located on the top of a building which houses the working mechanisms of an elevator.

Engineering Design Standards. A stormwater design manual set forth by the City for land disturbing activities. These standards are created to preserve, protect, and manage the City's water resources as well as to meet federal, state and watershed stormwater regulations. (Ref. Ord. 15-05-1999, 5/12/15)

Essential Services. The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Equal Degree of Encroachment. A method of determining the location of encroachment lines so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

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

Extractive Use - 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, Sections 93.44 to 93.51. (Ref. Ord. 915, 12/13/94)

Subd. 6. "F" Definitions

Family. An individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than five (5) persons not so related maintaining a common household and using common cooking and kitchen facilities.

Farm. A tract of land of ten (10) or more acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised for a principal source of livelihood.

Farm-Hobby. A tract of land generally consisting of ten (10) or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income. A hobby farm shall not qualify for exemptions provided in this Code for farms.

Farming. Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

Fence. A fence is defined for the purpose of this Code as any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

a) Fence - Boundary Line. All fences located within five (5) feet of a property line.

b) Fences - Interior Yard. All fences located five (5) feet beyond a property line.

Filling. The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland.

Financial institution. This use includes establishments, the principal use or purpose of which is the providing of financial services. These will include bank facilities for teller and walk-up, automated teller machines ("ATMs"), credit unions, savings and loan institutions, and mortgage companies. (Ref. Ord. 1012, 12/9/03)

Flood. A temporary rise in a stream flow or stage which results in inundation of the areas adjacent to the channel.

Flood Frequency. The average frequency statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency" is used. The frequency of a particular stage or discharge is usually expressed as having a probability of occurring once within a specific number of years.

Flood Fringe. That portion of the flood plain outside of the floodway.

Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood; flood plain areas within the City of White Bear Lake shall encompass all areas designated as Zone A on the flood insurance rate map. (Ref. Ord. 745, 8/11/87)

Flood Profile. A graph or a longitudinal plot of water surface elevation of flood event along a reach of a stream or river.

Floodway. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Floor Area. The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or

working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area. Floor area shall be determined on the basis of the exterior floor area dimensions of the buildings, structures, or use times the number of floors.

Subd. 7. "G" Definitions

Game Room. Any room or area, open to the public, located within a building or structure, such as a bar, restaurant, lounge, supper club or bowling establishment, the purpose and use of which is to provide amusement or entertainment through the operation of mechanical amusement devices.

Garage - Private. An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and not more than one Type I commercial vehicle, as defined in City Code for use by the family or families resident upon the premises, and in which no business, service or industry is carried on. (Ref. Ord. 02-03-989, 3/12/02)

Garage - Public. A building or portion of a building, except any herein defined is a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

Gross Vehicle Weight. Gross vehicle weight (GVW) means the weight of the vehicle plus the weight of the load thereon or the registered gross weight of the vehicle whichever is greater. (Ref. Ord. 794, 10/24/89; 813, 4/10/90)

Group Care Facility. A facility which provides resident services to fewer than seven (7) individuals of whom one or more are unrelated. These individuals are handicapped, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. Category includes uses such as homes for physically handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.

Guest Room. A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

Subd. 8. "H" Definitions

Habitable Room. A room or enclosed floor space used or intended to be used for living, sleeping, eating, or cooking purposes, excluding bathrooms, flush water compartments, laundries, furnace rooms, unfinished basements, pantries, utility rooms of less than 50 square feet or floor space, foyers, halls, stairways, closets, storage spaces, workshops, hobby and recreation areas in parts of the structure below ground level or in attics and other similar areas. (Ref. Ord. No. 993, 8/13/02)

Hard Surfaced. All weather, durable, impervious, dust-free surfacing materials. (Ref. Ord. No. 803, 3/14/90)

Hardship. A zoning case in which property in question cannot be put to a reasonable use under the conditions allowed by the Zoning Code where the plight of the landowner is due to circumstances unique to this property, not created by the landowner. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

Home Occupation. Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

Hotel. Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

Subd. 9. "I" Definitions

Impervious Surface. An artificial or natural surface through which water, air, or roots cannot penetrate.

Indoor recreation. This use includes active recreation facilities that are enclosed in buildings and are open to the public or operated on a commercial or membership basis for the use of persons not residing on the same lot on which the recreation use is located. It includes bowling alleys, billiards, skating rinks, indoor sports clubs, community centers, health and fitness clubs with or without swimming pools, and tennis courts. (Ref. Ord. 1012, 12/9/03)

Industrial Use - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items. (Ref Ord. 915, 12/13/94)

Inoperable Vehicles. Any motor vehicle including but not limited to any automobile, truck, trailer, marine craft, snow mobile, motorcycle, all terrain vehicle, equipment for motorized transportation that; (1) has a missing or defective part that is necessary for the normal operation of the vehicle; or (2) is stored on blocks, jacks or other supports; or (3) is not currently licensed. (Ref. Ord. No. 803, 3/14/90)

Intensive Vegetation Clearing - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block. (Ref. Ord 915, 12/13/94)

Interlock. This is the painted line or barrier in a parking lot that separates two facing rows of parking from one another.

Intermittent. A stream or portion of a stream that flows only in direct response to precipitation.

Irrevocable Letter of Credit. An irrevocable engagement by a bank or other person made at the request of a customer and of a kind within the scope of Minnesota Statutes, Section 336.501, et seq. that the issuer of a credit will honor drafts or other demands for payment upon compliance with the conditions specified in the credit.

Subd. 10. "J" Definitions

Junk Yard. An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber, tires, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

Subd. 11. "K" Definitions No definitions.

Subd. 12. "L" Definitions

Land Reclamation. The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

Lift - A mechanical device used to transport people to and from the water's edge. (Ref. Ord. 915, 12/13/94)

Liquor Lounge. Any establishment other than a hotel or restaurant, open to the general public, licensed for the "on-sale" distribution of intoxicating liquor and employs an adequate staff to provide the usual and suitable services to its guests. Such establishment shall have facilities for seating not less than 30 guests at one time. (Ref. Ord. 14-6-1095, 6/10/14)

Loading Space or Berth. A space accessible from a street, alley or way in a building or on a lot, for the use of vehicles while loading or unloading merchandise, materials or passengers.

Lock Box - An accessory structure accommodating the storage of boat and beach equipment, not exceeding twenty-eight (28) square feet in area and four (4) feet in height. (Ref. Ord 915, 12/13/94)

Lodging House. A building other than a hotel, where for compensation for definite periods, lodging is provided for three (3) or more persons not of the principal family, but not including a building providing this service for more than ten (10) persons.

Lodging Room. A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one (1) lodging room.

Lost Significant Tree: (See Tree, Lost Significant. Ref. Ord. 888, 3/9/93)

Lot - A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means, separated from other parcels or portions by said description for the purpose of sale, lease, or separation, and occupied or used or intended for occupancy or use by an individual principal permitted use in this Code abutting on a city-approved street, equipped with sanitary facilities and with sufficient size to provide the yards required by this Code. (Ref. Ord. 692, 8/13/85; 915, 12/13/94, No. 10-1-1061, 1/12/10)

Lot Area. The area of a horizontal plane within the lot lines. If the lot abuts a DNR public water body, the lot area shall include all land up to the Ordinary High Water Level. (Ref. Ord. No. 10-1-1061, 1/12/10, Ref. Ord. 10-1-1061, 1/12/10)

Lot, Base. Lots meeting all the specifications in the zoning district prior to being subdivided into a two family dwelling, townhouse, or quadraminium subdivisions.

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Lot, Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage. An interior lot having frontage on two (2) streets.

Lot, Frontage. The front of a lot shall be, for purposes of complying with this Code, that boundary abutting a city-approved street having the least width. (Ref. Ord. No. 10-1-1061, 1/12/10)

Lot, Interior. A lot, other than corner lot, including double frontage lots. (Ref. Ord. No. 10-1-1061, 1/12/10)

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

Lot of Record. A parcel of land, whether subdivided or otherwise legally described and recorded with the County, as of the effective date of this Code, or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building, or principal use together with any accessory buildings and such open spaces as required by this Code, and having its principal frontage on a street or a proposed street approved by the City Council.

Lot, Standard. A lot which meets the minimum lot area and lot width requirements as specified by the applicable zoning use district(s). (Ref. Ord. 99-11-974, 11/9/99)

Lot, Substandard. A lot which does not meet the minimum lot area or lot width requirements as specified by the applicable zoning use district(s) and does not meet the two criteria as outlined in Section 1302.030, Subd. 3.c. (General Building and Performance Requirements of Platted and Unplatted Property). (Ref. Ord. 99-11-974, 11/9/99, No. 10-1-1061, 1/12/10)

Lot, Substandard Buildable Residential. A lot which meets the two criteria as outlined in Section 1302.030, Subd. 3.c. (General Building and Performance Requirements of Platted and Unplatted Property). (Ref. Ord. 99-11-974, 11/9/99, No. 10-1-1061, 1/12/10)

Lot, Unit. Lots created from the subdivision of a two family dwelling, townhouse, or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

Lot, Width. The shortest horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. (Ref. Ord. 915, 12/13/94, No. 10-1-1061, 1/12/10)

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). (Ref. Ord. 10-4-1068, 4/13/10).

Subd. 13. "M" Definitions

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the plumbing, heating, air conditioning, and electrical systems contained therein. No manufactured home shall be moved into the City of White Bear Lake which does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Chapter 327.31, Subd. 3.

Manufactured Home (Flood Plain). A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the plumbing, heating, air conditioning, and electrical systems contained therein. The term "manufactured home" does not include the term "recreational vehicle". No manufactured home shall be moved into the City of White Bear Lake which does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Chapter 327.31, Subd. 3. (Ref. Ord. 10-4-1068, 4/13/10)

Manufacturing, Heavy. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted of raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. (Ref. Ord. 03-10-1010, 10/14/03)

Manufacturing, Light. A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. (Ref. Ord. 03-10-1010, 10/14/03)

Manufacturing Uses. All manufacture, compounding, processing, packaging, treatment, or assembly of products and materials.

Marina. An area of concentrated small craft mooring, where ancillary facilities may be provided for some or all of such services as fueling, sewage pump out, boat, launching, boat repair, and boat storage; except that marina does not mean temporary docks associated with riparian residential development if the mooring area is of a size not to exceed the resource limitations of the site and the needs of the residents of the development.

Mechanical Amusement Device. Any mechanical, electrical or electronic device operated by means of the insertion of a coin, token or similar object; for the purpose of amusement or skill whether or not registering a score; of which is designed to be played by a contestant or contestants and upon which the contestants receive a score or rating based upon their performance. This definition includes such devices as pin ball machines, table shuffleboard games, table hockey and soccer games, electronic devices, motion picture machines, and all other machines and devices which operate or are operated for the entertainment or amusement of the public.

Median Gross Household Income. The median income level for the Seven-County Metropolitan Area, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, adjusted for household size. (Ref. Ord. 09-01-1054, 1-13-09).

Medical and Dental Clinic. A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

Microbrewery. A malt liquor beverage production facility/brewery which manufactures less than 3,500 barrels of malt liquor in a year pursuant to Minnesota Statute Section 340A.301 Subdivision 6(i) and 6(j). (Ref. Ord. 12-07-1081, 7/10/12)

Minerals. Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

Mining. All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

Mobile Home. Any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways, and shall include self-propelled or non-self-propelled vehicles as designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, generally having no foundation other than wheels, jacks, or skirting, but not including a manufactured home as defined herein.

Mobile Home Park. Any premises on which are parked two (2) or more trailers, or any premises used or held out for the purpose of supplying to the public a parking space for one or more of such trailers. Sales lots on which automobiles or unoccupied trailers, new or used, are parked for purposes of inspection or sale are not included in this definition.

Motel/Motor Hotel. A building or group of detached, semidetached or attached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests travelling by automobile.

Motor Fuel Station. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.

Motor Freight Terminal (Truck Terminal). A building in which freight brought by motor truck is assembled and sorted for routing in intra-state and inter-state shipment.

Subd. 14. "N" Definitions

Natural Drainage System. All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

Natural Obstruction. Means any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a nonhuman cause.

Nonconforming Structure or Use. Any lawfully established structure or use which on the effective date of this Code does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Code. (See also "Dimensionally Non-Conforming Structure") (Ref. Ord. 923, 05/09/95)

Nonconformity - 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. (Ref. Ord. 915, 12/13/94)

Normal High Water Mark. (Deleted, Ref. Ord. 692, 8/13/85, see "Ordinary High Water Level.")

Nursing Home (Rest Home). A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions.

Subd. 15. "O" Definitions

Obstruction (Flood Plain). Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged soil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the

direction of flow, either in itself or by catching or collecting debris carried by floodwater. (Ref. Ord. 745, 8/11/87)

Off-Sale Liquor. An establishment that sells intoxicating alcoholic beverages for consumption off the premises.

Off-Street Loading Space. A space accessible from the street, alley or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials.

Office, professional. This use includes administrative, executive, professional, research, nonprofit, or similar organizations that may have contact with the public, but provided that no merchandise or merchandising services are sold on the premises, except such that is incidental or accessory to the principal professional office use. These uses include offices of physicians, dentists, insurance, real estate, security monitoring or other administrative professionals. (Ref. Ord. 1012, 12/9/03)

On-Sale Liquor. An establishment that serves intoxicating alcoholic and/or non-intoxicating beverages for consumption on the premises.

Open Sales Lot. Any open land used or occupied for the purpose of buying, selling and/or renting merchandise and for the storing of same prior to sale.

Ordinary High Water Level. The boundary of public waters and wetlands indicated by an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool. (Ref. Ord. 915, 12/13/94)

Ornamental Tree. (See Tree, Ornamental. Ref. Ord. 888, 3/9/93)

Out-Patient Care. Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

Overburden. The earth, rock and other materials that lie above a natural deposit of mineral.

Subd. 16. "P" Definitions

Parcel. A lot, piece or portion of land designed by metes and bounds, registered land survey, auditor's plat or other means separated from other parcels and portions by said description for the purpose of separation thereof. (Ref. Ord. 876, 8/11/92)

Parking Ramp. An accessory structure designed and used for the storage of motor vehicles at, below and/or above grade.

Parking Space. An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Passenger Vehicle: Any vehicle used for everyday residential use, not including Type I or Type II Commercial Vehicles or Recreational Vehicles, as defined by City Code. (Ref. Ord. 05-03-1028, 3/8/05)

Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Person. An individual, firm, partnership, association, corporation or organization of any kind.

Personal Service Establishments: An establishment or place of business primarily engaged in providing individual services related to personal needs. Typical uses include, but are not limited to beauty or barber shops, massage therapy, dry cleaning establishments (only with off-site plants), laundromats, shoe repair shops, tanning salons, photography studios, and tailor shops. This use specifically excludes tattoo parlors and adult uses. (Ref. Ord. 1012, 12/9/03)

Planned Unit Development - A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, timeshare condominiums, cooperatives, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses. (Ref. Ord. 915, 12/13/94)

Planned Unit Development, Commercial - 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. (Ref. Ord. 915, 12/13/94)

Planned Unit Development, Residential. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five (5) dwelling units or sites. (Ref. Ord. 915, 12/13/94)

Principal Use. The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

Public Uses. Uses owned or operated by municipal, school districts, county, state, or other governmental units.

Public Waters. Any waters of the State which serve a beneficial public purpose, as defined in MN Stat. 103G.005, Subd. 15. The official determination of the size and physical limits of the drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds, or flowages shall be the areas listed in the Division of Waters, Soils and Minerals Bulletin 25, An Inventory of Minnesota Lakes, or in the event the lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner in cooperation with the City of White Bear Lake. (Ref. Ord. 915, 12/13/94)

Public Waters - General Development. Those waters whose shores are generally characterized by industrial, commercial or high density residential development.

Public Waters - Recreational Development. Those waters whose shores are generally characterized by medium density residential development with or without limited service-oriented commercial development.

Subd. 17. "Q" Definitions

Quadraminium. A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

Subd. 18. "R" Definitions

Recommended Species. Indigenous tree vegetation of the White Bear Lake area as identified in §1302.075, Subd. 5. (Ref. Ord. 876, 8/11/92)

Recreation, Field or Building. An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theatre, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium circus or gymnasium is a recreation field or building for the purpose of this Code.

Recreational Vehicle. Campers, pick-ups with campers or mounted toppers, motor homes, all terrain vehicles, marine craft, camping trailers, and snow mobiles. Also a trailer used to transport recreational vehicles shall itself be a recreational vehicle. (Ref. Ord. No. 803, 3/14/90)

Recreational Vehicle (Flood Plain). A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of the flood plain ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle. (Ref. Ord. 10-4-1068, 4/13/10)

Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100) year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation. A point not less than one (1) foot above the elevation of the regional flood, plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Code are required to be elevated or flood proofed. (Ref. Ord. 10-4-1068, 4/13/10)

Residential Planned Unit Development. (See Planned Unit Development, Residential.) (Ref. Ord. 915, 12/13/94)

Restaurant. An establishment which serves food in or on nondisposable dishes to be consumed primarily while seated at tables or booths within the building.

Retail sales establishments. An establishment or place of business that provides goods and/or services directly to the consumer where such goods are available for immediate purchase or rental and removal from the premises by the purchaser. Professional offices which offer retail goods, as described above, and which occupy at least one-third of the gross floor area, and all of the street frontage of the business shall also be considered retail. This use specifically excludes currency exchanges, pawn shops, and adult uses. (Ref. Ord. 1012, 12/9/03)

Roof Line. Is defined as the top of the coping; or, when the building has a pitched roof, as the intersection of the outside wall with the roof.

Root Zone of a Tree. The area which is within the drip line of a tree's canopy. (Ref. Ord. 876, 8/11/92)

Subd. 19. "S" Definitions

Screening. The presence of an artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.

Security Apartment. A single rental Housing unit for no more than (2) persons employed as security or management for the facility in which the apartment is located. The unit is subordinate to the principal structure, which can only be established by Conditional Use Permit and which is subject to performance standards. (Ref. Ord. No. 766, 8/9/88)

Self-Storage Facility. The rental or lease of individual storage units to various tenants, usually on a short-term basis. Also known as "mini storage". (Ref. Ord. No. 17-02-2022, 2/14/17)

Semipublic Use - The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. (Ref. Ord. 915, 12/13/94)

Senior Citizen Housing. Multi-family dwelling units occupied by persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age. (Ref. Ord. 09-01-1054, 01-13-09)

Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, the top of a bluff, road, highway, property line, or other facility. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter. (Ref. Ord. 915, 12/13/94)

Sewage Treatment System - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minnesota Pollution Control Agency's document titled "Individual Sewage Treatment Systems Standards, Chapter 7080." (Ref. Ord. 915, 12/13/94)

Sewer System - 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. (Ref. Ord. 915, 12/13/94)

Shopping Center. An integrated grouping of commercial stores, under single ownership or control.

Shore Impact Zone - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback. (Ref. Ord. 915, 12/13/94)

Shoreland - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a DNR designated protected 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 bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner. (Ref. Ord. 915, 12/13/94)

Showroom. Any business wherein a family of related products and/or services are housed, enclosed, sold and exhibited directly to the customer or to other businesses. (Ref. Ord. No. 788, 8/22/89)

Sign. (See definition in the White Bear Lake Sign Code, Chapter 1202.)

Significant Historic Site - 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, section 307.08. 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. (Ref. Ord. 915, 12/13/94)

Significant Tree. (See Tree, Significant. Ref. Ord. 888, 3/9/93)

Single Room Occupancy: A multi-family structure containing dwelling units used on a non-transient basis where the bedrooms are leased individually to tenants and in which cooking and/or bathroom facilities are shared by said tenants. (Ref. Ord. No. 832, 4-9-91)

Single Room Occupancy Unit: A dwelling unit containing a common living space, kitchen, bathroom facilities and bedrooms which are leased individually to tenants and located within a single room occupancy multi-family structure. (Ref. Ord. 832, 4-9-91)

Site Alteration. The excavating, grading, clearing, filling or other earth change which may result in:

- a) The movement of earth where significant trees are present; or
- b) Any alteration of land more than one (1) foot from the natural contour of the ground on any continuous four hundred fifty (450) square feet of ground where significant trees of any land within a period of five (5) years; or
- c) Any cutting, removal or killing of more than ten (10) percent of the significant trees of any land within a period of five (5) years; or
- d) Any destruction or disruption of vegetation covering an area equal to or greater than ten (10) percent of any parcel of land; or
- e) Any other significant change in the natural character of the land. (Ref. Ord. 876, 8/11/92)

Slope. Means the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

Small Engine Sales and Repair. Sales and/or service of any of the following: landscape supplies and equipment, lawn care maintenance supplies and equipment and outdoor power equipment. (Ref. Ord. 03-10-1010, 10/14/03)

Specimen Tree. (See Tree, Specimen. Ref. Ord. 888, 3/9/93)

Steep Slope - Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more. (Ref. Ord. 915, 12/13/94)

Story. That portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet

above grade as defined herein at any point, such basement, cellar, or unused under-floor space shall be considered a story.

Street Frontage. The proximity of a parcel of land to one or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) frontages.

Structure. Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts jointed together in some definite manner whether temporary or permanent in character including but not limited to decks, buildings, factories, sheds, screen porch, gazebos, detached garages, cabins, manufactured homes, and other similar items, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities. (Ref. Ord. 745, 8/11/87; 915, 12/13/94)

Structural Alterations. Any changes in the supporting members of the building, such as bearing walls, columns, beams or girders.

Substantially Damaged. Damage of any origin sustained by a structure where the cost of restoring the structure to it before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Ref. Ord. 06-05-1035, 5/9/06)

Substantial Improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however include either:

- a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- b) Any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as an "historic structure." For the purpose of this ordinance, "historic structure" shall be as defined in Code of Federal Regulations, Part 59.1 (Ref. Ord. 06-05-1035, 5/9/06)

Swimming Pool, Above Ground. All swimming pools that are constructed so that the edge of the pool is greater than three (3.0) feet above the mean ground grade. (Ref. Ord. No. 803, 3/14/90, Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)

Swimming Pool, Hot Tub. All pools that are intended for hydro-therapeutic massage and relaxation purposes that have a capacity of less than 900 gallons of water, including such pools generally constructed with a filter unit(s), pump(s), water jet(s), molded seating and a heating unit(s). Any hot tub(s) greater than 900 gallons of water shall be considered an above ground pool for regulatory purposes. (Ref. Ord. 07-09-1044, 9/12/07, 03-06-1002, 6/24/03)

Swimming Pool, In Ground. All swimming pools that are constructed so that the pool edge is level with the ground grade. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Portable. Any temporary pool designed for easy construction and removal with a maximum height of three (3.0) feet above the mean ground grade, including inflatable pools. (Ref. Ord. 803, 3/14/90, Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)

Swimming Pool, Private Residential. A permanent or portable pool located on private property under control of the homeowner, the use of which is limited to swimming or bathing by the owner's family or invited guests. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Public. A swimming pool other than residential pool which is intended to be used collectively by a number of persons for swimming and bathing, regardless of whether a fee is charged. (Ref. Ord. No. 803, 3/14/90)

Swimming Pool, Wading. Any swimming pool used and designed for wading and bathing and having a maximum water depth of one (1) foot. (Ref. Ord. No. 803, 3/14/90)

Subd. 20. "T" Definitions

Temporary Health Care Dwelling Unit. A portable residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person. (Ref. Ord. 16-10-2019, 10/11/16)

Townhouses. Structure housing three (3) or more dwelling units, contiguous to each other only by the sharing of one (1) common wall, such structures to be of the town or row houses type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

Transit-Oriented Housing. Housing located within a quarter-mile of an existing transit stop or a future transit corridor as defined in the City's Comprehensive Plan and having at least one underground parking space for each qualifying unit. (Ref. Ord. 09-01-1054, 1-13-09)

Tree Canopy. The horizontal extension of a tree's branches in all directions from its trunk. (Ref. Ord. 888, 3/9/93)

Tree -- Lost Significant. Significant healthy trees shall be considered lost as a result of: (Ref. Ord. 888, 3/9/93)

- A) Grade change or land alteration, whether temporary or permanent, of greater than one (1) foot measured vertically, affecting sixty (60) percent (as measured on a horizontal plan) or more of the tree's root zone; or
- B) Utility construction (i.e., sewer, water, storm sewer, gas, electric, telephone and cable TV and trenching) resulting in the cutting of sixty (60) percent of the tree's roots within the root zone; or
- C) Mechanical injury to the trunk including the bark of a significant tree causing life threatening damage to the tree; or
- D) Compaction to ninety (90) percent of the standard proctor to a depth of six (6) inches or more of sixty (60) percent or more of the surface of the soil within a significant tree's root zone.

Tree -- Ornamental. Small trees which are grown for their colorful flowers, leaves, fruit and exceptional fall color. (Ref. Ord. 888, 3/9/93)

Tree -- Premium. All those significant deciduous and evergreen trees subject to the premium tree replacement constant and not included within the definition of secondary tree. (Ref. Ord. 888, 3/9/93)

Tree -- Secondary. All those significant deciduous trees subject to the secondary tree replacement constant characterized by rapid rate of growth and softwood fiber including all those trees in the Poplar family, Silver Maple and Russian Olive, and other similar trees as may be determined by the Zoning Administrator. (Ref. Ord. 888, 3/9/93)

Tree -- Significant. Any healthy, living, deciduous tree larger than eight (8) inches in caliper (excepting Box Elder and Chinese Elm) and any healthy, living evergreen tree at least six (6) inches in diameter. (Ref. Ord. 888, 3/9/93)

Tree -- Specimen. Any tree of notable historic association or any tree of extra ordinary value because of its age, size or type. (Ref. Ord. 888, 3/9/93)

Tree Trunk. The stem portion of a tree from the ground to the first branch thereof. (Ref. Ord. 876, 8/11/92)

Subd. 21. "U" Definitions

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Code.

Usable Open Space. A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

Subd. 22. "V" Definitions

Variance - Any modification or variation of this Code approved by the Board of Adjustment Appeals where it is determined that, because of physical hardships unique to the individual property under consideration, strict enforcement of this Code is impractical and would cause unnecessary hardships. (Ref. Ord. 692, 8/13/85; 915, 12/13/94)

Vegetation. Means the sum total of plant life in some area; or a plant community with distinguishable characteristics.

Subd. 23. "W" Definitions

Warehousing. The storage of goods, material, or equipment within an enclosed building as a principal use (30% or more of the gross floor area), but not including self-storage facilities. (Ref. Ord. 17-02-2022, 2/14/17)

Waterbody. Means a body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and surrounded by land.

Watercourse. Means a channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year-around or intermittently.

Watershed. The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

- a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1971"). (Ref. Ord. 915, 12/13/94)
- b) Mineral soils with grey horizons or organic soils belonging to the Histosol order (peat and muck).
- c) Soil which is water logged or covered with water at least three (3) months of the year.

Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Subd. 24. "X" Definitions -- No definitions.

Subd. 25. "Y" Definitions

Yard. An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends a lot line at right angles to such lot line to a depth or width required in the yard regulations for the zoning district in which such lot is located.

Yard, Front. That area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more major roads, both yards shall be considered front yards. A major road is any road that is of a collector designation or greater.

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

Yard, Required. That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

Yard, Side. A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

Subd. 26. "Z" Definitions

Zoning Administrator. That person appointed by the City Manager, who shall be responsible for the administration of the City's development controls (i.e., zoning, subdivision, etc.).

§1301.040 AMENDMENTSSubd. 1. Procedure

- a) Request for rezonings shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of six hundred and fifty (\$650.00) dollars. Such application shall also be accompanied by a fee as provided by five (5) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by an abstract company. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring after twenty (20) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with. (Ref. Ord. 01-04-1015, 1/13/04)
- b) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. When an amendment involves changes in district boundaries affecting an area of five acres or less, notice of said hearing shall consist of a legal property description and description of request and shall be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Such property owner list shall be obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. When an amendment involves changes in district boundaries affecting an area of greater than five acres, notification to only those affected property owners within the boundary is required (as per M.S.A Section 462.357 Subd.3). Prior to reducing the notification requirement, the City Council shall review and approve said reduction with a 4/5 majority vote. (Ref. Ord. No. 811, 3/14/90; 984, 3/13/01)
- c) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- d) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- e) The Planning Commission shall consider possible affects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area. (Revised 3/14/90.)
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

- 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- f) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- g) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- h) The Planning Commission shall recommend approval or denial of the request. Such recommendation shall be accompanied by the report and recommendation of the City staff.
- i) The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission and the City staff, or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- j) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- k) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary.
- l) The City Council shall consider possible affects of the proposed amendment and make a finding of fact. Its evaluation and findings shall be based upon but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- m) Approval of a proposed amendment shall require passage by a four-fifths (4/5) vote of the entire City Council.
- n) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment and after said ordinance is published in the official newspaper.
- o) Whenever an application for an amendment has been considered and denied by the City Council, a similar application for the amendment affecting substantially the same property shall

not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the full City Council.

Subd. 2. Amendments, Initiation. The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Code, the Sign Code (Chapter 1202) or the Subdivision Regulations (Chapter 1400). The procedural requirements of 1301.040, Subd. 1.a and b of this Code shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Code, the Sign Code, or the Subdivision Regulations so as to affect the said real estate. Amendments to the Sign Code or Subdivision Regulations shall be approved by simple majority of the City Council. (Ref. Ord. 10-1-1061, 1/12/10)

§1301.050 CONDITIONAL USE PERMITS.

Subd. 1. Purpose. The purpose of a conditional use permit is to provide the City of White Bear Lake with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or future factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

Subd. 2. Procedure.

- a) Request for conditional use permits, as provided within this Code, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of four hundred (\$400.00) dollars. A request for an amendment to an existing conditional use permit shall have a fee of two hundred (\$200.00) dollars. Such application shall be accompanied by five (5) copies of detailed written and graphic materials fully explaining the proposed development or use and a list of property owners located within three hundred fifty (350) feet of the subject property obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. The request for a conditional use permit or significant amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring after twenty (20) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with. (Ref. Ord. 984, 3/13/01; 01-04-1015, 1/13/04, Ref. Ord. 08-01-1047, 1/8/08)
- b) Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of requests, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
- c) Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- d) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- e) The Planning Commission shall consider possible adverse affects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Land Use Plan and all other plans and controls.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.

- 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- 6) Traffic generation by the proposed use is within capabilities of streets serving the property.
- f) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- g) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- h) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Code. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff.
- i) The City Council shall not act upon a conditional use permit request until they have received a report and recommendation from the Planning Commission and the City staff or until sixty (60) days after the first regular Planning Commission meeting at which the request was considered.
- j) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- k) Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.
- l) The City Council shall consider possible affects of the proposed conditional use and make a finding of fact. Its evaluation and findings shall be based upon (but not limited to) the following factors:
 - 1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
 - 2) The proposed use is or will be compatible with present and future land uses of the area.
 - 3) The proposed use conforms with all performance standards contained herein.
 - 4) The proposed use will not tend to or actually depreciate the area in which it is proposed.
 - 5) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
 - 6) Traffic generation by the proposed use within capabilities of streets serving the property.
- m) Approval of a request shall require passage by a majority vote of the City Council.

- n) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than three-fifths (3/5) vote of the full City Council.

Subd. 3. Information Requirement. The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the City.

a) Site Development Plan:

- 1) Location of all buildings on lots including both existing and proposed structures.
- 2) Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in questions.
- 3) Location and number of existing and proposed parking spaces.
- 4) Vehicular circulation.
- 5) Architectural elevations (type and materials used in all external surface).
- 6) Location and type of all proposed lights.
- 7) Curb cuts, driveways, number of parking spaces.

b) Dimension Plan:

- 1) Lot dimensions and area.
- 2) Dimensions of proposed and existing structures.
- 3) "Typical" floor plan and "typical" room plan.
- 4) Setbacks of all buildings located on property in questions.
- 5) Proposed setbacks.
- 6) Sanitary sewer and water plan with estimated use per day.

c) Grading Plan:

- 1) Existing contour.
- 2) Proposed grading elevations.
- 3) Drainage configuration.
- 4) Storm sewer catch basins and invert elevations.

- 5) Spot elevations.
- 6) Proposed road profile.
- d) Landscape Plan:
 - 1) Location of all existing trees, type, diameter, and which trees will be removed.
 - 2) Location, type and diameter of all proposed plantings.
 - 3) Location and material used of all screening devices.
- e) Legal description of property under consideration.
- f) Proof of ownership of the land for which a conditional use permit is requested.
- g) Any other information as the City may reasonably require.

Subd. 4. Lapse of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a conditional use permit, the use as allowed by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition may be acted upon by the Zoning Administrator or forwarded to the City Council at the administrator's discretion. (Ref. Ord. 08-01-1047, 1/8/08)

Subd. 5. Security of Performance.

- a) Except in the case of non-income producing residential property, upon approval of a conditional use permit, the City, where deemed necessary, may require a surety bond, cash escrow, certificate of deposit, securities, irrevocable letter of credit, or other financial guarantee approved by the City, or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall be non-cancellable and shall guarantee conformance and compliance with the conditions of the conditional use permit and the Code of the City.
- b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements or development. Said project may be handled in stages upon the discretion of the City Engineer and Building Official.
- c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and Code of the City has been issued by the City Building Official.
- d) Failure to comply with the conditions of the conditional use permit or the Code of the City shall result in forfeiture of the security.

Subd. 6. Enforcement and Revocation.

- a) In addition to other remedies provided in this Code or at law, failure to comply with any condition set forth in a conditional use permit, or any other violation of this Section, shall be a misdemeanor.

- b) In addition to any other remedies provided for in this Code or at law, failure to comply with any condition set forth in a conditional use permit or any other violation of this Section, shall also constitute sufficient cause for termination of the conditional use permit by the City Council following a public hearing. Written notification of said public hearing shall be mailed at least ten (10) days prior to said hearing to the current holder of the conditional use permit. Such notice should outline the violation(s) considered by the City to be grounds for revocation and inform the current holder of the conditional use permit of the opportunity to be heard at such public hearing. (Ref. Ord. 716, 4/8/86)

§1301.060 VARIANCES AND APPEALS (Ref. Ord. 712, 3/12/86; Ord. No. 14-08-1096, 8/26/14)

Subd. 1. General Provisions and Standards.

- a) All applications for zoning variances shall be considered by the Planning Commission as described herein or be processed as an administrative variance as also described.
- b) A variance from the strict application of any of the provisions of Zoning Code shall be granted only if the City Council, acting on the advice of the Planning Commission, finds as follows:
 - 1) That the proposed action will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Code.
 - 2) That, for reasons which are to be set forth in the findings, the variance is necessary for reasonable use of the land or building and that the variance is a minimum variance which will accomplish this purpose.
 - 3) That granting the variance will be in harmony with the general purpose and intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - 4) That the special condition or circumstance is not the result of actions of the applicant, the property owner or a predecessor in title.
 - 5) That non-conforming use of neighboring lands, structures, or buildings in the same district is not the sole grounds for issuance of the variance.
- c) Variances from the strict application of the Zoning code may be granted to alleviate practical difficulties such as problems caused by public actions, unusual topography, lot shapes, wetlands, or other exceptional physical conditions. The situation must be such that strict application of the Zoning Code would result in exceptional practical difficulty, which would deprive the owner of the reasonable use of the land or of the building involved. Should the City Council, acting on the advice of the Planning Commission, find that these conditions apply to the land, a variance may be granted from the strict application of this Code so as to relieve such difficulty to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Code. The City Council may approve the variance subject to such conditions as it may deem necessary or desirable. (Ref. Ord. 10-1-1061, 1/12/10; Ord. No. 14-08-1098, 8/26/14)

Subd. 2. Procedures.

a) Purpose. The purpose of this section is to provide for an expeditious method of processing variance and appeals and adjustments requests.

b) Processing.

1) Applications. Requests for a variance and appeals and adjustments shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee of two-hundred (\$200.00) dollars for residential property and two hundred fifty (\$250.00) for commercial and industrial property. This fee shall not be refundable. Such application shall also be accompanied by five (5) copies of detailed written and graphic materials necessary for the explanation of the request and a list of all adjoining or abutting property owners, certified by the Ramsey County Land Records Office or an abstract or title insurance company acceptable to the Zoning Administrator. (Ref. Ord. 1015, 1/13/04)

2) City Staff Report. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission.

3) Notice. The Zoning Administrator shall provide written notice of the request, as far as practicable, to all adjoining and abutting property owners at least ten (10) days prior to the hearing of the Planning Commission. The Zoning Administrator may rely on the certified list of adjoining and abutting property owners supplied by the applicant. The Zoning Administrator shall also publish notice of public hearing in the official newspaper at least ten (10) days prior to said hearing. (Ref. Ord. 04-05-1018, 5/11/04)

In addition, a sign, available from the City Zoning Administrator, shall be placed by the applicant on a portion of the property visible from the primary road frontage, stating that the owner has a planning request application before the Planning Commission, and the City Council, the date of the hearing, and the City Zoning Administrator's phone number for further information. Such sign shall be placed at least ten (10) days prior to said hearing. (Ref. Ord. 04-05-1018, 5/11/04)

4) Additional Information. The City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.

5) Planning Commission Hearing. The Planning Commission shall hear variance and appeals from administrative action applications and make its decision within a reasonable time.

a. The applicant or a representative may appear before the Planning Commission in order to answer questions concerning the proposed request.

b. All decisions of the Planning Commission shall be by majority vote of those voting on the question before the Planning Commission. A quorum shall be four (4) members of the Planning Commission. (Ref. Ord. 754, 12/8/89; Ord. No. 14-08-1096, 8/26/14)

c. The Planning Commission shall keep minutes of all proceedings and report its actions in writing to the Council.

- d. The Planning Commission shall provide a copy of its decision to the Council, to the applicant, and any interested party requesting the same in writing.
- 6) Council Review. All decisions of the Planning Commission which grant, deny, or modify a variance application or any other decision relative to the variance application shall be reported to the City Council at the earliest practicable time. Such report shall include:
 - a. Copies of all exhibits, memoranda and materials submitted to the Planning Commission.
 - b. Minutes of the Planning Commission.
 - c. A copy of the Planning Commission's decision, including the required findings and reasons for the decision. All such decisions are advisory in nature to the Council.

The Council shall either affirm, modify, or overrule the decision and shall state the reasons for such action. In the event of affirmance, the Council may adopt the record, findings, reasons, and decisions of the Planning Commission.

- 7) The Planning Commission and Council shall not reconsider an application for a variance which has been previously denied within the past year.
- 8) The Planning Commission may adopt such other rules of operations as it shall deem necessary. Any such rules must be approved by the Council.

Subd. 3. Lapse of Variance or Appeal.

- a) If within one (1) year after granting a variance or appeal, the use as permitted by the variance or appeal shall not have been completed or utilized, then such a variance or appeal shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance or appeal. Such petition shall be acted upon by the Zoning Administrator.

Subd. 4. Performance Bond.

- a) Upon approval of a variance or appeal, the City, where deemed necessary, shall be provided with a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities, cash deposit, or other financial guarantee approved by the City Attorney, prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance or appeal and the codes of the City.

- b) The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or Building Official's estimated costs of labor and materials for the proposed improvements or development or such other amount which is deemed necessary by the Zoning Administrator.
- c) The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance or appeal and codes of the City has been issued by the City Building Official.
- d) Failure to comply with the conditions of the variance or appeal and the ordinances of the City shall result in forfeiture of the security.

Subd. 5. Appeals from Administrative Action.

- a) The Planning Commission shall hear and decide all appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by an administrative officer in the enforcement of the Zoning Code, pursuant to the procedures outlined in Subd. 2 of this Section. (Ref. Ord. No. 712, 3/12/86; Ord. No. 14-08-1096, 8/26/14)

Subd. 6. Administrative Variance Panel. Pursuant to §1301.060, an Administrative Variance Panel is created to review variances where the variance requested concerns:

- a) a proposed addition to a pre-existing, dimensionally non-conforming structure as per §1302.040, Subd., 4d, of this Code;
- b) a second accessory structure greater than one hundred twenty (120) square feet in area, as per §1302.030, Subd. 4.i.2.b and c of this Code; (Ref. Ord. 16-01-2007; 1/12/16)
- c) certain cases regarding the front yard averaging setback requirements per §1302.040, Subd. 4c;
- d) a hard surface parking space in front of the living area of a home, as per §1302.050, Subd. 6.f of this code;
- e) an increase to the amount of rear yard covered by accessory uses and structures per 1302.030, Subd. 4.i.2.e of this Code, and
- f) ground-mounted solar energy systems on residential properties per §1302.030, Subd. 22. (Ref. Ord. 848, 07/09/91; 916, 1/10/95; 996, 11/12/02, 10-1-1061, 1/12/10, 11-1-1074, 1/11/11, 12-06-1080, 6/12/12; 16-01-2008, 1/12/16; 16-03-2010, 3/8/16)

Subd. 7. Administrative Variance Procedure. An Administrative Variance may be issued by unanimous approval of a staff panel of three (3) individuals appointed by the City Manager. In the event the application for such a variance is not unanimously approved by the staff panel, the applicant may apply for a formal variance to the requirements of this Code as is set forth elsewhere. Before the staff panel may consider such variance application, the applicant shall pay a fee of twenty-five dollars (\$25.00) and shall present written statements from owners of the property or properties contiguous to the affected yard in which the Administrative Variance is requested, specifically noting no objection and consenting to such Administrative Variance. The staff panel shall determine, without an abstract or certificate, the names of such property owners. (Ref. Ord. 02-11-996, 11/12/02; 01-04-1015, 1/13/04)

§1301.070 ADMINISTRATION - PLANNED UNIT DEVELOPMENT

Subd. 1. Purpose. The purpose of the “PUD”, Planned Unit Development Overlay District is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential and commercial uses. This section is established to provide comprehensive procedures and standards designed to allow greater flexibility in the development of neighborhoods and/or nonresidential areas by incorporating design modifications as part of a PUD conditional use permit or a mixture of densities/intensities, or use types when applied to a PUD district. The PUD process by allowing variation from the strict provisions of this Code related to density, setbacks, height, lot area, width and depth, yards, etc., is intended to encourage: (Ref. Ord. 10-1-1061, 1/12/10)

- a) Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments;
- b) Higher standards of site and building design through the use of trained and experienced land planners, architects, landscape architects and engineers;
- c) More convenience in location and design of development and service facilities;
- d) The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion;
- e) A creative use of land and related physical development which allows a phased and orderly development and use pattern;
- f) An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments;
- g) A development pattern in harmony with the objectives of the White Bear Lake Comprehensive Plan. (Ref. Ord. 10-1-1061, 1/12/10)
- h) A more desirable and creative environment than might be possible through the strict application of zoning and subdivision regulations of the City.
- i) A mix of land uses made compatible through careful oversight. (Ref. Ord. 10-1-1061, 1/12/10)

Subd. 2. General Requirements and Standards.

- a) Application. All permitted, permitted accessory, or conditional uses contained in Section 1303.020 (Open Space) through 1303.180 (BW) and 1303.225 (DBD) through 1303.227 (LVMU) of this code shall be treated as permitted uses within a PUD District to eliminate the overlapping procedural requirements of individual conditional use provisions. The PUD overlay district shall be applied to and superimposed upon all zoning districts. Upon approval by the City Council, the regulations and requirements imposed upon the PUD process shall supersede the underlying zoning district standards. (Ref. Ord. 10-1-1061, 1/12/10)

- b) Ownership. An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project and must be accompanied by a fee of six hundred fifty (\$650.00) dollars. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved Final Plan shall be binding on all owners. (Ref. Ord. 01-04-1015, 1/13/04)
- c) Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Plan.
- d) Sanitary Sewer Plan Consistency. The proposed PUD shall be consistent with the City Comprehensive Sewer Plan and shall not create a discharge which is in excess of the City's assigned regional limitations.
- e) Common Open Space. Common private or public open space and facilities and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD may be required within the area of the PUD development. In the "S" Shoreland District, sufficient open space shall be determined by the standards set forth in Subd. 8 of §1303.230 of this Code. (Ref. Ord. 915, 12/13/94, Ord. 10-1-1061, 1/12/10)
- f) Operating and Maintenance Requirements for PUD Common Open Space Facilities. Whenever common private or public open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common private or public open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council;
- 1) Dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication.
 - 2) Landlord control, where only use by tenants is anticipated.
 - 3) Property Owners Association provided all of the following conditions are met.
 - a. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Laws 1963, Chapter 457, Section 11 and a set of floor plans such as specified by Laws 1963, Chapter 457, Section 13 shall be filed with the City of White Bear Lake, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of the County.
 - b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject said properties to the terms of said declaration.

- c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
 - d. The declaration shall additionally, amongst other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City of White Bear Lake or fails to pay taxes or assessments on properties as they become due and in the event the said City of White Bear Lake incurs any expenses in enforcing its rules and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City of White Bear Lake shall have the right to assess each property its pro rata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.
 - e. Membership must be mandatory for each owner, and any successive buyer.
 - f. The open space restrictions must be permanent and not for a given period of years.
 - g. The Association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
 - h. Property owners must pay their pro rata share of the cost of the Association by means of an assessment to be levied by the Association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
 - i. The Association must be able to adjust the assessment to meet changed needs.
 - j. The by-laws and rules of the Association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.
- g) Staging of Public and Common Open Space. When a PUD provides for common private or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

- h) Density.
- 1) The maximum allowable density in a PUD District shall be determined by standards negotiated and agreed upon between the applicant and the City. Whenever any PUD is to be developed in stages, no such stage shall, when averaged with any previously completed stages, have a residential density that exceeds one hundred fifty (150) percent of the proposed residential density of the entire PUD. (Ref. Ord. 10-1-1061, 1/12/10)
 - 2) Density shall be as allowed for in the City zoning districts outlined in Subd. 2.a, above, most appropriate to the proposal presented in the PUD, as determined by the City. (Ref. Ord. 10-1-1061, 1/12/10)
 - 3) Within the "S" Shoreland District, allowable density shall be determined by the provisions set forth in §1303.230 of this Code. The Lake Village Mixed Use District is exempt from this provision. (Ref. Ord. 915, 10/11/94, 10-1-1061, 1/12/10)
- i) Utilities. In any PUD, all utilities, including telephone, electricity, gas and telecable shall be installed underground.
- j) Utility Connections.
- 1) Water Connections. Where more than one property is served from the same service line, individual unit shut off valves shall be provided as required by the City Engineer.
 - 2) Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
- k) Roadways. All streets shall conform to the design standards contained in the White Bear Lake Subdivision Code, unless otherwise approved by the City Council.
- l) Landscaping. In any PUD, landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the Final Plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structure and the overall scheme of the PUD plan.
- m) Urban/Rural Servicing Requirements. All development will be carefully phased so as to ensure that all developable land will be accorded a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services will be granted approval in accordance with existing codes and development techniques. Lands which lack the available public facilities and services may be granted approval for development, provided that all applicable provisions of this Code, the City Code, and State Regulations are complied with.

n) Setbacks.

- 1) The front, rear and side yard restrictions on the periphery of the Planned Unit Development site shall be evaluated and negotiated on a case by case basis taking into consideration the proposal's relationship to surrounding land uses. (Ref. Ord. 10-1-1061, 1/12/10)

Subd. 3. Submission Requirements. Five (5) copies of the following exhibits, analysis and plans shall be submitted to the Planning Commission and Council during the PUD process, at the times specified in Subd. 4, below.

a) General Concept Stage.1) General information:

- a. The landowner's name and address and his interest in the subject property.
- b. The applicant's name and address if different from the landowner.
- c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
- d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

2) Present Status:

- a. The address and legal description of the subject property.
 - b. The existing zoning classification and present use of the subject property and all lands within one thousand (1,000) feet of the subject property.
 - c. A map depicting the existing development of the subject property and all land within one thousand (1,000) feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within one hundred (100) feet of the subject property.
- 3) A written statement generally describing the proposed PUD and the market which it is intended to serve and the market demand. The statement is also to demonstrate the proposed PUD's relationship to the City's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

- 4) Site Conditions: Graphic reproductions of the existing site conditions at a scale of one hundred (100) feet.
 - a. Contours - minimum two (2) foot intervals.
 - b. Location, type and extent of tree cover and vegetation.
 - c. Slope analysis.
 - d. Location and extent of water bodies, wetlands and streams and flood plains within three hundred (300) feet of the subject property.
 - e. Significant rock outcroppings.
 - f. Existing drainage patterns.
 - g. Vistas and significant views.
 - h. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

- 5) Schematic drawings of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, buildings, structures, and other land uses, and buffering and screening.
- 6) A statement of the estimated total number of dwelling units or square feet of developed land use activities proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following as applicable:
 - a) Area devoted to residential uses.
 - b) Area devoted to residential use by building type.
 - c) Area devoted to common open space.
 - d) Area devoted to public open space.
 - e) Approximate area devoted to streets.
 - f) Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
 - g) Approximate area, and floor area, devoted to commercial uses.
 - h) Approximate area, and floor area, devoted to industrial or office use.

- 7) When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and structures-/units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.
 - 8) When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
 - 9) General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
 - 10) Schematic utilities plans indicating placement of water, sanitary and storm sewers.
 - 11) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
 - 12) The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.
- b) Development Stage. Development stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The Development Stage submissions shall include but not be limited to:
- 1) Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
 - 2) Five (5) sets of preliminary plans, drawn to a scale of not less than one (1) inch equals one hundred (100) feet (or scale requested by the Zoning Administrator) containing at least the following information:
 - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County).
 - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
 - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, including model homes, and existing buildings which will remain, if any.
 - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
 - e. Location, designation and total area of all common private open space and facilities.

- f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
 - g. Proposed lots and blocks, if any, and numbering system.
 - h. The location, use and size of structures and other land uses on adjacent properties.
 - i. Detailed sketches and provisions of proposed landscaping.
 - j. General grading and drainage plans for the developed PUD.
 - k. Any other information that may have been required by the City staff, Planning Commission or Council in conjunction with the approval of the general concept plan.
- 3) An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
 - 4) Where applicable, a tabulation indicating the number of residential dwelling units and expected population.
 - 5) Where applicable, a tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).
 - 6) Preliminary architectural "typical" plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including model homes.
 - 7) A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common private open space, general landscaping plan, structure, including model homes, and uses.
 - 8) Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation and all proposed stormwater management practices. The plan should conform with the approved concept plan and demonstrate conformance with requirements of the City's Engineering Design Standards, the applicable Watershed District, Department of Natural Resources, Ramsey Conservation District, or any other agency with review authority. (Ref. Ord. 15-05-1999, 5/12/15).
 - 9) A preliminary plat prepared in accordance with the White Bear Lake Subdivision Code.
 - 10) A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.
 - 11) Such other and further information as the City staff, Planning Commission, or Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
 - 12) The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this Section which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.

- c) Final Plan Stage. After approval of a general concept plan for the PUD and approval of a development stage plan for all or a section of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit.
- 1) Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
 - 2) All certificates, seals and signatures required for the dedication of land and recordation of documents.
 - 3) Final architectural working drawings of all structures.
 - 4) A final plat and final engineering plans and specifications for streets, utilities, stormwater management practices and other public improvements, together with a Community/Developer Agreement for the installation of such improvements and financial guarantees for the completion of such improvements. (Ref. 15-05-1999, 5/12/15)
 - 5) Any other plan, agreements, or specifications necessary for the City staff to review the proposed construction. All work must be in conformance with the Minnesota State Uniform Building Code.

Subd. 4. Procedure for Processing a Planned Unit Development.

- a) Approval. The establishment of a PUD shall be subject to a super-majority vote by the City Council, which may impose any condition it considers necessary to protect the public health, safety and welfare. (Ref. Ord. 10-1-1061, 1/12/10)
- b) Application Conference. Prior to the filing of an application for PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this Code before incurring substantial expense in the preparation of plans, surveys and other data.
- c) General Concept Plan.
 - 1) Purpose. The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing his basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general concept plan represent the immediately significant elements for City review and comment.
 - a. Overall maximum PUD density/intensity range.
 - b. General location of major streets and pedestrian ways.
 - c. General location and extent of public and common private open space.
 - d. General location of residential and nonresidential land uses with approximate type and intensities of development.
 - e. Staging and time schedule of development.

- f. Environmental information affecting the development.
- g. Other special criteria for development.
- h. Utility and servicing demands.

2) Schedule.

- a. Developer meets with the Zoning Administrator to discuss the proposed developments.
- b. The applicant shall file the concept stage application, together with all supporting data and filing fee as established by City Council resolution.
- c. Within thirty (30) days after verification by the staff that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.
- d. The Zoning Administrator, upon verification of said application, shall instruct the City Clerk to set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question. Such property owner list shall be obtained from and certified by a title company, or obtained from the County in which the property lies, the City, or other source approved by the City. (Ref. Ord. 01-03-984, 3/13/01)
- e. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.
- f. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action to the City Council.
- g. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant, concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code.
- h. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- i. Within sixty (60) days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall itself review said reports and plans and submit its written report and recommendations to the Council and applicant. Such report shall contain the findings of the Planning Commission with respect to the General Concept Plan. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the Plan for approval.

- j. Within thirty (30) days of receipt of the report and recommendation of the Planning Commission, or such further time as may be agreed to be the applicant, the Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items, or deny approval of the plan.
- 3) Operational Submission of Development Stage Plan. In cases of single stage PUD's or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he may, at his option, initially submit Development Stage Plans for the proposed PUD. In such case, the Planning Commission and Council shall consider such plans, grant or deny Development Stage Plan approval in accordance with the provisions of Subd. 4.c. above. (Ref. Ord. 10-1-1061, 1/12/10)
 - 4) Effect of Concept Plan Approval. Unless the applicant shall fail to meet time schedules for filing Development Stage and Final Plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Code or of any approval granted pursuant to it, a General Concept Plan which has been approved shall not be modified, revoked or otherwise impaired pending the application of Development Stage and Final Plans by any action of the City of White Bear Lake without the notification of the applicant.
 - 5) Limitation on General Concept Plan Approval. Unless a Development Stage Plan covering at least ten (10) dwelling units or the area designated in the General Concept Plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date Council grants General Concept approval, or in any case where the applicant fails to file Development Stage and Final Plans and to proceed with development in accordance with the provisions of this Code and of an approved General Concept Plan, the approval may be revoked by Council action. In such case, following notification of the applicant, the Council shall forthwith adopt a resolution repealing the General Concept Plan approval for that portion of the PUD that has not received final approval and re-establishing the zoning and other code provisions that would otherwise be applicable. Upon application by the applicant, the Council at its discretion may extend for additional periods the filing deadline for any Development Stage Plan, when, for good cause shown, such extension is necessary.
- d) Development Stage.
- 1) Purpose. The purpose of the Development Stage Plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the Final Plan.
 - 2) Submission of Development Stage. Upon approval of the General Concept Plan, and within the time established in Subd. 4 above, the applicant shall file with the Zoning Administrator a Development Stage Plan consisting of the information and submissions required by Subd. 3 for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the General Concept Plan. The Development Stage Plan shall refine, implement and be in substantial conformity with the approved General Concept Plan.

- 3) Review and Action by City Staff and Planning Commission. Immediately upon receipt of a completed Development Stage Plan, the Zoning Administrator shall refer such plan to the following City staff and/or official bodies for the indicated action.
- a. The City Attorney for legal review of all documents.
 - b. The City Engineer for review of all engineering data and the City/Developer Agreement.
 - c. The City Building Official for review of all building plans.
 - d. The Zoning Administrator for review of all plans for compliance with the intent, purpose and requirements of this Code and conformity with the General Concept Plan and Comprehensive Plan.
 - e. The City Planning Commission for review and recommendation to the Council.
 - f. When appropriate, as determined by the Zoning Administrator to the Park Advisory Commission for review and recommendations.
 - g. When appropriate, as determined by the Zoning Administrator to other special review agencies such as the Watershed District, Soil Conservation Services, Highway Departments or other affected agencies.

All staff designated in paragraphs a. through d. hereof shall submit their reports in writing to the Planning Commission and applicant.

4) Schedule.

- a. Developer meets with the Zoning Administrator and City staff to discuss specific development plans.
- b. The applicant shall file the Development Stage application together with all supporting data and filing fee as established by City Council resolution.
- c. A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting.
- d. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- e. The Planning Commission will make a recommendation to the City Council on the Development Plan.
- f. The City Council reviews all recommendations and approves/denies the plan.
- g. The Zoning Administrator shall draw up a PUD Agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This Agreement shall be signed by the Mayor of the City of White Bear Lake, City Manager and the applicant within thirty (30) days of Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the Council action shall be by written report setting forth the reasons for its action. (Ref. Ord. 10-1-1061, 1/12/10)

- 5) Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the PUD has been filed within six (6) months from the date Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Code and/or an approved Development Stage Plan, the approval shall expire. Upon application by the Applicant, the Council at its discretion may extend the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Plan approval expires, the Council, following notification to the applicant, shall forthwith adopt a resolution repealing the General Concept Plan approval and the Development Stage Plan approval for that portion of the PUD that has received Final Plan approval and re-establishing the zoning and other code provisions that would otherwise be applicable.
 - 6) Site Improvements. At any time following the approval of a Development Stage Plan by the Council, the applicant may, pursuant to the applicable codes of the City apply for, and the City Engineer may issue, grading permits for the area within the PUD for which Development Stage Plan approval has been given.
- d) Final Plan.
- 1) Purpose. The Final Plan is to serve as a complete, thorough and permanent public record of the PUD and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the PUD process. It shall serve in conjunction with other City codes as the land use regulation applicable to the PUD. The Final Plan is intended only to add detail to, and to put in final form, the information contained in the Development Stage Plan and shall conform to the Development Stage Plan in all respects.
 - 2) Schedule.
 - a. Upon approval of the Development Stage Plan, and within the time established by this Section, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required by Subd. 3.c) of this Section for the entire PUD or for one or more stages. This plan will be reviewed and approved/denied by City staff, unless otherwise specified by the City Council.
 - b. Within thirty (30) days of its approval, the applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County Register of Deeds or Registrar of Titles. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval.
 - 3) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicable codes of the City, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances which are applicable to the permit sought, have been satisfied.

- 4) Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions applicable in the district in which it is located. In such case, the Council shall forthwith, as applicable, adopt a resolution or ordinance repealing the PUD and all PUD approvals and re-establishing the zoning and other code provisions that would otherwise be applicable. The time limit established by this paragraph may, at the discretion of the Council, be extended.

- 5) Inspections During Development.
 - a. Compliance with Overall Plan. Following Final Plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved development schedule. If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he shall immediately notify the Council. Within thirty (30) days of such notice, the Council shall either by ordinance or resolution as may be applicable, revoke the PUD and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it shall deem necessary to compel compliance with the Final Plans as approved; or shall require the landowner or applicant to seek an amendment of the Final Plan.

§1301.080 CERTIFICATE OF OCCUPANCY CONDITIONAL USE PERMITS AND VARIANCES.

Subd. 1. A certificate of occupancy for conditional uses and/or variances shall be applied for following City Council approval of respective applications. Said application shall be accompanied by a fee as established by the City Council.

Subd. 2. No structure, building or project for which a conditional use permit and/or variance is required shall be occupied or utilized until a certificate of occupancy, approved by the City Building Official, has been issued.

Subd. 3. Construction performed pursuant to the provisions of the City Code establishing and regulating Building Codes of the City of White Bear Lake shall not be subject to the requirements of a certificate of occupancy established by this Section.

§1301.090 ENFORCEMENT AND PENALTIES.

Subd. 1. The City Manager shall designate compliance Official(s) who shall administer and enforce the provisions stated in any statute, charter or code. The Compliance Officer(s) may institute in the name of the City of White Bear Lake any appropriate actions or proceedings against a violator as provided by statute, charter or code.

Subd. 2. Notice of Correction. When the City determines that an activity is not being carried out in accordance with the Zoning Code, it may issue a written correction notice to the owner of the property. (Ref. Ord. 15-05-1999, 5/12/15).

Subd. 3. Stop Work Orders. Persons receiving a Stop Work Order will be required to halt all activities. This Stop Work Order will be in effect until the City confirms that the property is in compliance and the violation has been satisfactorily addressed. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this ordinance. (Ref. Ord. 15-05-1999, 5/12/15).

Subd. 4. All persons who have possession, control, or an interest in property, are responsible for violations of any provision of this Code on said property. Each day that a violation is permitted to exist shall constitute a separate offense.

Subd. 5. Notwithstanding any other provision of this City Code to the contrary, a nonaggravated violation of any provision of the Zoning Code, §1301.010 et. seq., shall constitute a petty misdemeanor punishable by up to the maximum penalty provided for in Minn. Stat. §609.0332, as that statute is, from time-to-time, amended. Any aggravated violation of the Zoning Code shall constitute a misdemeanor punishable by up to the maximum penalty provided for in Minn. Stat. §609.034, as that Statute is, from time-to-time, amended. The following are aggravated violations:

- a) A violation of the Zoning Code within three (3) years of a prior conviction of a violation of the Zoning Code;
- b) A violation of the Zoning Code within three (3) years of a prior petty misdemeanor charge of a violation of the Zoning Code where the charged person fails to make a court appearance on the charge; and
- c) A violation of the Zoning Code jeopardizing the health or safety of a person or persons.

A prosecution for a violation of this section may be maintained, whether or not the Code Enforcement Officer gives the violator prior written notice of and the opportunity to abate the violation of the Zoning Code. (Ref. Ord. 04-03-1015A, 3/9/04)