CHAPTER 11
ZONING ORDINANCE

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SECTION 1
GENERAL PROVISIONS

Section:
11-1-1 Title and Application
11-1-2 Purpose
11-1-3 Compliance
11-1-4 Rules of Interpretation

11-1-1: TITLE AND APPLICATION:

A. Title: This Chapter shall be known as the Nowthen Zoning Ordinance and will be hereinafter referred to as this Chapter.

B. Comprehensive Plan: Pursuant to Minnesota Statutes 473.858, as may be amended, the City’s adopted Comprehensive Plan shall serve as the basis upon which land use and development shall be regulated. This Chapter shall not conflict with and shall be based upon and implement the Comprehensive Plan.

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

D. Application: The provisions of this Chapter shall be the minimum requirements for the promotion of the public health, safety and welfare.

E. Allowed Uses: Only those uses identified as being permitted uses, permitted accessory uses, conditional uses, interim uses or uses by administrative permit in any zoning district shall be allowed. For any uses not specifically identified, 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 subject to those conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the study shall, if appropriate, initiate an amendment to this Chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the City. (Ordinance #38, adopted October 11, 2011)

11-1-2: PURPOSE: The City of Nowthen adopts this Chapter for the purpose of promoting the following goals:
A. To promote the orderly development of the City.

B. To ensure that all residents have an opportunity to participate in the decisions of the City regarding issues within the scope of the Chapter.

C. To improve and ensure safety in all transportation movements.

D. To control the density of development in the City so that property can be adequately serviced by such government facilities as streets, schools, fire protection, and utility systems.

E. To ensure that the natural environment is protected and maintained.

F. To help implement the community goals as specified in the Comprehensive Plan.

G. To protect and preserve lands with significant agricultural capability.

(Ordinance #3, adopted November 9, 2010)

11-1-3: **COMPLIANCE:** No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure or land be used or be designed to be used except and after the lawful issuance of all permits and certificates as required by this Chapter. (Ordinance #3, adopted November 9, 2010)

11-1-4: **RULES FOR INTERPRETATION:** Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be construed as set forth in such definition. If no set definition is given in the Chapter, the Board of Appeals shall interpret and define any word or section of this Chapter. (Ordinance #3, adopted November 9, 2010)
SECTION 2
DEFINITIONS

Section:
11-2-1 Inclusions
11-2-2 Terms
11-2-3 Incorporated by Reference

11-2-1: INCLUSIONS: Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular. The word "shall" is mandatory and the word "may" is permissive. The word "person" includes a corporation and unincorporated association. (Ordinance #3, adopted November 9, 2010)

11-2-2: TERMS: For the purpose of this Chapter, the following definitions shall apply:

Accessory Structure: A structure or portion of a structure subordinate to and serving the principal structure on the same lot and customarily incidental thereto. It is not the dwelling unit and is not a Farm Building. This will not include antennas or towers. (Ordinance 2013-04, adopted April 9, 2013)

Administrator: The Chief Administrative Officer of the City or his or her representative charged with the enforcement of this Chapter.

Agricultural Land: Contiguous acreage of twenty (20) acres or more, used during the preceding year for agricultural purposes. (Ordinance 2013-04, adopted April 9, 2013)

Agricultural Products: Include the following:

A. Livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

B. Fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

C. The boarding of horses, which may include related horse training and riding instruction, if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products as defined in (A);
D. Property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

E. Game birds and waterfowl bred and raised: 1) on a game farm licensed under MN State Statute Section 97A.105, provided that the annual licensing report to the Department of Natural Resources, which must be submitted annually by March 30 to the assessor, indicates that at least 500 birds were raised or used for breeding stock on the property during the preceding year and that the owner provides a copy of the owner's most recent schedule F; or 2) for use on a shooting preserve licensed under MN State Statute Section 97A.115;

F. Insects primarily bred to be used as food for animals;

G. Trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products; and

H. Maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor. (Ordinance 2013-04, adopted April 9, 2013)

**Agricultural Purposes:** The raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility. (Ordinance 2013-04, adopted April 9, 2013)

**Agricultural Use:** The growing of produce on farms, including, but not limited to, field crops, nurseries, specialty crops, also including the raising thereon of farm poultry, domestic farm animals such as horses, cattle, sheep and swine and non-domestic farm animals as defined in this Chapter. Agricultural uses shall not be subject to Home Occupation regulations contained herein. (Ordinance 2017-01, Adopted April 11, 2017).

**Alternative Energy Source Related:**

A. Accessory: A system designed as a secondary use to existing buildings or facilities; wherein the power generated is used primarily for on-site consumption.

B. Alternative energy system: A ground source heat pump, wind or solar energy system.

C. Building-integrated solar energy system: A solar energy system that is an
integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings.

D. Closed loop ground source heat pump system. A system that circulates a heat-transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water.

E. Flush-mounted solar energy system: A roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to 5% but shall not be higher than 10 inches above the roof.

F. Ground source heat pump system: A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils or plates; a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system.

G. Horizontal ground source heat pump system: A closed loop ground source heat pump system where the loops or coils are installed horizontally in a trench or series of trenches no more than 20 feet below the land surface.

H. Heat transfer fluid: A non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed 20% by weight or aqueous solutions of potassium acetate not to exceed 20% by weight.

I. Horizontal axis wind turbine: A wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground.

J. Hub: The center of a wind generator rotor, which holds the blades in place and attaches to the shaft.

K. Hub height: The distance measured from natural grade to the center of the turbine hub.

L. Monopole tower: A tower constructed of tapered tubes that fit together symmetrically and are stacked one section on top of another and bolted to a concrete foundation without support cables.

M. Open loop ground source heat pump system: A system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to
a heat pump and then discharging the water over land, directly in a water body or into an injection well.

N. Passive solar energy system: A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

O. Photovoltaic system: A solar energy system that converts solar energy directly into electricity.

P. Residential wind turbine: A wind turbine of 10 kilowatt (KW) nameplate generating capacity or less.

Q. Small wind turbine: A wind turbine of 100 KW nameplate generating capacity or less.

R. Solar energy system: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

S. Total height: The highest point above natural grade reached by a rotor tip or any other part of a wind turbine.

T. Tower: A vertical structure that supports a wind turbine.

U. Utility wind turbine: A wind turbine of more than 100 KW nameplate generating capacity.

V. Vertical axis wind turbine: A type of wind turbine where the main rotor shaft runs vertically.

W. Vertical ground source heat pump system: A closed loop ground source heat pump system where the loops or coils are installed vertically in one or more borings below the land surface.

X. Wind energy system: An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls and may include a tower.

Y. Wind turbine: Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.
**Animal Boarding:** Keeping animals owned by others for a fee.

**Animal, Domestic:** Animals customarily kept as household pets, such as dogs and cats.

**Animal, Non Domestic:** Any animals normally kept outside of the home for purposes of food or pleasure, such as cattle, hogs, sheep, horses, bees, goats, birds such as fowl, pigeons, falcons, and similar animals.

**Antenna:** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

**Attorney:** The attorney employed by the City, hereinafter referred to as the Attorney. (Ordinance #3, adopted November 9, 2011)

**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 the definition of Automobile Repair (Major). (Ordinance #38, adopted October 11, 2011)

**Basement Floor Area:** A portion of a building located partly or wholly underground, but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

**Bed and Breakfast Facility:** An owner-occupied, usually historic, residential structure used as a lodging establishment where a guestroom or guestrooms are rented on a nightly basis where at least one (1) meal and/or beverages are offered in connection with the provision of sleeping accommodations to no more than ten (10) persons. (Ordinance 2013-09, adopted December 10, 2013)

**Board of Adjustment and appeals:** The board designated to hear appeals from actions or interpretations of the Administrator, Building Official and/or Planning Commission. The City Council currently acts as the Board of Adjustment.

**Buildable Site:** A one acre contiguous parcel of land, as part of a lot, at the proposed building site, which meets standards as set by the City for a residential building site in accordance with the city’s Subdivision Ordinance.
**Building:** Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any use, person, animal, or property and occupying more than 200 square feet of area. (Ordinance 2013-04, adopted April 9, 2013)

**Building Height:** The distance measured from ten (10) feet above the lowest exterior pre-grade ground elevation at the perimeter of the foundation to the top of a flat roof, the midpoint of the highest gable on a pitched or hip roof, and to the uppermost point of all other roof types. (Ordinance 2013-04, adopted April 9, 2013)

**Building Setback Line:** Is a line parallel to the side property line, rear property line or street right-of-way beyond which property owners or others have no legal right to extend a building or any part thereof without securing a variance from the City Council. The minimum horizontal distance between a structure and lot line, ordinary high water mark, or right-of-way easement. Distances are to be measured from the most outwardly extended portion of the structure at ground level. (Ordinance 2013-04, adopted April 9, 2013)

**City Council:** The Nowthen City Council hereinafter referred to as the City Council.

**Cluster Development:** A subdivision development planned and constructed so as to group housing units or smaller lots, providing a unified network of open space and wooded areas, while still meeting the overall density regulations of this Chapter and other City standards and ordinances. Maximum density of one (1) home per five (5) acres. Lots of less than five (5) acres shall not be considered for conditional use.

**Commercial Agriculture:**

A. Field crops: including, but not limited to, barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, carrots, and radishes.

B. Livestock: including, but not limited to, dairy and beef cattle, goats, horses, sheep, hogs, poultry and game birds.

C. Livestock products: including, but not limited to, milk, butter, cheese, eggs and meat. (Ordinance #3, adopted November 9, 2010)

**Commercial Uses:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services, including, but not limited to, the following unless specifically defined by this Chapter:

A. Office Business: An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional, administrative or medical service operations including attorneys, financial advisors, consultants, insurance, outpatient health services and other uses of similar character.
B. Restaurant (Convenience): An establishment that serves food, in or on disposable or edible containers, for consumption on or off premises, including drive-in restaurants, and including drive-through facilities.

C. Restaurant (General): An establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

D. Retail Business: An establishment engaged in the display and sale of products produced off site directly to consumers within a building or portion of a building, excluding any exterior display and sales.

E. Service Business (Off Site): A company that provides labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer’s location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.

F. Service Business (On Site): An establishment that provides labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks, copy centers, barber/beauty salons, tanning salons, laundromats, dry cleaners, funeral homes and mortuaries, animal grooming, appliance repair, tailor shops, travel bureaus. (Ordinance #38, adopted October 11, 2011)

Commercial Vehicle: The principal use of a vehicle for the sale, lease, rental or trade of products, goods and services.

Commercial Wireless Telecommunication Services: Licensed commercial wireless telecommunication services including cellular, person communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services.

Comprehensive Plan: The Comprehensive Development Plan made and adopted by the City, indicating the general location recommended for major thoroughfares, streets, parks, public buildings, zoning districts, other public improvements, as well as policy statements, goals, and standards in the approved plan.

Craft House: A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging and/or meals may or may not be provided to four (4) or more persons and not more than ten (10) persons. The room(s) rented as sleeping and living quarters may not have individual cooking facilities and may or may not have individual bathroom facilities. Uses may include gatherings of people for scrapbooking, crafting, snowmobile weekends, family reunions or other small indoor gatherings as may be approved by the City Council. (Ordinance 2013-09, adopted December 10, 2013)

Developer: Any person who owns or controls land which is to be developed.
Dwelling, Residential: 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, bed and breakfast, mobile homes or trailers. (Ordinance 2013-04, adopted April 9, 2013)

Dwelling Unit, One Family: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling Unit, Two Family: A building that contains two separate one family dwelling units.

Easement: A right of use given to a person or entity over the property of another for the purpose of constructing and maintaining streets, trails, sidewalks, driveways, and/or utilities including, but not limited to, wetlands, ponding areas, drainage ways, sanitary sewers, water mains, storm sewers, electric lines, telephone lines, and gas lines. (Ordinance 2013-04, adopted April 9, 2013)

Easement Access: Access to a parcel of land via an easement over a strip of land which is granted from one property owner to another to allow driveway access to a property. (Ordinance 2013-04, adopted April 9, 2013)

Engineer: The Registered Engineer retained by the City, hereinafter referred to as the Engineer.

Excavating: Shall mean the removal or displacement of the natural surface of the earth, whether sod, dirt, soil, sand, gravel, stone or other naturally deposited material and shall mean the depositing of any such materials with the intent to create mounds, berms or similar.

Exotic or regulated animals: including but not limited to:

A. All members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multi-breed cat registry association;
B. Bear, wolves and other regulated animals; and
C. All non-human primates; including, but not limited to lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises and tamarins.
D. Regulated animal includes any hybrid or cross between an animal listed in clause A, B, or C and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.
Extended Home Occupation: Is a business which is partially or wholly conducted inside a garage or accessory structure and carried on by one or more members of the family residing in the dwelling unit.

Family: Is one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel.

Farm or Agricultural Land: Any contiguous tract of land twenty (20) acres or greater in area used the preceding year for agricultural purposes. (Ordinance 2013-04, adopted April 9, 2013)

Farming or Farm Operations: See agricultural land, agricultural purposes, and agricultural products. (Ordinance 2013-04, adopted April 9, 2013)

Farm or Agricultural Building: All buildings, other than dwellings and garages, which are incidental to the farming operation, including, but not limited to, barns, granaries, silos, farm implement storage buildings, and milk houses. (Ordinance 2013-04, adopted April 9, 2013)

Feed Lot: A confined area or structure used for feeding, breeding, or holding livestock for eventual sale in which animal wastes may accumulate, as defined by the Minnesota Pollution Control Agency.

Floor Area: Floor Area For residential dwelling units shall consist of the dwelling base floor ground coverage, excluding any garage area, for commercial use see State Building Code.

Foster Home for Children: A family dwelling where children for whom care is given when out of their own homes. (Ordinance 2013-09, adopted December 10, 2013)

Frontage: The length of the front property line of a lot or tract of land on an improved and accepted public right-of-way.

Home Occupation: Is a business carried on in a dwelling unit which is clearly incidental and secondary to the use of the residential use of the property and which does not change the character thereof. A home occupation does not include agricultural uses carried on a farm. A home occupation is not to be conducted in an attached garage or an accessory structure.

Horticulture: The use of land for production or sale of fruits, including apples, grapes and berries, vegetables, maple syrup, flowers, nursery stock, including ornamental shrubs and trees and cultured sod. (Ordinance #3, November 9, 2010)

Hotel or Motel: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing more than ten (10) guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are
occupied by more than ten (10) individuals for compensation, whether the compensation is paid directly or indirectly. Hotels and/or motels may consist of a building or group of buildings containing guest rooms or units, each of which may or may not have a separate entrance directly from the outside of the building. (Ordinance 2013-09, adopted December 10, 2013)

**Housing Shelter:** A facility operated by the public or a nonprofit charitable group or institution which provides one or more transient/homeless persons with shelter, lodging and meals for short periods of time in a place other than a person’s own home without compensation being expected. (Ordinance 2013-09, adopted December 10, 2013)

**Junk Vehicle:** A junk vehicle shall include any motor vehicle or trailer which is not in an operable condition, which is partially dismantled, which is used for the sale of parts or as a source of repair and replacement parts for other vehicles or which is kept for scrapping, dismantling, or salvage. The following vehicles shall not be considered junk vehicles:

A. An unlicensed vehicle for sale in an automobile sales lot; and  
B. A collector vehicle registered as a pioneer, classic, collector or street vehicle, as defined in MN State Statutes 168.10, if actively being restored. (Ordinance #5, October 12, 1993)

**Junk Yard:** An area where waste, used, or second hand materials or vehicles 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 uses established entirely within enclosed buildings. This definition does not include sanitary landfills, local governmental recycling centers and farm equipment stored as spare parts for an active farming operation by a farmer for his personal use.

**Light Manufacturing:** Is the processing and fabrication of certain materials and products and assembly.

**Limited Scale Trucking:** The parking, storage and operation of one or more vehicles over 20,000 lbs gross vehicle weight or any business or operations utilizing 2 or more commercial vehicles of any size. (Ordinance 2013-04, adopted April 9, 2013)

**Lot:** A parcel or tract of land intended as a unit for transfer of ownership or for development having frontage along an improved public road, which must be of sufficient area and dimension to meet minimum zoning requirements for width and area. For parcels which are platted or abut streets which are platted, the gross area of the lot shall be measured within the lot lines. In any platted area, minor subdivision, or metes and bounds division, "new lots" shall mean the total number of lots shown. (Ordinance 2013-04, adopted April 9, 2013)

**Lot Area:** The gross area of a lot in a horizontal plane bounded by the lot lines.
A. In determining the size of a lot for building purposes, measurements can be taken to the centerline of the road in cases where parcels are described by metes and bounds, where platted streets do not exist or whereby the sole means of access is from an established roadway easement.

B. In determining overall development density, except for minor subdivisions of three or fewer lots, when density calculations result in a fraction, the fraction shall be rounded to the nearest whole number as follows:

1. Fractions of 0.50 or above shall be rounded up; and
2. Fractions below 0.50 shall be rounded down.

C. For lots of record and preliminary platted lots having legal standing on April 9th, 2013, the gross area of the lot shall include measurements taken to the centerline of the adjacent roadway(s) if the area is required to meet lot size minimums or for the purposes of obtaining a conditional or interim use permit. (Ordinance 2013-04, adopted April 9, 2013)

Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot.

Lot, Flag: An “L” shaped lot utilizing a narrow strip of land to access a public street in order to accommodate back lot or rear property division and development without the required minimum lot frontage on a public street. (Ordinance 2013-04, adopted April 9, 2013)

Lot, Front/Frontage: The front of a lot shall be considered to be that boundary abutting a public right-of-way having the least width. If the lot is a Flag Lot or obtains access by an easement, the front shall be the side from which access is gained, except when a future road is planned to traverse or lie adjacent to the lot, the front shall be the side with the least width to adjoin the future road. (Ordinance 2013-04, adopted April 9, 2013)

Lot Line: The property line bounding a lot, including any portion of the lot that may extend into the public right-of-way.

Lot Line, Rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Width: Is the width measured at right angles to the depth at the building setback line. In the case of property abutting on a curved street, the frontage shall be measured on the arc at the building setback line. (Ordinance #3, November 9, 2010; Ordinance 2013-04, adopted April 9, 2013)
Major Recreational Equipment: shall include, but not be limited to: travel trailers, converted busses, coaches, pickup campers, campers, motorized dwellings, race cars, and dune buggies. It shall not include vehicles which are used predominantly for domestic or employment-related transportation. (Ordinance # 5, October 12, 1993)

Manufactured Home: Means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or forty body feet or more in length, or when erected on site, is nine hundred sixty (960) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected by the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meet all the requirements and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under Minnesota Statutes 327 including the Manufactured Home Building Code adopted therein.

Measured Distances: All measured distances shall be to the nearest integral foot. If a fraction is one-half foot or less, the integral foot next below shall be used.

Mining: Mine or mining shall mean an area or activity where the topsoil or overburden has been removed for the purpose of extracting earthly deposits or minerals and shall also mean the stockpiling, storage, and processing of sand, gravel, black dirt, clay and other minerals or as defined in the City Code regarding mining activities.

Mobile Home: Is a dwelling capable of being transported by the provision of wheels or on a flatbed truck. A travel trailer or other recreational vehicle shall be considered as a mobile home if occupied. It is the intention of the City Council that this definition shall include mobile homes as defined in Section 327.14, subdivision 2 of Minnesota Statutes. A mobile home as defined in this Chapter shall not be construed to include modular homes and/or prefabricated homes. (Ordinance #3, adopted November 9, 2010)

Motor Fuel Facility: A place where gasoline, 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 major automobile repairs. (Ordinance #38, adopted October 11, 2011)

Non-Conforming Structure: Is a structure built, moved, designed, converted, or adopted for a use prior to the adoption of provisions prohibiting such use or locations.

Nursing Home: A state licensed facility or that part of a facility which provides nursing care pursuant to Minnesota statutes chapter 144A.01. (Ordinance 2013-09, adopted December 10, 2013)

Occupancy or Use: The purpose for which a building is designated or intended to be used or for which it is occupied, utilized or maintained. The term shall also include the
building or room housing such use. Change of occupancy is not intended to include a change of tenants or proprietors.

Outdoor Club Recreation: Private and semi-private recreational uses of a non-invasive nature operated under not-for-profit conditions; excluding golf courses, miniature golf, driving ranges, batting cages, and similar commercial uses. (Ordinance 2014-08, adopted September 9, 2014)

Open Sales Lot (Exterior Storage): Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

Parcel: Is a separate tract of land, including a lot, having specific boundaries capable of being conveyed and recorded.

Parcel of Record: Is any parcel of land which individually or as part of a subdivision, has been recorded in the office of the County Recorder, as of the effective date of this Chapter.

Part-time: Employees who are hired to work 32 hours or less per week.

Planning Commission: The Planning and Zoning Commission of the City of Nowthen thereinafter referred to as the Planning Commission.

Principal Building: In a residential district it is the primary dwelling building on a lot or parcel of land and shall include an attached garage. In a commercial district it is the main or primary building on a lot.

Recreation, Commercial: A privately owned business offering recreational facilities, services, or equipment for a fee, including, but not limited to mini golf course, driving range, theaters, bowling alleys, boat launches, etc. Also includes the sale and service of recreational equipment such as snowmobiles, boats, campers, etc. (Ordinance #3, November 9, 2010)

Residential Property: Shall include all properties used for residential purposes and which shall be occupied by residential dwellings. (Ordinance #5, October 12, 1993; Ordinance 2013-04, adopted April 9, 2013)

Residential Treatment Facility, State Licensed: Any program, defined by Minnesota statutes section 245A.02, subdivision 14, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person’s own home, including a nursing home or hospital that receives public funds, administered by the commissioner of the department of human services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an
intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner of the department of human services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota statutes 254B. Residential programs include home and community based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home. (Ordinance 2013-09, adopted December 10, 2013)

**Saw Mill:** A mill where lumber is processed and sold for commercial uses. (Ordinance #3, adopted November 9, 2010)

**Semi-trailer:** means a vehicle of the truck type designed and used in conjunction with the truck-tractor that a considerable part of its own weight or that of its load rests upon and is carried by the truck-tractor and shall include a trailer drawn by a truck-tractor, semi-trailer combination. (Ordinance #5, October 12, 1993)

**Sign Related:**

A. **Balloon Sign:** A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty four inches (24") in diameter.

B. **Banner Sign:** A strip of fabric, cloth, vinyl, plastic or other material upon which a sign is displayed. **Changeable Copy Sign:** A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, illustrations, letters or numbers that can be changed or rearranged without altering the face or surface of the sign structure.

C. **Canopy Sign:** Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

D. **Changeable Copy Sign, Electronic:** A sign or portion thereof that displays electronic, non-pictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs.
E. Commercial Speech: Speech advertising a business, profession, commodity, service or entertainment.

F. Dynamic Display: Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays.

G. Electronic Graphic Display Sign: A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

H. Flag: Any fabric, usually rectangular, of distinctive design that is used as a symbol, signaling device, sign, or decoration.

I. Flashing Sign: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.

J. Freestanding Sign: Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

K. Marquee Sign: Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

L. Multivision Sign: Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two (2) or more images.
M. Noncommercial Speech: Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

N. Off-Premises Sign: A commercial speech sign, including billboards, which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of the sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off premises sign.

O. Official Sign: Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty.

P. Portable Sign: Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

Q. Roof Sign: Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

R. Rotating Sign: A sign or portion of a sign which turns about on an axis.

S. Shimmering Sign: A sign which reflects an oscillating sometimes distorted visual image.

T. Sign: Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

U. Sign face: The surface of the sign upon, against, or through which the message of the sign is exhibited.

V. Sign Structure: Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

W. Video Display Sign: A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames.
that gives the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

X. Wall Sign: Any building sign attached parallel to, but within two feet (2’) of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Y. Window Sign: Any building sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window. (Ordinance #38, adopted October 11, 2011)

Special Mobile Equipment: means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to: ditch digging apparatus, moving dollies, and other machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors, other than truck-tractors, ditches, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes, and earth-moving equipment. (Ordinance #5, October 12, 1993)

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which is permanently or temporarily supported on the ground.

Structural Alteration: Any change, other than incidental repairs, which would prolong the life of/or change the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Temporary Structure: A structure made of fabric, plastic, or other light material, which is intended to provide a minimal amount of protection for a period of time not to exceed six (6) months in any calendar year.

Tower: Any ground or roof mounted pole, spire, structure, or combination thereof taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above ground. This definition shall not apply to any radio tower which is used for commercial broadcasting purposes and is more than two hundred (200) feet in height. (Ordinance #3, November 9, 2010)

Truck: means any motor vehicle designed, used, or maintained primarily for the transportation of property and not for the carrying of passengers.
Truck-tractor: means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. (Ordinance #5, October 12, 1993)

Uses (classification of):

A. Accessory use: A use subordinate to the principal use of a building servicing a purpose incidental thereto. An accessory use shall be allowed as a matter of right.

B. Conditional use: Certain uses, while normally not suitable in a particular zoning district due to nuisance characteristics or incompatibility with permitted uses, are suitable under special circumstances.

C. Interim use: An Interim Use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

D. Non-conforming use: Is any building, structure, or land lawfully occupied by an actual and active use established prior to the effective date of this Chapter or amendments thereto which is not allowed under the provisions of this Chapter in the district in which it is located.

E. Permitted use: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations. (Ordinance #3, adopted November 9, 2010)

Variance: A modification of or variation from the provisions of this Chapter consistent with the Minnesota Statues 462.357 as applied to a specific property and granted pursuant to the standards and procedures of this Chapter, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited. (Ordnance #39, adopted December 13, 2011)

Wetland Related: (Ordinance 2013-04, adopted April 9, 2013)

A. Accelerated Erosion: Erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

B. Applicant: A property owner or agent of a property owner who has filed an application for a permit.

C. Building: Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than one hundred twenty (120) square feet of area.
D. **Channel:** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

E. **Dedication:** The deliberate appropriation of property by its owner for general public use.

F. **Developer:** A person who undertakes land disturbance activities.

G. **Drainage Easement:** A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

H. **Fee-in-Lieu:** A payment of money in place of meeting all or part of the stormwater performance standards required by this ordinance.

I. **Grading, Drainage, and Erosion Control Plan:** A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

J. **Impervious Cover:** Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

K. **Land Disturbing Activity:** Any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity, which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

L. **Nonpoint Source Pollution:** Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

M. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC ’1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

N. **On-Site Management:** A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

O. **Recharge:** The replenishment of underground water reserves.
P. **Site Development Permit:** The permit issued by the municipality for which the purpose is construction or alteration of ground.

Q. **Stop-Work Order:** An order issued which requires that all construction activity on a site be stopped.

R. **Stormwater Management:** The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

S. **Stormwater Management Plan:** The hydrologic analysis report and drainage area map(s) that provides the pre-development and post-development hydrologic site conditions.

T. **Stormwater Runoff:** Flow on the surface of the ground, resulting from precipitation.

U. **Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. (Ordinance 2013-04, adopted April 9, 2013)

**Zoning:** Is a plan implementation tool designed to reserve specific areas within the City for specific types of land uses. Limitations may be placed on the land, structures, or use, as specified under the terms of this Chapter.

**Zoning Administrator:** The duly appointed officer(s) charged with the administration and enforcement of this Chapter, including the City Clerk, City Planner and Building Official. (Ordinance 2013-04, adopted April 9, 2013)

**Zoning Amendment:** A change authorized by the governing body, either in the allowed use within a district, or in the boundaries of a district.

**Zoning District:** An area or areas within the limits of the City for which the regulations and requirements governing use are uniform. (Ordinance #3, adopted November 9, 2010)

**11-2-3:** **INCORPORATED BY REFERENCE:** All other definitions included in Chapter 10 of the City Code (City of Nowthen Subdivision Ordinance) are included by reference as part of this Chapter. (Ordinance #3, adopted November 9, 2010)
SECTION 3
DISTRICT PROVISIONS

Section:
11-3-1 Purpose
11-3-2 Establishment of Districts
11-3-3 Official Zoning Map
11-3-4 CON--Conservancy District
11-3-5 RRA--Rural Residential Agriculture District
11-3-6 LTA--Long Term Agriculture District
11-3-7 LRUS--Long Range Urban Service District
11-3-8 C-1--Commercial District
11-3-9 I-1--Industrial District
11-3-10 Shoreland District
11-3-11 Floodplain District
11-3-12 Planned Unit Development

11-3-1: PURPOSE:

A. The zoning districts are designed to implement the intents and purposes of the Comprehensive Plan.

B. The zoning districts are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience, and general welfare. Before any amendment to the boundary lines of the established zoning districts are made, any necessary amendments must first be made to the Comprehensive Plan. (Ordinance #3, adopted November 9, 2010)

11-3-2: ESTABLISHMENT OF DISTRICTS: For the purpose of this Chapter, The City of Nowthen is hereby divided into the following zoning districts where the regulations outlined herein will apply:

A. CON--Conservancy District.
B. RRA--Rural Residential Agriculture District.
C. LTA--Long Term Agriculture District.
D. LRUS--Long Range Urban Service District. (Ordinance #3, adopted November 9, 2010)
E. C-1--Commercial District.
F. I-1--Industrial District. (Ordinance #38, adopted October 11, 2011)
G. Shoreland District.
H. Floodplain District.
I. Planned Unit Development (Ordinance #3, adopted November 9, 2010)
11-3-3: OFFICIAL ZONING MAP: The locations and boundaries of the districts established by this Chapter are hereby set forth on the Official Zoning Map of the City of Nowthen, and said map is hereby made part of this Chapter. (Ordinance #3, adopted November 9, 2010)

11-3-4: CON -- CONSERVANCY DISTRICT:

A. Intent: This district is intended primarily to include those areas reserved for public recreation activities.

B. Permitted Uses:

1. Agricultural uses, except feed lots.
2. Public parks and playgrounds.
3. Public open space, nature trails.
4. Conservation and protection of ground water recharge areas.
5. Storm water holding areas.
7. Concession operations as licensed by the City.
8. Wildlife sanctuaries.
9. Public hunting and trapping in compliance with all applicable state, county, and City regulations. An amendment to this Chapter shall be necessary prior to commencement of any type of development in this District other than the above listed permitted.

C. Conditional Uses:

1. No conditional uses are provided for.

D. Site Plan Review: Prior to the development of property in the Conservancy District for recreational purposes, the Developing Agency shall submit a detailed site plan to the Planning Commission for their review and approval. (Ordinance #3, adopted November 9, 2010)
11-3-5: **RRA -- RURAL RESIDENTIAL AGRICULTURE DISTRICT:**

A. **Intent:** This district is intended for application in those areas of the City where large sections of land have become subject to increased amounts of single family residential development and hobby farms. Marginal soils, rough topography, and insufficient irrigation may make these lands uneconomical for long term agricultural purposes. There are some suitable sites for single family home construction. However, because there are moderate to severe environmental constraints on residential development in this area; and because urban services, such as central sewer and water, will likely not be provided for in the near future and because significant amounts of residential development will adversely affect surrounding agricultural operations, residential development in this district must be kept to a reasonable rural density.

B. **Permitted Uses and Structures:** The following shall be permitted uses by right:

1. Any and all forms of agriculture and horticulture as defined by this Chapter, except feed lots.

2. Any farm buildings located on Agricultural Land, to be used for Agricultural Purposes and for the storage of Agricultural Products as defined in this Chapter. (Ordinance 2013-04, adopted April 9, 2013)

3. Accessory structures located on properties which contain a dwelling or principal structure, which meet the requirements set forth in this Chapter. (Ordinance 2013-04, adopted April 9, 2013)

4. Farm drainage and irrigation systems.

5. Forestry, grazing, and gardening.

6. Public parks and playgrounds.

7. One family dwellings or temporary habitation (as approved by the city)

8. Home occupations as provided for in this Chapter.

9. In Home Day Care (employees prohibited).

10. The uses identified as permitted by right shall only apply to uses that have no on-site consumers, no customers, no retail sales, no employees working or coming on the premises except as described as home occupation defined by this Chapter, no manufacturing, no merchandising, no signage, no outside storage of machinery or equipment, and no inside storage other than personally owned material and equipment.

C. **Conditional Uses:**
1. Public buildings.
2. Churches.
3. Public and private schools.
4. Public utility buildings and equipment.
5. Cemeteries.
6. Planned Unit Developments.
7. Golf Course.
8. Other operations determined by the Planning Commission and City Council to be equivalent to those listed above.

D. Interim Uses:
1. Mineral Extractions / Pond Excavation & Mining.
2. Saw Mills.
3. Nurseries and greenhouses.
4. Animal boarding, of domesticated animals.
5. Extended Home Occupation.
6. Limited Scale Trucking Operations meeting the requirement of Extended Home Occupations as defined in this Chapter.
7. Towers and antennas over thirty-five (35) feet in height.
8. Boat launch/rental services.
9. Outdoor club recreation as defined in this Chapter, provided that:
   a. The property upon which the recreational use is proposed is a minimum of 40 acres.
   a.b. All uses, activities, equipment and/or structures associated with the recreational use are setback a minimum of 500 feet from existing residences. (Ordinance 2014-08, adopted September 9, 2014)

11. Other operations determined by the Planning Commission and City Council to be equivalent to those listed above.

E. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted as right, by Conditional Use Permit or by Interim Use Permit shall be prohibited in the RRA (Rural Residential Agriculture District).

F. Minimum Lot Size: For one family dwelling units: five (5) except for allowable five (5) acre lot density within plats approved under Chapter 10 of the City Code.

G. Minimum Lot Dimension Requirements for Permitted Uses:

1. All lots shall have a minimum of one hundred fifty (150) feet of frontage on a public street and shall be directly accessed from that frontage.

2. Lots which contain public street access on the terminus end of a cul-de-sac with side lot lines that are radial from the center of the cul-de-sac, shall have a minimum of seventy-five (75) feet of frontage at the edge of the right-of-way provided special circumstances exist as outlined in Chapter 10 of the City Code to justify use of said cul-de-sac.

3. All lots shall have a minimum lot width and depth of three hundred (300) feet as measured at right angles to the lot depth at the building setback line.

4. All front, side and rear building setbacks shall be a minimum of one hundred twenty (120) feet from centerline of any local road and a minimum of one-hundred-fifty (150) feet from the centerline of collector or arterial roads which shall include all roads under county or state jurisdiction (excluding Flag Lots).

5. All front and rear yard building setbacks shall be a minimum of thirty-five (35) feet from any lot line.

6. All side yard building setbacks shall be a minimum of twenty (20) feet from any lot line.

7. Corner lots abutting two (2) streets are considered to have two (2) front yard setbacks and two (2) side yard setbacks.

8. All driving or parking areas shall be setback a minimum of five (5) feet from any lot line.
9. All applicable setback and development standards of the Shoreland (11-3-10), Floodplain (11-3-11) and Wetland Management (11-4-20) sections of this Chapter are met. (Ordinance 2013-04, adopted April 9, 2013)

H. Maximum Height:

1. For farm buildings and farm accessory structures: None.
2. For non-farm and special uses: Thirty (30) feet.
3. Towers and antennas: None. (Ordinance #3, adopted November 9, 2010)

11-3-6: LTA – LONG TERM AGRICULTURE DISTRICT

A. Intent: The general intent of this district is to accommodate those farmers willing to make long term commitments to agricultural operations. This district is intended to contain those areas of the City of Nowthen where, because of the land capability, and the capital investment in farming operations, it is necessary to preserve, promote, maintain, and enhance the use of land for long term agricultural purposes and to protect such land from encroachment by non-agricultural uses, structures, or activities. This District is being made available to assist individual farmers in the RRA District that may wish to make long term commitments to continued agricultural operations.

B. Permitted Uses: The following shall be permitted uses by right:

1. Any and all forms of commercial agricultural and commercial horticulture as defined by this Chapter.

2. Feed lots and farm operations.

3. Farm buildings and accessory structures.

4. Forestry and lumber mills.

5. Farm drainage and irrigation systems.

6. Grazing and gardening.

7. Single family dwelling units.

8. Home occupations as provided for in this Chapter.

C. Conditional Uses:

A. None are provided for.
D. Interim Uses:
   A. None are provided for.

E. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted as of right or by conditional use permit shall be prohibited in the LTA (long Term Agriculture District).

F. Minimum Lot Size:
   A. For inclusion in this District: Forty (40) acres.
   B. Gross density per dwelling units: One (1) per one-fourth (1/4) quarter section.

G. Minimum Setback Dimensions Requirements:
   1. Front yard structure setback from:
      a. Local streets: One hundred twenty (120) feet from the center line.
      b. Collectors and arterial streets: One hundred fifty (150) feet from the centerline.
   2. Side yard setback: Twenty (20) feet from lot line.
   3. Rear yard setback: Thirty-five (35) feet from lot line.
   4. Side yard setback from:
      a. Local Streets: One hundred twenty (120) feet from the centerline.
      b. Collectors and arterial Streets: One hundred fifty (150) feet from the centerline. (Ordinance #3, adopted November 9, 2010)

11-3-7: LRUS -- LONG RANGE URBAN SERVICE DISTRICT

A. Intent: The purpose of the LRUS Long Range Urban Service District is to apply to areas of Nowthen designated for future Metropolitan Urban Service Area as identified by the Comprehensive Plan. Until such time as urban services are available, these areas are to be utilized for continued open space, rural residential, and/or agricultural uses as allowed by the Comprehensive Plan.
B. Permitted Uses and Structures: The following shall be permitted uses by right:

1. Any and all forms of agriculture and horticulture as defined by this Chapter, including the keeping of non-domestic animals as allowed by this Chapter.

2. Any farm buildings and accessory structures located on properties that qualify as agricultural land and which are used for agricultural uses, agricultural products and agricultural purposes under the terms of this Chapter. (Ordinance 2017-01, adopted April 11, 2017).

3. Farm drainage and irrigation systems.

4. Forestry, grazing, and gardening.

5. Public parks and playgrounds.

6. One family dwellings or temporary habitation (as approved by the City Council).

7. Home occupations as provided for by this Chapter.

8. In Home Day Care (employees prohibited)

9. The uses identified as permitted by right shall only apply to uses that have no on-site consumers, no customers, no retail sales, no employees working or coming on the premises except as described as home occupation by this Chapter, no manufacturing, no merchandising, no signage, no outside storage of machinery or equipment, and no inside storage other than personally owned material and equipment.

C. Conditional Uses:

1. Public buildings.

2. Churches.

3. Public and private schools.

4. Public utility buildings and equipment.

5. Cemeteries.

6. Planned Unit Developments.

7. Golf Course.
8. Other operations determined by the Planning Commission and City Council to be equivalent to those listed above.

9. Residential cluster development subject to the following:

a. Density:

   (1) Base Density: The density of the residential cluster shall be up to one (1) dwelling unit per five (5) acres based on the gross acreage of the subdivision.

   (2) Density Bonus: the density of the residential cluster may be increased to up to one (1) dwelling unit per four (4) acres based on the gross acreage of the subdivision provided that:

      (a) A re-subdivision plan for future division of each lot with availability of municipal utilities is submitted and recorded on the deed for each lot.

      (b) Principal and accessory buildings shall be located on each lot in conformance with all present and future setback requirements based on the re-subdivision plan.

      (c) Drainage and utility easements separate from the public street right-of-way shall be provided to allow for future extension of municipal utilities.

b. Subdivision design:

   (1) A minimum seventy-five (75) percent of the net buildable area of the parcel to be subdivided shall be reserved for future development.

   (2) Lots are to be clustered and the overall subdivision designed in such a manner so as to provide for logical future street and municipal utility extensions as determined by the City Council.

   (3) The City Council may require provision of a concept plan illustrating future extension of street and municipal utilities to the remaining parcel outside of the residential cluster demonstrating the feasibility of a net residential development density of three (3) dwelling units per acre to be recorded with the subdivision.
c. Access: All lots shall be accessed by improved public streets as allowed by the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance.

d. Lot Size:

   (1) Minimum: Each lot shall have a minimum area of one (1) acre compliant with the requirements of the Subdivision Ordinance.

   (2) Maximum: Each lot shall have a maximum gross area of two (2.0) acres unless one of the following conditions is met:

      (a) Topography, soils, wetlands, or other natural features unsuitable for building sites dictate a larger minimum gross lot area.

      (b) The location of existing buildings cannot be fully accommodated in compliance with applicable setback requirements.

      (c) One (1) development right as allowed by this Section is used for a dwelling located on the parent parcel outside of the residential cluster.

  

e. Lot Width: Each lot shall have a minimum width of one hundred fifty (150) feet.

f. Utilities: Each lot within the subdivision shall demonstrate sufficient area to accommodate two (2) individual on-site sewage treatment systems and one (1) on site well.

g. Deed Restriction:

   (1) A deed restriction shall be recorded for each lot within the residential cluster and the remaining parent parcel exercising development rights to prohibit additional subdivision unless it conforms to applicable zoning district requirements.

   (2) A deed restriction shall be recorded for each lot within the residential cluster stating that the remaining parent parcel is anticipated to be subdivided in the future to allow for urban density development.
D. Interim Uses:

1. Mineral Extractions/Pond Excavation & Mining
2. Saw Mills.
3. Nurseries and greenhouses.
4. Animal boarding, of domesticated animals.
5. Extended Home Occupation as regulated by this Chapter.
6. Limited Scale Trucking Operations meeting the requirement of extended Home Occupations as defined by this Chapter.
7. Towers and antennas over thirty five (35) feet in height.
8. Boat launch/rental services.
9. Other operations determined by the Commission and City Council to be equivalent to those listed above.

E. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted as right, by Conditional Use Permit or by Interim Use Permit shall be prohibited in the LRUS (Long Range Urban Service District).

F. Minimum Lot Size: Ten (10) acres except as allowed by Section 11-3-7.C.9 of this Section.

G. Minimum Lot Dimension Requirements for Permitted Uses:

1. All lots shall have a minimum of three hundred (300) feet of frontage on a public street and shall be directly accessed from that frontage except as allowed by Section 11-3-9.C.9 of this Section.

2. All lots shall have a minimum lot width and depth of three hundred (300) feet as measured at right angles to the lot depth at the building setback line except as allowed by Section 11-3-9.C.9 of this Section.

3. All front, side and rear building setbacks shall be a minimum of one hundred twenty (120) feet from centerline of any local street and a minimum of one-hundred-fifty (150) feet from the centerline of collector or arterial streets which shall include all roads under county or state jurisdiction (Excluding Flag Lots).

4. All front and rear yard building setbacks shall be a minimum of thirty-five (35) feet from any lot line.
5. All side yard building setbacks shall be a minimum of twenty (20) feet from any lot line.

6. Corner lots abutting 2 streets are considered to have two (2) front yard setbacks and two (2) side yard setbacks.

7. All driving or parking areas shall be setback a minimum of five (5) feet from any lot line.

H. Maximum Height:

1. For farm buildings and farm accessory structures: None.

2. For non-farm and special uses: Thirty (30) feet.

3. Towers and antennas: None (Ordinance #3, adopted November 9, 2010)

11-3-8: C-1 -- COMMERCIAL DISTRICT:

A. Intent: This district is intended for application in the vicinity of the intersections of arterial and collector roadways where significant traffic currently exists. The intent of this district is to encourage or accommodate retail, service and office commercial land uses and to prohibit new or expanded residential use in areas so guided by the Comprehensive Plan.

B. Permitted Uses: The following shall be permitted by right:

1. Bank, savings and loan, savings credit unions and other financial institutions.

2. Commercial recreation.

3. Day care facilities.

4. Funeral homes and mortuaries.

5. Governmental and public utility buildings and structures; City of Nowthen only.

6. Hotels.

7. Instructional classes.

8. Nurseries, greenhouses and landscape businesses.


11. Public parks and playgrounds, City of Nowthen only.

12. Restaurants, general with on- and off-sale liquor.

13. Retail businesses.

14. Service Businesses, on and off site.

C. Conditional Uses: All conditional uses shall be reviewed and allowed in accordance with the standards of Section 10 of this Chapter subject to those performance standards outlined herein any additional stipulations determined to be necessary and reasonable by the City Council to meet the criteria outlined in Section 10 of this Chapter.

1. Any of the uses identified as allowed within the C-1 District that would be projected to generate a wastewater flow of one thousand (1,000) gallons per day.

2. Automobile repair, major and minor provided that:
   a. The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous material or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a stormwater drainage system and is subject to the approval of the City Engineer.
   b. The hours of operation shall be between seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. unless extended by the approval of the City Council.
   c. All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with Minnesota Pollution Control Standards as amended.
   d. The emission of odor by a use shall be in compliance with and regulated by the Minnesota Pollution Control Standards, Minnesota Regulation APC, as amended.
   e. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota uniform fire code.
f. All outside storage, including the storage of damaged vehicles, vehicles being repaired and vehicle parts and accessory equipment shall be completely screened from view of adjacent properties or the public right-of-way or shall be completely inside a principal or accessory building.

g. Sale of products other than those specifically mentioned in this Section shall be subject to approval as part of the conditional use permit.

3. Convenience food establishments, provided that:

a. Hours: The hours of operation shall be limited to five o’clock (5:00) A.M. to eleven o’clock (11:00) P.M., unless extended by the City Council as part of the conditional use permit.

b. Dust Control And Drainage: The entire area other than occupied by buildings, structures or plantings shall be surfaced with asphalt, concrete, cobblestone, or paving brick to control dust and drainage, which is subject to review and approval of the City Engineer.

c. Exterior Lighting: The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

(1) Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot-candles at ground level.

(2) Maximum site illumination shall not exceed one foot-candle at ground level when measured at any property line.

(3) Except for allowed wall signage the building fascia shall not be illuminated.

d. Access: Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.

e. Drive-Through Windows: Service windows shall be allowed if the following additional criteria are satisfied:
(1) Stacking: Not less than one hundred eighty (180) feet of segregated automobile stacking lane must be provided for the service window.

(2) Traffic Control: The stacking lane and its access must be designed to control traffic in a manner to protect the pedestrians, buildings and green area on the site.

(3) Use of Street: No part of the public street or boulevard may be used for stacking of automobiles.

f. Circulation and Loading: The site design must accommodate adequate turning radius and vertical clearance for a semitrailer truck. Designated loading areas must be exclusive of off street parking stalls and drive aisles and shall not cause conflicts with customer vehicles and pedestrian movement. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.

g. Pedestrian Traffic:

(1) An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment.

(2) A continuous and permanent concrete curb not less than six (6) inches above grade shall separate internal sidewalks for pedestrian traffic from motor vehicle areas.

h. Noise: The stacking lane, order board intercom, and service window shall be designed and located in such a manner as to minimize automobile and communication noises, emissions, and headlight glare upon adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.

4. Essential services involving transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV.

5. Governmental and public utility buildings and structures; other than City of Nowthen.

6. Motor vehicle fuel sales with or without convenience grocery and/or prepared food provided that:
a. Motor Fuel Facilities:

(1) Motor fuel facilities shall be installed in accordance with State and City standards.

(2) Adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site.

(3) Fuel pumps shall be installed on pump islands and must comply with the following performance standards:

(a) Pump islands must be elevated six (6) inches above the traveled surface of the site.

(b) All pump islands must be set at least thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty-four (24) feet.

b. Hours: Hours of operation (including 24-hour automated fuel pump service) shall be limited to five o'clock (5:00) A.M. to eleven o'clock (11:00) P.M. unless extended by the City Council as part of the conditional use permit.

c. Canopy: A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:

(1) The edge of the canopy shall be twenty (20) feet or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.

(2) The canopy shall not exceed eighteen (18) feet in height and must provide fourteen feet (14) feet of clearance to accommodate a semitrailer truck passing underneath.

(3) The canopy fascia shall not exceed three (3) feet in vertical height.

(4) Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot-
candles below the canopy at ground level. The fascia of the canopy shall not be illuminated.

(5) The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.

(6) Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:

(a) The individual canopy sign does not exceed more than twenty percent (20%) of the canopy facade facing a public right-of-way.

(b) The canopy fascia shall not be illuminated, except for permitted canopy signage.

(7) Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.

d. Dust Control and Drainage:

(1) The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer.

(2) Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:

(a) A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.

(b) A minimum pool depth of four (4) feet.

(c) A minimum oil containment capacity of eight hundred (800) gallons.

(d) Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.
e. Landscaping: Where lots abut residentially zoned property, a buffer yard of not less than twenty (20) feet wide shall be landscaped and screened in compliance with this Chapter.

f. Exterior Lighting: The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with this Chapter. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

   (1) Perimeter Lighting: Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot-candles at ground level.

   (2) Illumination: Maximum site illumination shall not exceed one foot-candle at ground level when measured at any property line.

g. Access: Vehicular access points shall create a minimum of conflict with through traffic movement.

h. Circulation and Loading: The site design must accommodate adequate turning radius and vertical clearance for a semitrailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.

i. Pedestrian Traffic:

   (1) An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment.

   (2) A continuous and permanent concrete curb not less than six (6) inches above grade shall separate internal sidewalks for pedestrian traffic from motor vehicle areas.

j. Noise: Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited.

k. Outside Sales and Service: Outside sales and service shall be allowed on a limited basis, provided that:
(1) Site Plan: Areas for outdoor sales and services shall be clearly indicated on the site plan and reviewed at the time of application for a conditional use permit. No outdoor sales or services shall be allowed outside of those areas so designated on the approved site plan without approval of an amended conditional use permit.

(2) Location: Outdoor sales and services shall be located upon a concrete or asphalt surface and shall not encroach into any required principal building setback, required parking stall, drive aisle, or pedestrian sidewalk required by this section, or otherwise impede vehicle and pedestrian circulation.

(3) Outdoor Sales:

(a) The area devoted to outdoor sales shall not exceed five percent (5%) of the gross floor area of the principal building or two hundred (200) square feet, whichever is less.

(b) The height of sales displays shall not obstruct any window or otherwise impair a clear view of the pump islands from the cashier station within the building. In no case shall the sales display exceed five feet (5’) in height.

(4) Outdoor Services: Outdoor services shall be limited to the following uses:

(a) Public phones, compressed air service or automobile vacuum areas may encroach into a required yard as long as they do not interrupt on site traffic circulation, do not occupy required parking stalls, and are not located in a yard abutting residentially zoned property.

(b) Propane sales limited to twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meet all state uniform building and fire codes.

(c) Freezers for ice products subject to the area and location requirements of this section.

I. Signs: A comprehensive sign plan must be submitted as part of a conditional use permit application illustrating the location and area of all signs to be installed on-site.
7. Multiple principal buildings on one lot of record, provided that:

   a. Base Lot Requirements: The base lot shall conform to the minimum lot area, lot width, and setback requirements of this Section.

   b. Setbacks: Setbacks between multiple principal buildings within the same base lot shall be a minimum of twenty (20) feet.

   c. Common Areas: All common areas including, but not limited to, open space, wetlands, greenways, drainage ponds, driveways, parking areas, sidewalks, etc., shall be maintained in one of the following ways:

      (1) All of the property including buildings and common areas shall be owned by a single entity.

      (2) Condominium ownership pursuant to Minnesota statutes 515A.1-106.

      (3) The property shall be divided into a base lot and unit lots to allow for individual ownership of the principal buildings or individual tenant spaces within the principal building, with each owner of a unit lot having an equal and undivided interest in the common area, subject to the following requirements:

          (a) The tenant space related to each unit lot shall have an exclusive exterior entrance.

          (b) A management association shall be established for all commercial developments with multiple principal buildings subdivided in a base lot/unit lot configuration that is to be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of driveways and parking areas, subject to review and approval of the City Attorney.

   d. Utilities: All utilities including telephone, electricity, gas, and telecable shall be installed underground. Exterior utility meters and fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right-of-way.
8. Pet shops which may include pet grooming, pet supplies, and/or pet accessories, and veterinary clinics provided that:

   a. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties or tenants in the case of multiple occupancy buildings.

   b. Animal wastes are disposed at least once each day via an existing sewer system or enclosed in a container of sufficient construction at least once a day to minimize odors.

   c. The floors and walls of pet grooming and/or treatment areas are made of nonporous materials or sealed concrete to make them nonporous.

   d. All applicable requirements of the City Code regarding the keeping and care of animals are satisfactorily met.

   e. No commercial boarding or kenneling of animals shall be allowed unless expressly allowed by the conditional use permit.

   f. The breeding of cats and dogs is prohibited unless expressly allowed by the conditional use permit.

   g. All applicable provisions of Minnesota statutes sections 346.35 through 346.58 regarding the commercial keeping and care of animals are satisfactorily met.

   h. All animals to be sold are acquired from a licensed animal broker.

D. Interim Uses: All interim uses shall be reviewed and allowed in accordance with the standards of Section 10 of this Chapter, shall terminate upon a change of occupancy or other date as determined by the City Council in accordance with Section 10 of this Chapter and subject to those performance standards outlined herein any additional stipulations determined to be necessary and reasonable by the City Council to meet the criteria outlined in Section 10 of this Chapter.

1. Any and all forms of agriculture and horticulture as defined by this Chapter existing on October 11, 2011 provided that:

   a. Once converted to an allowed commercial use in conformance with the requirements of this Chapter, the interim agricultural use shall not be re-established.

2. Farm buildings and accessory structures existing on October 11, 2011 provided that:
a. Once converted to an allowed commercial use in conformance with the requirements of this Chapter, the interim farm building shall not be re-established.

3. Outdoor service, sale and rental as a principal or accessory use, provided that:
   a. Outside services, sales and equipment rental connected with the principal use is limited to thirty percent (30%) of the gross floor area of the principal use.
   b. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district.
   c. Sales area is surfaced with asphalt, concrete or pavers to control dust.
   d. The use does not take up parking space as required by this Chapter.

4. Outdoor storage as a principal or accessory use, provided that:
   a. The storage area is fenced and screened from view of neighboring residential uses, abutting residential districts and the public right-of-way.
   b. The storage area is surfaced with asphalt, concrete or pavers to control dust.
   c. The storage area does not take up parking space as required by this Chapter.

5. Residential uses existing as of October 11, 2011 shall be designated as interim uses provided that:
   a. Existing residential uses may continue and may be enlarged or expanded upon provided that the uses maintain compliance with all other provisions of this Chapter applicable to such residences. (Ordinance 2014-01, adopted February 11, 2014)
   b. Not more than one (1) principal use shall be allowed upon the property.
   c. Commercial uses as provided for within the C-1 District shall not be allowed until such time as the interim residential use ceases and the property complies with all requirements of this Chapter applicable to commercial uses; once converted to an allowed commercial use in
conformance with the requirements of this Chapter, the residential use shall not be re-established, except by approval of an interim use permit subject to the following conditions:

(1) Commercial use of the residential structure was established prior to March 10, 2015;

(2) If the residential use is not the only principal use of the property, a Conditional Use Permit is processed according to Section 11-3-8.C.7 to allow for multiple principal uses on a single property;

(3) The residential use shall be located upon a lot that complies with the minimum requirements of the C-1 District.

(4) The residential use may only be re-established once per property or structure.

6. Wireless communication antennas as regulated by this Chapter.

7. Housing Shelters, Nursing Homes
   (Ordinance 2013-09, adopted December 10, 2013)

8. Bed and Breakfast Facilities and Craft Houses within residential structures currently in existence, provided:

   a. Residential structures are not enlarged or expanded upon and are located on a minimum of one (1) acre.

   b. When four (4) or more beds are available for rent, a State of Minnesota lodging license is obtained.

   c. A maximum of ten (10) guestrooms are established that meet the State guidelines for lodging licensing. The number of guestrooms permitted shall be based on the square footage requirements of the City’s adopted building standards for bedrooms and the standards of the State lodging license.

   d. A registration ledger shall be kept for a minimum of three (3) years or as otherwise required by State law, whichever is greater, and shall be made available to the Code Enforcement Officer or Zoning Administrator upon request.

   e. C-1 District permitted uses may be allowed in association with the residential structure, provided off-street parking and loading areas can be accommodated.
f. The structure shall comply with the City’s minimum residential structure size requirements in Section 11-4-13 of this Chapter.

g. Overnight guests shall be limited exclusively to those persons registered as a lessee at the facility.

h. Small group gatherings or meetings may be allowed as part of an approved Interim Use Permit provided the gathering area is large enough to meet building occupancy standards and parking must comply with zoning requirements.

i. When food service is provided to the renters by the building’s owner, caterer, hired cook, or anyone other than the person(s) contracted to rent the craft house, a State of Minnesota food service license shall be obtained.

j. Parking shall be subject to established parking design requirements of the underlying zoning district provided for in Section 11-6 of this Chapter.

k. Signs conform to regulations established in Section 11-7 of this Chapter.

l. A site survey and detailed floor plan shall be submitted with the requested IUP, Interim Use Permit.

m. All Interim Use Permits shall be reviewed annually by the Zoning Administrator. If violations of City ordinances, building code, or conditions of approval are found, or valid complaints are received from adjacent or nearby property owners, the Zoning Administrator may require that the IUP be reviewed according to Section 11-10 of this Chapter.

n. The facility complies with all health, safety, building and fire codes as may be required or applicable. (Ordinance 2013-09, adopted December 10, 2013)

E. Permitted Accessory Uses: In addition to other uses specifically identified elsewhere in this Chapter, the following are permitted accessory uses:

1. Buildings and structures for a use accessory to the principal use but such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

2. Fences.
3. Off-street parking as regulated by this Chapter, but not including semitrailer trucks, except in designated loading areas not to exceed four (4) hours.

4. Sexually oriented uses, accessory.

5. Signs as regulated by this Chapter.

F. Minimum Lot Size: One (1) acre.

G. Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet on a public street from which direct access to the property is provided.

H. Minimum Lot Dimensions:

1. For any existing residential use as of October 11, 2011, the minimum lot width shall be three hundred (300) feet as measured at the building setback line.

2. For other uses, the minimum lot width shall be one hundred sixty five (165) feet as measured along the front building setback line.

I. Setbacks:

1. Front yard, side yard abutting a public right-of-way of a corner lot or rear yard of a through lot: The minimum building setback shall be the greater of:

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>Minimum Setback From Centerline</th>
<th>From Property Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Street (City Street)</td>
<td>70 feet*</td>
<td>30 feet*</td>
</tr>
<tr>
<td>Local Street (County Road)</td>
<td>90 feet*</td>
<td>30 feet*</td>
</tr>
<tr>
<td>Collector or Arterial Street</td>
<td>150 feet</td>
<td>75 feet</td>
</tr>
</tbody>
</table>

   *In cases were a public trail easement has been established abutting a street right-of-way, the easement width shall be added to the required setback from the property line or centerline of the roadway.

(Ordinance 2014-03, adopted March 11, 2014)

2. Side yard setback: Twenty (20) feet.

3. Rear yard setback: Thirty five (35) feet.
4. Parking: The minimum setback from lot line to any vehicle parking or driving area shall be ten (10) feet.

J. Maximum Structure Height: Thirty-five (35) feet (Ordinance #38, adopted October 11, 2011; Ordinance 2013-04, adopted April 9, 2013)

11-3-9: I-1-- INDUSTRIAL DISTRICT:

A. Intent: This district is intended is to provide specifically for the regulation of light manufacturing, and warehousing uses located within areas guided for industrial land uses by the Comprehensive Plan.

B. Permitted Uses: The following shall be permitted by right:

1. Auto repair, minor.
2. Building materials sales.
3. Commercial printing establishments.
4. Compounding, assembly, packaging, treatment, or storage of products and materials except waste.
5. Governmental and public utility buildings and structures; City of Nowthen only.
6. Laboratories, research and development facilities.
7. Manufacturing.
8. Offices.
9. Warehousing including self-storage facilities.
10. Wholesale businesses.

C. Conditional Uses: All conditional uses shall be reviewed and allowed in accordance with the standards of Section 10 of this Chapter subject to those performance standards outlined herein any additional stipulations determined to be necessary and reasonable by the City Council to meet the criteria outlined in Section 10 of this Chapter.

1. Any of the uses identified as allowed in the I-1 District that would be projected to generate a wastewater flow of one thousand (1,000) gallons per day or more.
2. Accessory, enclosed retail, rental or service activity other than that allowed as a permitted use or conditional use within the I-1 District, provided that:
   a. Such use is allowed in a C-1 District.
   b. Such use does not constitute more than thirty (30) percent of the lot area and not more than fifty (50) percent of the gross floor area of the principal use.

3. Automobile repair, major provided that:
   a. The entire area other than occupied by buildings or structures or planting shall be surfaced with bituminous material or concrete which will control dust and drainage. The entire area shall have a perimeter curb barrier, a stormwater drainage system and is subject to the approval of the City Engineer.
   b. The hours of operation shall be between seven o'clock (7:00) A.M. and six o'clock (6:00) P.M. unless extended by the approval of the City Council.
   c. All painting must be conducted in an approved paint booth. All paint booths and all other activities of the operation shall thoroughly control the emission of fumes, dust or other particulate matter so that the use shall be in compliance with Minnesota Pollution Control Standards as amended.
   d. The emission of odor by a use shall be in compliance with and regulated by the Minnesota Pollution Control Standards, Minnesota Regulation APC, as amended.
   e. All flammable materials, including liquids and rags, shall conform with the applicable provisions of the Minnesota uniform fire code.
   f. All outside storage, including the storage of damaged vehicles, vehicles being repaired and vehicle parts and accessory equipment shall be completely screened from view of adjacent properties or the public right-of-way or shall be completely inside a principal or accessory building.
   g. Sale of products other than those specifically mentioned in this Section shall be subject to approval as part of the conditional use permit.

4. Commercial recreation facilities, provided that:
a. A commercial recreational use shall not be located within a shared tenancy building containing a use classified as an "H" occupancy as defined by Minnesota state building code, as may be amended.

b. In multiple occupancy buildings, a material safety data sheet (MSDS) shall be required identifying all materials stored or used in the operation of the tenant businesses. Any change in building tenants shall require that the MSDS be updated and provided to all other tenants in the multitenant building.

c. A commercial recreational use in a shared tenancy building shall have its own exterior entrance and exit.

d. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.

5. Daycare facilities as a principal or accessory use.

6. Essential services involving transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV.

7. Governmental and public utility buildings and structures; other than City of Nowthen.

8. Motor vehicle fuel sales, including truck stops, with or without convenience grocery and/or prepared food provided that:

   a. Motor Fuel Facilities:

      (1) Adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site.

      (2) Fuel pumps shall be installed on pump islands and must comply with the following performance standards:

         (a) Pump islands must be elevated six (6) inches above the traveled surface of the site.

         (b) All pump islands must be set at least thirty (30) feet back from any property line. Additionally, the setback between the pump islands curb face must be at least twenty four (24) feet.
b. Hours: Hours of operation (including 24 hour automated fuel pump service) shall be limited to five o’clock (5:00) A.M. to eleven o’clock (11:00) P.M. unless extended by the City Council as part of the conditional use permit.

c. Canopy: A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:

(1) The edge of the canopy shall be twenty (20) feet or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.

(2) The canopy shall not exceed eighteen (18) feet in height and must provide fourteen feet (14) feet of clearance to accommodate a semitrailer truck passing underneath.

(3) The canopy fascia shall not exceed three (3) feet in vertical height.

(4) Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot-candles below the canopy at ground level. The fascia of the canopy shall not be illuminated.

(5) The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.

(6) Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:

(a) The individual canopy sign does not exceed more than twenty percent (20%) of the canopy facade facing a public right-of-way.

(b) The canopy fascia shall not be illuminated, except for permitted canopy signage.

(7) Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.

d. Dust Control and Drainage:
(1) The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer.

(2) Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:

(a) A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.

(b) A minimum pool depth of four (4) feet.

(c) A minimum oil containment capacity of eight hundred (800) gallons.

(d) Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.

e. Landscaping: Where lots abut residentially zoned property, a buffer yard of not less than twenty (20) feet wide shall be landscaped and screened in compliance with this Chapter.

f. Exterior Lighting: The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with this Chapter. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

(1) Perimeter Lighting: Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot-candles at ground level.

(2) Illumination: Maximum site illumination shall not exceed one foot-candle at ground level when measured at any property line.

g. Access: Vehicular access points shall create a minimum of conflict with through traffic movement.
h. Circulation And Loading: The site design must accommodate adequate turning radius and vertical clearance for a semitrailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan must be provided to illustrate adequate turning radius, using appropriate engineering templates.

i. Pedestrian Traffic:

(1) An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk must be a minimum of five (5) feet wide and clear of any obstacle or impediment.

(2) A continuous and permanent concrete curb not less than six (6) inches above grade shall separate internal sidewalks for pedestrian traffic from motor vehicle areas.

j. Noise: Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited.

k. Outside Sales And Service: Outside sales and service shall be allowed on a limited basis, provided that:

(1) Site Plan: Areas for outdoor sales and services shall be clearly indicated on the site plan and reviewed at the time of application for a conditional use permit. No outdoor sales or services shall be allowed outside of those areas so designated on the approved site plan without approval of an amended conditional use permit.

(2) Location: Outdoor sales and services shall be located upon a concrete or asphalt surface and shall not encroach into any required principal building setback, required parking stall, drive aisle, or pedestrian sidewalk required by this section, or otherwise impede vehicle and pedestrian circulation.

(3) Outdoor Sales:

(a) The area devoted to outdoor sales shall not exceed five percent (5%) of the gross floor area of the principal building or two hundred (200) square feet, whichever is less.
(b) The height of sales displays shall not obstruct any window or otherwise impair a clear view of the pump islands from the cashier station within the building. In no case shall the sales display exceed five feet (5’) in height.

(4) Outdoor Services: Outdoor services shall be limited to the following uses:

(a) Public phones, compressed air service or automobile vacuum areas may encroach into a required yard as long as they do not interrupt on site traffic circulation, do not occupy required parking stalls, and are not located in a yard abutting residentially zoned property.

(b) Propane sales limited to twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meet all state uniform building and fire codes.

(c) Freezers for ice products subject to the area and location requirements of this section.

I. Signs: A comprehensive sign plan must be submitted as part of a conditional use permit application illustrating the location and area of all signs to be installed on-site.

9. Multiple principal buildings on one lot of record, provided that:

a. Base Lot Requirements: The base lot shall conform to the minimum lot area, lot width, and setback requirements of this Section.

b. Setbacks: Setbacks between multiple principal buildings within the same base lot shall be a minimum of twenty (20) feet.

c. Common Areas: All common areas including, but not limited to, open space, wetlands, greenways, drainage ponds, driveways, parking areas, sidewalks, etc., shall be maintained in one of the following ways:

(1) All of the property including buildings and common areas shall be owned by a single entity.

(2) Condominium ownership pursuant to Minnesota statutes 515A.1-106.
(3) The property shall be divided into a base lot and unit lots to allow for individual ownership of the principal buildings or individual tenant spaces within the principal building, with each owner of a unit lot having an equal and undivided interest in the common area, subject to the following requirements:

(a) The tenant space related to each unit lot shall have an exclusive exterior entrance.

(b) A management association shall be established for all commercial developments with multiple principal buildings subdivided in a base lot/unit lot configuration that is to be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of driveways and parking areas, subject to review and approval of the City Attorney.

d. Utilities: All utilities including telephone, electricity, gas, and telecable shall be installed underground. Exterior utility meters and fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right-of-way.

10. Veterinary clinics provided that:

a. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties or tenants in the case of multiple occupancy buildings.

b. Animal wastes are disposed at least once each day via an existing sewer system or enclosed in a container of sufficient construction at least once a day to minimize odors.

c. The floors and walls of pet grooming and/or treatment areas are made of nonporous materials or sealed concrete to make them nonporous.

d. All applicable requirements of the City Code regarding the keeping and care of animals are satisfactorily met.

e. No commercial boarding or kenneling of animals shall be allowed unless expressly allowed by the conditional use permit.

f. The breeding of cats and dogs is prohibited unless expressly allowed by the conditional use permit.
g. All applicable provisions of Minnesota Statutes sections 346.35 through 346.58 regarding the commercial keeping and care of animals are satisfactorily met.

D. Interim Uses: All interim uses shall be reviewed and allowed in accordance with the standards of Section 10 of this Chapter shall terminate upon a change of occupancy or other date as determined by the City Council in accordance with Section 10 of this Chapter and subject to those performance standards outlined herein any additional stipulations determined to be necessary and reasonable by the City Council to meet the Criteria outlined in Section 10 of this Chapter.

1. Any and all forms of agriculture and horticulture as defined by this Chapter existing on October 11, 2011 provided that:

   a. Once converted to an allowed industrial use in conformance with the requirements of this Chapter, the interim agricultural use shall not be re-established.

2. Farm buildings and accessory structures existing on October 11, 2011 provided that:

   a. Once converted to an allowed industrial use in conformance with the requirements of this Chapter, the interim farm building shall not be re-established.

3. Outdoor service, sale and rental as a principal or accessory use, provided that:

   a. Outside services, sales and equipment rental connected with the principal use is limited to thirty percent (30%) of the gross floor area of the principal use.

   b. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district.

   c. Sales area is surfaced with asphalt, concrete or pavers to control dust.

   d. The use does not take up parking space as required by this Chapter.

4. Outdoor storage as a principal or accessory use, provided that:

   a. The storage area is fenced and screened from view of neighboring residential uses, abutting residential districts and the public right-of-way.
b. The storage area is surfaced to control dust.

c. The storage area does not take up parking space as required by this Chapter.

5. Residential uses existing as of October 11, 2011 shall be designated as interim uses provided that:

a. Existing residential uses may continue and may be enlarged or expanded upon provided that the uses maintain compliance with all other provisions of this Chapter applicable to such residences. (Ordinance 2014-01, adopted February 11, 2014)

b. Not more than one (1) principal use shall be allowed upon the property.

c. Uses as provided for within the I-1 District shall not be allowed until such time as the residential use ceases and the property complies with all requirements of this Chapter applicable to industrial uses; once converted to an allowed industrial use in conformance with the requirements of this Chapter, the interim residential use shall not be re-established.

6. Wireless communication antennas as regulated by this Chapter.

E. Permitted Accessory Uses: In addition to other uses specifically identified elsewhere in this Chapter, the following are permitted accessory uses:

1. Commercial or business buildings and structures for a use accessory to the principal use but such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

2. Fences.

3. Off-street parking as regulated by this Chapter.

4. Sexually oriented uses, accessory.

5. Signs as regulated by this Chapter.

F. Minimum Lot Size: One (1) acre.

G. Minimum Lot Frontage: The minimum lot frontage shall be fifty (50) feet on a public street from which direct access to the property is provided.

H. Minimum Lot Dimensions:
1. For any existing residential use as of October 11, 2011, the minimum lot width shall be three hundred (300) feet as measured at the building setback line.

2. For other uses, the minimum lot width shall be one hundred sixty five (165) feet as measured along the front building setback line.

I. Setbacks:

1. Front yard, side yard abutting a public right-of-way of a corner lot or rear yard of a through lot: The minimum building setback shall be the greater of:

<table>
<thead>
<tr>
<th>Functional Classification</th>
<th>Minimum Setback From Centerline</th>
<th>Minimum Setback From Property Line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Street (City Street)</td>
<td>70 feet*</td>
<td>30 feet*</td>
</tr>
<tr>
<td>Local Street (County Road)</td>
<td>90 feet*</td>
<td>30 feet*</td>
</tr>
<tr>
<td>Collector or Arterial Street</td>
<td>150 feet</td>
<td>75 feet</td>
</tr>
</tbody>
</table>

*In cases were a public trail easement has been established abutting a street right-of-way, the easement width shall be added to the required setback from the property line or centerline of the roadway.

(Ordinance 2014-03, adopted March 11, 2014)

2. Side yard setback: Twenty (20) feet.

3. Rear yard setback: Thirty five (35) feet.

4. Parking: The minimum setback from lot line to any vehicle parking or driving area shall be ten (10) feet.

10. Maximum Structure Height: Thirty-five (35) feet (Ordinance #38, October 11, 2011; Ordinance 2013-04, adopted April 9, 2013)
**SHORELAND DISTRICT:**

**A. Statutory Authorization and Policy:**

1. **Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

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

**B. General Provisions and Definitions:**

1. **Jurisdiction.** The provisions of this Chapter shall apply to the shorelands of the public water bodies as classified in Section D of this Section. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the City Council, be exempt from this Section.

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

3. **Enforcement.** The City Zoning Administrator is responsible for the administration and enforcement of this Section. Any violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a
misdemeanor and shall be punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section C.1 of this Section.

4. Interpretation. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

5. Severability. If any section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

6. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other ordinances inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

7. Definitions: Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application. For the purpose of this Section, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

**Accessory structure or facility:** “Accessory structure” or “facility” means any building or improvement subordinate to a principal use that, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

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

1. Part or all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
4. The slope must drain toward the waterbody.
Bluff impact zone: “Bluff impact zone” means a bluff and land located within 20 feet from the top of a bluff.

Boathouse: “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.

Building line: “Building line” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

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

Commercial use: “Commercial use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Commissioner: “Commissioner” means the commissioner of the Department of Natural Resources.

Conditional use: “Conditional use” means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

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

Duplex, triplex, and quad: “Duplex,” “triplex,” and “quad” means a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling site: “Dwelling site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
Dwelling unit: “Dwelling unit” means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Extractive use: “Extractive use” means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Forest land conversion: “Forest land conversion” means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Guest cottage: “Guest cottage” means a structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Hardship: “Hardship” means the same as that term is defined in Minnesota Statutes, Chapter 394 (for counties) or Chapter 462 (for municipalities).

Height of building: “Height of building” means the vertical distance from ten (10) feet above the lowest pre-grade ground elevation at the perimeter of the foundation to the highest point of a flat roof, midpoint of the highest gable of a pitched or hipped roof, and to the uppermost point of all other roof types. (Ordinance 2013-04, adopted April 9, 2013)

Industrial use: “Industrial use” means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Intensive vegetation clearing: “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Lot: “Lot” means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

Lot width: “Lot width” means the shortest distance between lot lines measured at the midpoint of the building line.

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

**Ordinary high water level:** “Ordinary high water level” means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from 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.

**Planned unit development:** “Planned unit development” means 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, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

**Public waters:** “Public waters” means any waters as defined in Minnesota Statutes, section 103G.005, Subd. 15, 15a.

**Residential planned unit development:** “Residential planned unit development” means 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 dwelling units or sites.

**Semipublic use:** “Semipublic use” means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

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

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

**Sewage treatment system**: “Sewage treatment system” means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section E.8 of this Section.

**Sewer system**: “Sewer system” means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

**Shore impact zone**: “Shore impact zone” means 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.

**Shoreland**: “Shoreland” means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain 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 that extend landward from the waters for lesser distances and when approved by the commissioner.

**Significant historic site**: “Significant historic site” means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, 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.

**Steep slope**: “Steep slope” means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site’s soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming
practices are used in accordance with the provisions of this Chapter. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

**Structure:** “Structure” means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**Subdivision:** “Subdivision” means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

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

**Toe of the bluff:** “Toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

**Top of the bluff:** “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

**Variance:** “Variance” means the same as that term is defined or described in Minnesota Statutes, Chapter 462.

**Water-oriented accessory structure or facility:** “Water-oriented accessory structure or facility” means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.


C. Administration:

1. Permits Required:

   a. A permit is required for the construction of buildings or building additions (and including such related activities as construction of
decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section E.3 of this Section. Application for a permit shall be made to the Building Official on the forms provided. The application shall include the necessary information so that the Building Official can determine the site’s suitability for the intended use and that a compliant sewage treatment system will be provided.

b. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by Section E.8, shall be reconstructed or replaced in accordance with the provisions of this Section.

2. Certificate of Zoning Compliance: The Building Official shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section C.1 of this Section. This certificate will specify that the use of land conforms to the requirements of this Chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Section and shall be punishable as provided in Section B.3 of this Section.

3 Variances:

a. Variances may only be granted in accordance with Minnesota Statutes, Chapter 462. A variance may not circumvent the general purposes and intent of this Chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the City Council must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

b. The City Council shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section C.4.b below shall also include the City Council’s summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
c. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

4 Notifications to the Department of Natural Resources:

a. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner’s designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

b. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner’s designated representative and postmarked within ten (10) days of final action.

D. Shoreland Classification System and Land Use Districts:

1. Shoreland Classification System. The public waters of Nowthen, Minnesota have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Anoka County, Minnesota.

a. The shoreland area for the waterbodies listed in sections D.1.b and D.1.c shall be as defined in section B.7 and as shown on the Official Zoning Map.

b. Lakes:

(1) | Natural Environment | Ordinary High Water Level | Protected Waters Inventory I.D.# |
---|---------------------|---------------------------|-------------------------------|
      | Bass Lake           | 135P                      |                               |
      | Bear Lake           | 131W                      |                               |
      | Benjamin Lake       | 136W                      |                               |
      | Burns Lake          | 934.1                     | 122P                          |
      | East Twin Lake      | 927.1                     | 133P                          |

11-69
Natural Environment | Ordinary High Water Level | Protected Waters Inventory I.D.#
--- | --- | ---
Ekstrom Lake | 129W
Goose Lake | 127P
McCann Lake | 138P
Mud Lake | 898.7 | 105P
Norris Lake | 106P
Pickerel Lake | 130P
Pinnaker Lake | 915.6 | 128P
Un-named | 120W
Un-named | 124W
Un-named | 134W
Un-named | 137W

(2) Recreational Development Lakes

Rogers Lake | 883.9 | 104P

(3) General Development Lakes:

None.

c. Rivers and Streams:

    Ford Brook | Sec.11 Township 33, Range 25 To Sec.2, Township 32, R 25

*All protected watercourses in the City of Nowthen shown on the Protected Waters Inventory Map for Anoka County, a copy of which is hereby adopted by reference, not given a classification in Items a-c above shall be considered “Tributary.” (Ordinance 2014-04, adopted March 11, 2014)

2. Land Use District Descriptions:

a. Criteria for Designation. The land use districts in Section D.2b, and the delineation of a land use district’s boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan (when available) and the following criteria, considerations, and objectives:
(1) General Considerations and Criteria for All Land Uses:

(a) preservation of natural areas;
(b) present ownership and development of shoreland areas;
(c) shoreland soil types and their engineering capabilities;
(d) topographic characteristics;
(e) vegetative cover;
(f) in-water physical characteristics, values, and constraints;
(g) recreational use of the surface water;
(h) street and service center accessibility;
(i) socioeconomic development needs and plans as they involve water and related land resources;
(j) the land requirements of industry which, by its nature, requires location in shoreland areas; and
(k) the necessity to preserve and restore certain areas having significant historical or ecological value.

(2) Factors and Criteria for Planned Unit Developments:

(a) existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
(b) physical and aesthetic impacts of increased density;
(c) suitability of lands for the planned unit development approach;
(d) level of current development in the area; and
(e) amounts and types of ownership of undeveloped lands.
b. Land Use District Descriptions. The land use districts provided below, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the Official Zoning Map for the shorelands of this community. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3:

P = Permitted Use  C = Conditional Use  N = Not Permitted

(1) Land Use Districts For Lakes:

<table>
<thead>
<tr>
<th>General Development Lakes</th>
<th>Recreational Development Lakes</th>
<th>Natural Environ. Lakes</th>
</tr>
</thead>
</table>

(a) Special Protection District – Uses:
- Forest management  P  P  P
- Sensitive resource management  P  P  P
- Agricultural: cropland and pasture  P  P  P
- Agricultural feedlots  C  C  C
- Parks and historic sites  C  C  C
- Extractive use  C  C  C
- Single residential  C  C  C
- Mining of metallic minerals and peat  P  P  P

(b) Residential District – Uses:
- Single residential  P  P  P
- Semipublic  C  C  C
- Parks & historic sites  C  C  C
- Extractive use  C  C  C
- Duplex, triplex, quad res.  P  P  C
- Forest management  P  P  P
- Mining of metallic minerals and peat  P  P  P

(c) High Density Residential District – Uses:
- Residential planned unit developments  C  C  C
- Single residential  P  P  P
- Surface water oriented commercial*  C  C  C
- Semipublic  C  C  C

11-72
### General Development Lakes
- Parks & historic sites: C
- Duplex, triplex, quad res.: P
- Forest management: P

### Recreational Development Lakes
- Parks & historic sites: C
- Duplex, triplex, quad res.: P
- Forest management: P

### Natural Environ. Lakes
- Parks & historic sites: C

#### (d) Water Oriented Commercial District - Uses
- Surface water-oriented commercial: P
- Commercial planned unit development**: C
- Public, semipublic: C
- Parks & historic sites: C
- Forest management: P

#### (e) General Use District - Uses
- Commercial: P
- Commercial planned unit development**: C
- Industrial: C
- Public, semipublic: P
- Extractive use: C
- Parks & historic sites: C
- Forest management: P
- Mining of metallic minerals and peat: P

*As accessory to a residential planned unit development

**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section H of this Section are satisfied.

(2) Land Use Districts for Rivers and Streams:

<table>
<thead>
<tr>
<th>Re-remote</th>
<th>For-ested</th>
<th>Trans-</th>
<th>Agri-</th>
<th>Urban</th>
<th>Tribu-</th>
</tr>
</thead>
</table>

(a) Special Protection District – Uses:
- Forest management: P
- Sensitive resource management: P
- Agricultural: cropland and pasture: P
<table>
<thead>
<tr>
<th></th>
<th>Remote</th>
<th>Forested</th>
<th>Trans.</th>
<th>Agricultural</th>
<th>Urban</th>
<th>Trible</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Agricultural feedlots</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>- Parks and historic sites</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Extractive use</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>- Single residential</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Mining of metallic minerals and peat</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

(b) Residential District – Uses:

| - Single residential       | P      | P        | P      | P            | P     | P      |
| - Semipublic               | C      | C        | C      | C            | C     | P      |
| - Parks and historic sites | C      | C        | C      | C            | C     | P      |
| - Extractive use           | C      | C        | C      | C            | C     | P      |
| - Duplex, triplex, quad res. | C   | C        | C      | C            | P     | C      |
| - Forest management        | P      | P        | P      | P            | P     | P      |
| - Mining of metallic minerals and peat | P | P | P | P | P | P |

(c) High Density Residential – Uses

| - Residential planned unit developments | C      | C        | C      | C            | C     | C      |
| - Single residential                  | P      | P        | P      | P            | P     | P      |
| - Surface water oriented commercial*  | C      | C        | C      | C            | C     | C      |
| - Semipublic                          | C      | C        | C      | C            | C     | C      |
| - Parks and historic sites             | C      | C        | C      | C            | C     | C      |
| - Duplex, triplex, quad res.          | P      | P        | P      | P            | P     | P      |
| - Forest management                   | P      | P        | P      | P            | P     | P      |

(d) Water-oriented Commercial – Uses:

| - Surface water-oriented commercial  | C      | C        | C      | C            | C     | C      |
| - Commercial planned unit development* | C   | C        | C      | C            | C     | C      |
| - Public, semipublic                 | C      | C        | C      | P            | P     | P      |
| - Parks and historic sites            | C      | C        | C      | C            | C     | C      |
| - Forest management                   | P      | P        | P      | P            | P     | P      |
(e) General Use District – Uses:

<table>
<thead>
<tr>
<th>Use</th>
<th>Remote</th>
<th>Forested</th>
<th>Trans-</th>
<th>Agricultural</th>
<th>Urban Tribal</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Commercial</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>- Commercial planned unit development**</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>- Industrial</td>
<td>N</td>
<td>C</td>
<td>N</td>
<td>N</td>
<td>C</td>
</tr>
<tr>
<td>- Public, semipublic</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>P</td>
<td>C</td>
</tr>
<tr>
<td>- Extractive use</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>- Parks and historic sites</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>- Forest management</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>- Mining of metallic minerals and peat</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

*As accessory to a residential planned unit development
**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section H of this Section are satisfied.

3. Use and Upgrading of Inconsistent Land Use Districts.

a. The land use districts adopted in Section 3 of this Chapter, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Section D.2.b herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

b. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

1. For Lakes. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this Chapter on said lake must be revised to make them substantially compatible with the framework in Sections D.2.a and D.2.b of this Section.
(2) For Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this Chapter must be revised to make them substantially compatible with the framework in Sections D.2.a and D.2.b of this Section. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

c. When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the City Council. When a question arises as to whether a land use district’s boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.

d. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Building Official to provide such additional information for this waterbody as is necessary to satisfy Items A and B.

e. The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section D.2.

E. Zoning and Water Supply/Sanitary Provisions:

1. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this Chapter for the lake and river/stream classifications are the following:
a. Unsewered Lakes:

(1) Natural Environment:

<table>
<thead>
<tr>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td>Width</td>
</tr>
<tr>
<td>Single</td>
<td>80,000</td>
</tr>
<tr>
<td>Duplex</td>
<td>120,000</td>
</tr>
<tr>
<td>Triplex</td>
<td>160,000</td>
</tr>
<tr>
<td>Quad</td>
<td>200,000</td>
</tr>
</tbody>
</table>

(2) Recreational Development:

<table>
<thead>
<tr>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td>Width</td>
</tr>
<tr>
<td>Single</td>
<td>40,000</td>
</tr>
<tr>
<td>Duplex</td>
<td>80,000</td>
</tr>
<tr>
<td>Triplex</td>
<td>120,000</td>
</tr>
<tr>
<td>Quad</td>
<td>160,000</td>
</tr>
</tbody>
</table>

(3) General Development:

<table>
<thead>
<tr>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td>Width</td>
</tr>
<tr>
<td>Single</td>
<td>20,000</td>
</tr>
<tr>
<td>Duplex</td>
<td>40,000</td>
</tr>
<tr>
<td>Triplex</td>
<td>60,000</td>
</tr>
<tr>
<td>Quad</td>
<td>80,000</td>
</tr>
</tbody>
</table>

b. Sewered Lakes:

(1) Natural Environment:

<table>
<thead>
<tr>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area</td>
<td>Width</td>
</tr>
<tr>
<td>Single</td>
<td>40,000</td>
</tr>
<tr>
<td>Duplex</td>
<td>70,000</td>
</tr>
<tr>
<td>Triplex</td>
<td>100,000</td>
</tr>
<tr>
<td>Quad</td>
<td>130,000</td>
</tr>
</tbody>
</table>
Recreational Development:

<table>
<thead>
<tr>
<th></th>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Area Width</td>
<td>Area Width</td>
</tr>
<tr>
<td>Single</td>
<td>20,000 75</td>
<td>15,000 75</td>
</tr>
<tr>
<td>Duplex</td>
<td>35,000 135</td>
<td>26,000 135</td>
</tr>
<tr>
<td>Triplex</td>
<td>50,000 195</td>
<td>38,000 190</td>
</tr>
<tr>
<td>Quad</td>
<td>65,000 255</td>
<td>49,000 245</td>
</tr>
</tbody>
</table>

General Development:

<table>
<thead>
<tr>
<th></th>
<th>Riparian Lots</th>
<th>Nonriparian Lots</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Area Width</td>
<td>Area Width</td>
</tr>
<tr>
<td>Single</td>
<td>15,000 75</td>
<td>10,000 75</td>
</tr>
<tr>
<td>Duplex</td>
<td>26,000 135</td>
<td>17,500 135</td>
</tr>
<tr>
<td>Triplex</td>
<td>38,000 195</td>
<td>25,000 190</td>
</tr>
<tr>
<td>Quad</td>
<td>49,000 255</td>
<td>32,500 245</td>
</tr>
</tbody>
</table>

c. River/Stream Lot Width Standards. There are no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six-river/stream classifications are:

|                | Remote Forested Transition Agricultural Urban & Tributary No sewer Sewer |
|----------------|---------------------------------|-------------------------------------------------|---------------------------------|-------------------|
| Single         | 300 200 250 150 100 75          |                                                |                                 |                   |
| Duplex         | 450 300 375 225 150 115         |                                                |                                 |                   |
| Triplex        | 600 400 500 300 200 150         |                                                |                                 |                   |
| Quad           | 750 500 625 375 250 190         |                                                |                                 |                   |

d. Additional Special Provisions:

(1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Sections E.1.b and E.1.c can only be allowed if designed and approved as residential planned unit developments under Section H of this Section. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section E.1.b can only be used if publicly owned sewer system service is available to the property.
Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:

(a) each building must be set back at least 200 feet from the ordinary high water level;

(b) each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;

(c) watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and

(d) no more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.

One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section E.1.a to E.1.c, provided the following standards are met:

(a) for lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;

(b) a guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

(c) a guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

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

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

**Controlled Access Lot Frontage Requirements**

<table>
<thead>
<tr>
<th>Ratio of lake size (acres/mile)</th>
<th>Required increase in frontage (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 100</td>
<td>25</td>
</tr>
<tr>
<td>100-200</td>
<td>20</td>
</tr>
<tr>
<td>201-300</td>
<td>15</td>
</tr>
<tr>
<td>301-400</td>
<td>10</td>
</tr>
<tr>
<td>Greater than 400</td>
<td>5</td>
</tr>
</tbody>
</table>

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

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

   a. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

   (1) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level*.

<table>
<thead>
<tr>
<th>Classes of Public Waters</th>
<th>Structures Unsewered</th>
<th>Sewered</th>
<th>Sewage Treatment System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lakes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Natural Environment</td>
<td>150</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>Recreational Development</td>
<td>100</td>
<td>75</td>
<td>75</td>
</tr>
<tr>
<td>General Development</td>
<td>75</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Rivers</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Remote</td>
<td>200</td>
<td>200</td>
<td>150</td>
</tr>
<tr>
<td>Forested and Transition</td>
<td>150</td>
<td>150</td>
<td>100</td>
</tr>
<tr>
<td>Agriculture, Urban, and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tributary</td>
<td>100</td>
<td>50</td>
<td>75</td>
</tr>
</tbody>
</table>

*One water-oriented accessory structure designed in accordance with Section E.2.b of this Section may be set back a minimum distance of ten (10) feet from the ordinary high water level.

   (2) Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:
<table>
<thead>
<tr>
<th>Setback From</th>
<th>Setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>top of bluff;</td>
<td>30</td>
</tr>
<tr>
<td>unplatted cemetery;</td>
<td>50</td>
</tr>
<tr>
<td>right-of-way line of federal, state, or county highway; and</td>
<td>50</td>
</tr>
<tr>
<td>right-of-way line of public street, or other roads or streets not classified.</td>
<td>20</td>
</tr>
</tbody>
</table>

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

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

b. Design Criteria for Structures.

(1) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(a) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

(b) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood...
protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

(c) water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(2) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section E.21 of this Section if this water-oriented accessory structure complies with the following provisions:

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

(b) The setback of the structure or facility from the ordinary high water level must be at least ten feet;

(c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

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

(e) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

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

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

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

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

(c) Canopies or roofs are not allowed on stairways, lifts, or landings;

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

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

(f) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
(4) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

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

c. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed twenty five (25) feet in height.

3. Shoreland Alterations: Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

a. Vegetation Alterations. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section E.4 of this Section are exempt from the vegetation alteration standards that follow.

b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections E.6.b and E.6.c, respectfully, is allowed subject to the following standards:

(1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

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

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

(b) Along rivers, existing shading of water surfaces is preserved; and

(c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

c. Topographic Alterations/Grading and Filling.

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Public streets and parking areas are regulated by Section E.4 of this Section.

(3) Notwithstanding Items (1) and (2) above, a grading and filling permit will be required for:

(a) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

(b) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
(a) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

i. Sediment and pollutant trapping and retention;

ii. Storage of surface runoff to prevent or reduce flood damage;

iii. Fish and wildlife habitat;

iv. Recreational use;

v. Shoreline or bank stabilization; and

vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

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

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

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

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

(e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
(f) Fill or excavated material must not be placed in a manner that creates an unstable slope;

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

(h) Fill or excavated material must not be placed in bluff impact zones;

(i) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G;

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

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

d. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.


a. Public and private streets and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

c. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section E.3.b of this Chapter must be met.

5 Stormwater Management. The following general and specific standards shall apply:

a. General Standards:

   (1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

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

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

b. Specific Standards:

   (1) Impervious surface coverage of lots must not exceed 25 percent of the lot area.

   (2) When constructed facilities are used for stormwater management, documentation must be provided by a
qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.


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

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

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

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

i. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;

ii Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey
the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

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

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

b. Agriculture Use Standards.

1. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

2. Animal feedlots must meet the following standards:

a. new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet
a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

b. modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

3. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”

4. Extractive Use Standards.

a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

b. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.

7. Conditional Uses: Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:
a. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(2) The visibility of structures and other facilities as viewed from public waters is limited;

(3) The site is adequate for water supply and on-site sewage treatment; and

(4) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

b. Conditions attached to conditional use permits. The Nowthen City Council, upon consideration of the criteria listed above and the purposes of this Section, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

(1) Increased setbacks from the ordinary high water level;

(2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

(3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

8. Water Supply and Sewage Treatment:

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

2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

   a. Publicly-owned sewer systems must be used where available.
b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency’s standards for individual sewage treatment systems contained in the document titled, “Individual Sewage Treatment Systems Standards, Chapter 7080,” a copy of which is hereby adopted by reference and declared to be a part of this Section.

3. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section E.2.a of this Section.

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

5. Evaluation criteria:
   a. Depth to the highest known or calculated ground water table or bedrock;
   b. Soil conditions, properties, and permeability;
   c. Slope;
   d. The existence of lowlands, local surface depressions, and rock outcrops;
   e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section F.13 of this Section.

F. Nonconformities: All legally established nonconformities as of the date of this Section may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

1. Construction on nonconforming lots of record.
   a. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section E.1 of this Section may be allowed as
building sites without variances from lot size requirements provided
the use is permitted in the zoning district, the lot has been in
separate ownership from abutting lands at all times since it became
substandard, was created compliant with official controls in effect at
the time, and sewage treatment and setback requirements of this
Section are met.

b. A variance from setback requirements must be obtained before any
use, sewage treatment system, or building permit is issued for a lot.
In evaluating the variance, the board of adjustment shall consider
sewage treatment and water supply capabilities or constraints of
the lot and shall deny the variance if adequate facilities cannot be
provided.

c. If, in a group of two or more contiguous lots under the same
ownership, any individual lot does not meet the requirements of
Section E5.1 of this Section the lot must not be considered as a
separate parcel of land for the purposes of sale or development.
The lot must be combined with the one or more contiguous lots so
they equal one or more parcels of land, each meeting the
requirements of Section E.1 of this Section as much as possible.

2. Additions/expansions to nonconforming structures.

a. All additions or expansions to the outside dimensions of an existing
nonconforming structure must meet the setback, height, and other
requirements of Section E of this Section. Any deviation from these
requirements must be authorized by a variance pursuant to Section
C.3.

b. Deck additions may be allowed without a variance to a structure not
meeting the required setback from the ordinary high water level if
all of the following criteria and standards are met:

(1) The structure existed on the date the structure setbacks
were established;

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

(3) The deck encroachment toward the ordinary high water level
does not exceed 15 percent of the existing setback of the
structure from the ordinary high water level or does not
encroach closer than 30 feet, whichever is more restrictive; and
The deck is constructed primarily of wood, and is not roofed or screened.

3. Nonconforming sewage treatment systems.

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

   b. The governing body of City of Nowthen has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. The City of Nowthen will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency’s Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

G. Subdivision Provisions:

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

   2. Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be
needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections E.2 and E.8 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section E.1, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

3. Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

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

b. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

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

d. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

e. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

f. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

4. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
5. Plating. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

6. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section E.14 of this Section.

H. Planned Unit Development (PUD):

1. Types of PUD’s Permissible: Planned unit developments (PUD’s) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section D.2 of this Section and the official zoning map.

2. Processing of PUD’s: Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this Section was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section H.5. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

3. Application for a PUD: The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

   a. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

   b. A property owners association agreement (for residential PUD’s) with mandatory membership, and all in accordance with the requirements of Section H.6 of this Section.
c. Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD’s; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section H.6 of this Section.

d. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

e. Those additional documents as requested by the Building Official or City Engineer that are necessary to explain how the PUD will be designed and will function.

4. Site "Suitable Area" Evaluation: Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section H.5.

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

Shoreland Tier Dimensions

<table>
<thead>
<tr>
<th></th>
<th>Unsewered (feet)</th>
<th>Sewered (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General development lakes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>first tier:</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>second and additional tiers</td>
<td>267</td>
<td>200</td>
</tr>
<tr>
<td>Recreational development lakes</td>
<td>267</td>
<td>267</td>
</tr>
<tr>
<td>Natural environment lakes</td>
<td>400</td>
<td>320</td>
</tr>
<tr>
<td>All river classes</td>
<td>300</td>
<td>300</td>
</tr>
</tbody>
</table>

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

5. Residential and Commercial PUD Density Evaluation: The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any

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other tier further from the water body, but must not be transferred to any other tier closer.

a. Residential PUD “Base” Density Evaluation: The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section H.6

b. Commercial PUD “Base” Density Evaluation:

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

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

<table>
<thead>
<tr>
<th>Commercial Planned Unit Development</th>
<th>Floor Area Ratios*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public waters classes</td>
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<tr>
<td>Sewered general development</td>
<td>Second and</td>
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<tr>
<td>lakes; first tier on unsewered</td>
<td>additional tiers</td>
</tr>
<tr>
<td>general unsewered development</td>
<td>on unsewered</td>
</tr>
<tr>
<td>general lakes; development</td>
<td>general</td>
</tr>
<tr>
<td>development</td>
<td>lakes;</td>
</tr>
<tr>
<td>recreational</td>
<td>lakes; urban,</td>
</tr>
<tr>
<td>unit floor area (sq. ft.)</td>
<td>development Natural</td>
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<tr>
<td>*Average</td>
<td>tributary</td>
</tr>
<tr>
<td>200</td>
<td>river segments</td>
</tr>
<tr>
<td>300</td>
<td>forested river</td>
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<tr>
<td>400</td>
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<td>.072</td>
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<td>.082</td>
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*Average

11-100
<table>
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<tr>
<th>Unit Area</th>
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<th>Ratio 2</th>
<th>Ratio 3</th>
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<tbody>
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<tr>
<td>1,500</td>
<td>.150</td>
<td>.075</td>
<td>.038</td>
</tr>
</tbody>
</table>

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

(3) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the total floor area by tier computed in Item c. above by the average inside living area size determined in Item a. above. This yields a base number of dwelling units and sites for each tier.

(5) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section H.6.

c. Density Increase Multipliers:

(1) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section E are met or exceeded and the design criteria in Section H.6 are satisfied. The allowable density increases in Item (2) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(2) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:
<table>
<thead>
<tr>
<th>Density evaluation tiers</th>
<th>Maximum density increase within each tier (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>50</td>
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<tr>
<td>Second</td>
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<td>Third</td>
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<tr>
<td>Fourth</td>
<td>200</td>
</tr>
<tr>
<td>Fifth</td>
<td>200</td>
</tr>
</tbody>
</table>

6. **Maintenance and Design Criteria:**

a. **Maintenance and Administration Requirements.** Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

   (1) **Open space preservation.** Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

   (a) Commercial uses prohibited (for residential PUD’s);

   (b) Vegetation and topographic alterations other than routine maintenance prohibited;

   (c) Construction of additional buildings or storage of vehicles and other materials prohibited; and

   (d) Uncontrolled beaching of watercraft prohibited.

(2) **Development organization and functioning.** Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

   (a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;

   (b) Each member must pay a pro rata share of the association’s expenses, and unpaid assessments can become liens on units or sites;
(c) Assessments must be adjustable to accommodate changing conditions; and

(d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

b. Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

(1) At least 50 percent of the total project area must be preserved as open space;

(2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;

(3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

(5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

(7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

(8) the shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD’s, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD’s, at least 50
percent of the shore impact zone must be preserved in its natural state.

c. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:

   (1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

   (2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD’s 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section E.3.

d. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:

   (1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections E.2 and E.8 of this Section. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;

   (2) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level,
elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section H.5.c of this Section for developments with density increases;

(3) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;

(4) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;

(5) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(6) water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section E.2 of this Section and are centralized.

7. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

a. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore
recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(1) Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

d. Existing dwelling unit or dwelling site densities that exceed standards in Section H.5 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means. (Ordinance #25, adopted December 9, 2008)
**11-3-11: FLOODPLAIN DISTRICT:**

A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Nowthen, Minnesota does ordain as follows:

B. Findings of Fact:

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

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

2. National Flood Insurance Program Compliance. This Section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community’s eligibility in the National Flood Insurance Program.

3. This Section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

C. Statement of Purpose: It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in Section 11-3-11.B.1 by provisions contained herein.

D. General Provisions:

1. Lands to Which This Section Applies: This Section shall apply to all lands within the jurisdiction of the City of Nowthen shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
2. Incorporation of Maps by Reference: The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Section. The attached material includes the Flood Insurance Study for Anoka County, Minnesota and Incorporated Areas and the Flood Insurance Rate Map panels enumerated below, all dated December 16, 2015 and all prepared by the Federal Emergency Management Agency. These materials are on file in the Office of the City Clerk and Zoning Administrator.

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3. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plane that result from designation of a floodway.

4. Interpretation:

   a. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

   b. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Building Official, the City Council shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain Section or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.
5. **Abrogation and Greater Restrictions:** It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

6. **Warning and Disclaimer of Liability:** This Section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the City of Nowthen or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made thereunder.

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

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

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

   **Base Flood Elevation:** The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

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

   **Conditional Use:** means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

   a. Certain conditions as detailed in the zoning ordinance exist.

   b. The structure and/or land use conform to the comprehensive land use plan if one exists, and are compatible with the existing neighborhood.

   **Critical Facilities:** facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive
materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, commercial daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

**Development:** any man-made change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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

**Farm Fence:** a fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this Section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this Section.

**Flood:** a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**Flood Frequency:** the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**Flood Fringe:** that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the County of Anoka.

**Flood Plain:** the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**Flood Proofing:** a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

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

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

Manufactured Home: a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

Obstruction: any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

One Hundred Year Floodplain: lands inundated by the “Regional Flood” (see definition).

Principal Use or Structure: means all uses or structures that are not accessory uses or structures.

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

Recreational Vehicle: a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal 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 this Section, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Regional Flood: a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
**Repetitive Loss:** Flood related damages sustained by a structure on two separate occasions during a ten (10) year period for which the cost of repairs at the time of such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

**Special Flood Hazard Area:** a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”

**Structure:** anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, or recreational vehicles.

**Substantial Damage:** means damage of any origin sustained by a structure where the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**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 fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that 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 specifications 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 an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Section, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

**Variance:** means a modification of a specific permitted development standard required in an official control including this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.
9. Annexations: The Flood Insurance Rate Map panels adopted by reference into this Section may include floodplain areas that lie outside of the corporate boundaries of the City of Nowthen at the time of adoption of this Section. If any of these floodplain land areas are annexed into the City of Nowthen after the date of adoption of this Section, the newly annexed floodplain lands shall be subject to the provisions of this Section immediately upon the date of annexation into the city.

C. Districts:

1. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 11-3-11.B.2 of this Section. For lakes, wetlands and other basins (that do not have a floodway designated), the Floodway District includes those areas designated as Zone A or AE on the Flood Insurance Rate Map that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

2. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 11-3-11.B.2 of this Section, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District includes those areas designated as Zone A or AE on the Flood Insurance Rate Map panels adopted in Section 11-3-11.B.2 that are below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3. General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A or Zone AE without a floodway on the Flood Insurance Rate Map adopted in Section 11-3-11.B.2 of this Section, but not subject to the criteria in Sections 11-3-11.C.1 and C.2 above.

4. Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in this Section shall be prohibited. In addition, a caution is provided here that:

a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section.
4. Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Section and specifically Section 11-3-11.K (non-conformities).

5. All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section and specifically as stated in Section 11-3-11.J of this Section.

7. Critical facilities, as defined in Section 11-3-11.D.8, are prohibited in all floodplain districts.

D. Floodway District (FW):

1. Permitted Uses:
   a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
   b. Industrial-commercial loading areas, parking areas, and airport landing strips.
   c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
   d. Residential lawns, gardens, parking areas, and play areas.
   e. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources’ Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in Section 4.41, 4.43(a) and 4.46 of this ordinance are met.
2. Standards for Floodway Permitted Uses:
   a. The use shall have a low flood damage potential.
   b. The use shall be permissible in the underlying zoning district if one exists.
   c. With the exception of railroads, streets, bridges, utility transmission lines and pipelines, the use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
   d. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation of the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

3. Conditional Uses:
   a. Structures accessory to the uses listed in 11-3-11.D.1 above and the uses listed in 11-3-11.D.3.b through h below.
   b. Extraction and storage of sand, gravel, and other materials.
   c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
   d. Storage yards for equipment, machinery, or materials.
   e. Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in Section 11-3-11.D.8, are permitted uses.
   f. Travel-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial- or condominium-type campgrounds.
   h. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4. Standards for Floodway Conditional Uses:
a. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

b. All floodway conditional uses shall be subject to the procedures and standards contained in Section 11-3-11.J. 4 of this Section.

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

d. Fill:

   (1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

   (2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

   (3) As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the City Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.

e. Accessory Structures:

   (1) Accessory structures shall not be designed for human habitation.

   (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
(a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

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

(3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

(a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and

(c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(4) As an alternative, an accessory structure may be internally/wet flood-proofed to the FP-3 or FP-4 flood-proofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached
garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:

(1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

f. Storage of Materials and Equipment:

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

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

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

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

i. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

E. Flood Fringe District (FF):

1. Permitted Uses: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-
existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section E.2 and the "Standards for all Flood Fringe Uses" listed in Section E.5.

2. Standards for Flood Fringe Permitted Uses:
   a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
   b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood proofed in accordance with Section D.4.e(3).
   c. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section E.2.a of this Section.
   d. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
   e. The provisions of Section E.5 of this Section shall apply.

3. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section E.2.a and E.2.b and or any use of land that does not comply with the standards in Section E.2.c – E.2.d shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections E.4-E.5 and J.4 of this Section.

4. Standards for Flood Fringe Conditional Uses:
   a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure’s lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The
base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

1. the enclosed area is above-grade on at least one side of the structure;

2. it is designed to internally flood and is constructed with flood resistant materials; and

3. it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

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

(b) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

i. A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

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

b. Basements, as defined by this Section, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section E.3.c of this Section.

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

d. When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

e. Storage of Materials and Equipment:
(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

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

f. The provisions of Section E.5 of this Section shall also apply.

5. Standards for All Flood Fringe Uses:

a. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

b. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

c. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.b above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

d. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the
100-year flood elevation - FEMA’s requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

e. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

f. Standards for recreational vehicles are contained in Section I.3 of this Section.

g. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement, which consists of permanent concrete or treated wood. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

E. General Flood Plain District:

1. Permissible Uses:
   a. The uses listed in Section D.1 of this Section shall be permitted uses.

   b. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section E.2 below. Section D shall apply if the proposed use is in the Floodway District and Section E shall apply if the proposed use is in the Flood Fringe District.

2. Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.

   a. Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Building Official for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.

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

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(3) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(4) Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred (500) feet in either direction from the proposed development.

b. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than one-half (0.5) foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

c. The Building Official shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and
the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the City Council shall refer the matter back to the Building Official who shall process the permit application consistent with the applicable provisions of Section D and E of this Section.

F. Subdivisions:

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

2. Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section F.2 of this Section to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

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

4. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
a. All such proposals are consistent with the need to minimize flood damage within the flood prone area,
b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
c. Adequate drainage is provided to reduce exposure of flood hazard.

5. Building Sites: If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
   a. Designated (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
   b. Constructed with materials and utility equipment resistant to flood damage;
   c. Constructed by methods and practices that minimize flood damage; and
   d. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

G. Public Utilities Railroads, Streets and Bridges:

1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections D and E of this Section. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
3. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided:
   
a. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
   
b. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

I. Manufactured Homes and Placement of Recreation Vehicles:

1. This section reserved for future use.

2. The placement of new or replacement manufactured homes on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section E of this Section.

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

3. Recreational vehicles that do not meet the exception criteria specified in Section a below shall be subject to the provisions of this Section and as specifically spelled out in Sections 3.c and 3.d below.

a. Exception: Recreational vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Section b below and further they meet the following criteria:
   
   (1) Have current licenses required for highway use.
   
   (2) Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
(3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning district.

b. Areas Exempted For Placement of Recreational Vehicles:

(1) Individual lots or parcels of record

c. Recreational vehicles exempted in Section 3.a above lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections D and E of this Section. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

J. Administration:

1. Administrator: The Building Official designated by the City Council shall administer and enforce this Section. If the Building Official finds a violation of the provisions of this Section he/she shall notify the person responsible for such violation in accordance with the procedures stated in Section L of the Section.

2. Permit Requirements:

a. Permit Required. A permit issued by the Building Official in conformity with the provisions of this Section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

b. Application for Permit. Application for a permit shall be made in duplicate to the Building Official on forms furnished by the Building Department and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed
structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

c. State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Building Official shall determine that the applicant has obtained all necessary state and federal permits.

d. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Building Official stating that the use of the building or land conforms to the requirements of this Section.

e. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Section, and punishable as provided by Section L of this Section.

f. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

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

h. Notifications for Watercourse Alterations. The Building Official shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the
beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

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

3. Board of Adjustment: The Nowthen City Council acts as the Board of Adjustment.

   a. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

   b. Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Section.

   c. Variances. The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Section, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

   (1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
(2) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

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

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

e. Decisions. The Board of Adjustment shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Section, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Building Official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section J.F, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Section punishable under Section L. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

f. Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this community’s official controls and also by Minnesota Statutes.

g. Flood Insurance Notice and Record Keeping. The Building Official shall notify the applicant for a variance that:
(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and

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

4. Conditional Uses. The City Council shall hear and decide applications for conditional uses permissible under this Section. Applications shall be submitted to the Building Official who shall forward the application to the Planning Commission for consideration and public hearing. The Planning Commission will make recommendation to the City Council, which will make the final determination.

a. Hearings. Upon filing with the City Clerk an application for a conditional use permit, the City Clerk shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

b. Decisions. The City Council shall arrive at a decision on a conditional use within sixty (60) days. In granting a conditional use permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 4.f, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Section punishable under Section L. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

c. Procedures to be followed by the City Council in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

(1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
(a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and

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

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

(3) Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

d. Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this Section, and:

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

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

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

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the community.
(6) The requirements of the facility for a waterfront location.

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

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

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

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

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

(12) Such other factors which are relevant to the purposes of this Section.

e. Time for Acting on Application. The City Council shall act on an application in the manner described above within ninety (90) days from receiving the application, except that where additional information is required pursuant to 4.c of this Section. The City Council shall render a written decision within sixty (60) days from the receipt of such additional information.

f. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Section, the City Council shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

(1) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
(5) Flood proofing measures, in accordance with the State Building Code and this Section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

K. Nonconforming Uses:

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section but which is not in conformity with the provisions of this Section may be continued subject to the following conditions. Historic structures, as defined in this Section, shall be subject to the provisions of Sections K.1.a – K.1.e of this Section.

   a. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

   b. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in K.1.c and K.1.f below.

   c. The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section D or E of this Section for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

   d. If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The Assessor shall notify the Building/Zoning Official in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.
e. If any nonconforming use or structure is substantially damaged, as defined in this Section, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Sections D, E or F will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

f. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 11-3-11.D.8; it must not be reconstructed except in conformity with the provisions of this Section.

g. If a substantial improvement occurs, as defined in this Section, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section D or E of this Section for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

L. Penalties for Violation:

1. Violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

2. Nothing herein contained shall prevent the City of Nowthen from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

   a. In responding to a suspected Ordinance violation, the Building Official and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

   b. When an Ordinance violation is either discovered by or brought to the attention of the Building Official, the Building Official shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is
reasonably possible, this information will be submitted to the appropriate Department of Natural Resources’ and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

c. The Building Official shall notify the suspected party of the requirements of this Section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Building Official may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Building Official may either:

(1) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

(2) Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

d. If the responsible party does not appropriately respond to the Building Official within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Building Official shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Section.

M. Amendments:

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

2. All amendments to this Section, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval.
before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the amendment or technical study under consideration. (Ordinance #24, October 13, 2015)

11-3-12: PLANNED UNIT DEVELOPMENT:

A. Purpose:

1. The purpose of this Section is to allow for clustered residential development only in the Rural Residential Agricultural District where such development will not result in a service burden to local government units, will not create land use conflicts, and will not have an adverse impact on the environment. As defined in this Chapter, cluster development is a pattern of subdivision development, which places housing units into compact groupings while providing commonly owned open space.

2. It is not the intent of this Section to circumvent the density provisions of the Rural Residential Agricultural District, which requires a minimum lot density of one lot per five acres and a minimum platted lot size of two and one-half (2.5) acres. Rather, the intent is to allow a higher density in those instances where homes are clustered together in order to provide, in part, more dedicated open space than would be found in a development that subdivided all land within a project site into standardized platted lots.

3. Further, it is not the intent of this Section to conditionally permit the subdivision of a single parcel, or even a few parcels, from a larger tract of land. Subdivisions of that nature must meet the minimum standards of the Rural Residential Agricultural District, including the five (5) acre minimum lot or density size.

4. The Planned Unit Development (hereinafter referred to as ‘PUD’) is intended for use especially where the usual applications of lot size and density controls:

   a. Would impose design standards detrimental to the natural aesthetic and physical characteristics of the site; and,

   b. Would not provide for the most efficient and feasible use of the land.

B. Criteria: Every proposal presented to the City for a PUD shall be accompanied by a preliminary site plan for both a PUD and a standard development. The City shall consider the following criteria and objectives in processing the application for rezoning to a PUD District:
1. That the proposal as a PUD is directed at and limited to areas that will preserve a natural community as defined by the Natural Heritage and Non-game Research program of the Division of Fish and Wildlife of the Minnesota Department of Natural Resources and as delineated by the Minnesota County Biological survey.

2. That the proposal as a PUD is in harmony with the objectives of the comprehensive plan and is not intended as a means to vary applicable planning and zoning principles.

3. That the proposal as a PUD would allow for a more desirable and more creative environment than might be possible through the strict application of current zoning and subdivision regulations.

4. That the proposal as a PUD would provide amenities and open spaces greater than minimum requirements of existing zoning and subdivision regulations.

5. That the proposal as a PUD would not be a substantial detrimental influence on the market value of surrounding properties.

6. That the proposal as a PUD is designed in such a way as to form a desirable and unified environment within its own boundaries, and also will not be detrimental to future land uses in the surrounding areas.

C. Conditional Use Permit Required: A conditional use permit shall be required to allow for a PUD in a Rural Residential Agricultural District. All subdivisions are also subject to the requirements of Chapter 10 of the City Code. A conditional use permit shall be issued only if the project area meets the following conditions and those set forth in the Subdivision Ordinance.

1. Transportation Accessibility: The project area has direct access to the following transportation systems:
   a. The project must front on and have access to a federal, state, county or city street existing and maintained at the time of application.
   b. Streets must have a minimum right-of-way of four (4) rods (66 feet) and conform with the City’s Street Specifications.
   c. The project must be on paved Streets and have continuous paved access to a paved county or state highway.

2. Adjacent Land Use: The project shall not result in the location of a residence at a distance less than:
a. One-fourth (¼) mile from permitted feedlots.

b. One-half (½) mile from a public airport.

3. Local Plans, Projects: The proposed project does not conflict with adopted local plans or projects (i.e. sewage lagoons, parks, transportation facilities, etc.).

4. Lot and Project Size: The minimum project size for a residential subdivision conditionally permitted pursuant to this Section, as a PUD shall be a 75-acre minimum parcel. The open space shall constitute a minimum of 50% of the gross acreage of the project site and said open space shall be contiguous and unified with a minimum of 25% of said open space being non-wetland. The minimum lot size shall be one acre.

5. General Regulations:

   a. Home occupations as defined by this Chapter are permitted whereas extended home occupations as defined by this Chapter are prohibited.

   b. A maximum of one (1) accessory structure per lot with a maximum one thousand six hundred (1,600) square foot size is permitted and must comply with provisions of this Chapter.

6. Compliance with Applicable Federal, State and County Development Regulations. The proposed project concept plan must meet any applicable federal, state or county development regulations applicable to the proposed project, including but not limited to this Chapter, subdivision regulations, and sewer ordinance.

D. Height, Yard, Area and Lot Width and Depth Regulations:

1. Height Regulations: No building shall exceed two and one-half (2½) stories or thirty (30) feet in height.

2. Front Yard Regulations: There shall be a front yard setback of not less than:

   a. One hundred fifty (150) feet from the centerline of U.S. or State Highways, County State Aid Highways, and all County roads and collector or arterial streets.

   b. One hundred twenty (120) feet from the centerline of all City streets.

   c. The minimum lot frontage shall be fifty (50) feet on a public street from which direct access to the property is provided.
d. Corner lots located at the intersection of two or more streets or highways are considered to have two (2) front yard setbacks and two (2) side yard setbacks.

e. No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the residential buildings on the same side of the street and fronting thereon within the same block.

3. Side Yard Regulations: There shall be a minimum interior side yard setback of twenty (20) feet.

4. Rear Yard Regulations: There shall be a rear yard setback of not less than thirty-five (35) feet in depth.

5. Lot Area and Width Regulations: Each single-family dwelling shall be located on a lot having an area of not less than one (1) acre, twenty three thousand (23,000) square feet of which must be buildable and a minimum of three (3) feet above highest known ground water or ordinary high water of adjacent wetlands. Each lot shall have a minimum width of one hundred twenty (120) feet as measured at the building setback line.

E. Subdivision Design: All subdivision designs shall take into account surrounding land uses and shall be so designed that the layout of lots and streets and the placement of structures shall result in the minimum disruption or conflict in the adjacent land uses including agricultural operations.

F. Development Phasing: The entire project site, which must include a minimum of seventy five (75) acres, must receive preliminary plat approval at the same time. However, the development may be completed in phases as regulated by the City’s Subdivision Ordinance.

G. Common Open Space: No PUD will be approved without the provision of dedicated public open space. The open space shall constitute a minimum of fifty percent (50%) of the gross acreage of the project site with a minimum of twenty-five percent (25%) of said open space being non-wetland. The open space shall meet the following standards:

1. The location, shape, size, and character of the dedicated open space must be suitable for the PUD and shall be contiguous.

2. Dedicate open space must be used for amenity or recreational purposes. The uses authorized for the open space must be appropriate to the scale and character of the Planned Unit Development, considering its size, density, expected population, topography, and the number and type of structures to be provided.
3. Dedicated open space must be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the dedicated open space must be appropriate to the uses which are authorized for the open space and must conserve and enhance the amenities of the open space, having regard to its topography and unimproved conditions.

4. The development plan must coordinate the improvement of the dedicated open space and the construction of buildings, structures, and improvements in the open space, with the construction of the permitted structures of the Zoning District in which the PUD is located.

5. If the final development plan provides for buildings or structure improvements in the dedicated open space, the developer must provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Council shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

6. The construction and provision of all of the dedicated open spaces and any public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of the principal structures of the PUD.

H. Conveyance and Maintenance of Common Open Space:

1. All land shown on the final development plan as dedicated open space must be conveyed under one of the following options:

   a. It may be conveyed to a public agency (State, County, or City) to maintain the dedicated open space and any buildings, structures, or improvements which have been placed on it, subject to the public agency acceptance of the conveyance.

   b. The dedication of open space does not excuse the subdivision from payment of City park fees except as the open space is accepted by the City for use as a city park.

2. No dedicated open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of open space areas, and all rights to enforce the covenants against any permitted use are expressly reserved.
3. If any portion of the open space within a PUD is not conveyed to a public agency the open space shall be made common to the private property within the PUD with the following provisions:

   a. The legal right to develop the common non-public open space for the uses not specified in the final development plan must be conveyed to a public agency.

   b. The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.

   c. A legal right must be established to assess and/or levy the costs of non-public open space maintenance against the properties in the development.

   d. For any portion of common open space which is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space may authorize a public agency to enforce their provisions.

I. Required Covenants, Easements and Provisions in Plan:

1. The development plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location, and density of permitted structures, accessory uses thereto, and public facilities as may be necessary for the welfare of Planned Unit Development and not inconsistent with the best interest of the entire Town.

2. The applicant may be required to dedicate land for street or park purposes and, by appropriate covenants to perpetually (or for the duration of the Planned development) restrict area use as dedicated open space or for non-public common use. The development shall be subject to all conditions so imposed, and shall be exempted from other provisions of this Chapter only to the extent specified in the authorization.

J. Guarantee the Provision of Common Open Space: The City Council may require adequate assurance, in a form and manner, which it approves, that any dedicated and non-public common open space shown in the final development plan will be provided. The City Council shall require a bond, corporate surety, or other acceptable financial guarantee, in a form which complies with the provisions of the Subdivision Ordinance, and in an amount sufficient to purchase any non-dedicated common open space shown in the final development plan or alternative acreage which is equivalent in size and character.
K. Waste Water Systems:

1. All PUD development shall contain a community septic system, which shall service all housing units in the development. The PUD wastewater system shall be designed according to the MPCA rules and standards, Minnesota Chapter 7080.0600, Subd. 4,B,1. The construction of the waste water system shall be guaranteed by a developers bond.

2. The operation and maintenance of the system shall be at the cost of the properties in the PUD and shall be guaranteed by City approved Homeowner’s Association documents.

L. Final Approval: When the City Council gives final approval, a Certificate of Occupancy shall be issued for the PUD Plan even though the size of lots, depth of yards, and the required distance between grouped buildings and the building height, may not conform in all respects to the regulations of the Rural Residential Agricultural District.

M. Final Action by Applicant: The applicant shall then review the application and plan in its final approved form and sign a statement that the PUD Plan in its final form shall be made binding on the applicant, any successors in interest and assigns.

N. Control of Planned Unit Development Following Acceptance: All changes in use, or re-arrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be submitted to the Planning Commission and approved by the City Council, under the procedures authorized for the amendment of this Chapter. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the City.

O. Amendments to the Final Development Plan: All changes in use, or re-arrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be approved by the Planning Commission. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the City.

P. Failure to Begin Planned Unit Development:

1. If no construction has begun or no use established in the Planned Unit Development within one (1) year from the final approval of the final development plan, the final development plan shall lapse and be of no further effect.
2. In its discretion and for good cause, the City Council may extend for one (1) additional year, the period for the beginning of construction. (Ordinance #3, adopted November 9, 2010)
SECTION 4

GENERAL REGULATIONS FOR ALL DISTRICTS

Section:
11-4-1  Non-Conforming Uses/Structures
11-4-2  Accessory Structures
11-4-3  Home Occupations
11-4-4  Mobile Homes
11-4-5  General Standards
11-4-6  Erection of More Than One Principal Structure On A Lot
11-4-7  Temporary Habitation
11-4-8  Substandard Lot Provisions
11-4-9  Dwellings or Other Buildings Moved into or Within the City
11-4-10 Mining/Excavating
11-4-11 Use of Dynamite/Explosives
11-4-12 Certificate of Occupancy
11-4-13 Development Standards for Single Family Dwelling Units
11-4-14 Junkyards/Unlicensed Vehicles
11-4-15 Animals
11-4-16 Exterior Storage
11-4-17 Development Standards for Commercial or Industrial uses
11-4-18 Residential Housing Standards
11-4-19 Lighting Regulations

11-4-1:  NON-CONFORMING USES/STRUCTURES: The following provisions shall apply to all non-conforming uses:

A. A non-conforming use may be continued, but may not be extended, expanded, or changed unless to conforming use, except as permitted by the Board of Adjustment in accordance with the provisions of this Chapter. Existing residential dwellings which are non-conforming due to inadequate setbacks, may be altered, improved or enlarged, provided the work does not increase the non-conformity.

B. A certificate must be obtained within sixty (60) days of the effective date of this Chapter by the owner of any non-conforming use as evidence that the use lawfully existed prior to adoption of the provision which made the use non-conforming.

C. If such non-conforming use consists of a substantial building and ceases to be used for a continuous period of one (1) year, any subsequent use of said building shall be in conformity to the requirements of this Chapter.

D. No non-conforming use, if once changed to a permitted use, shall be changed back to a non-conforming use.
E. If at any time, any building, exclusive of foundation, in existence, or maintained at the time of the adoption of this Chapter which does not conform to the requirements of this Chapter shall be substantially wholly destroyed by fire, earthquake, windstorm, or other casualty, then the said land on which such buildings were located or maintained shall, from and after the date of such destruction, be subject to all the requirements as specified in this Chapter.

F. Normal maintenance of a non-conforming structure is acceptable, including non-structural repairs and incidental maintenance. (Ordinance #3, adopted November 9, 2010)

11-4-2: ACCESSORY STRUCTURES:

A. Detached accessory structures shall be located in the side or rear yards. They shall comply with all setback requirements of the principal structure. They shall not be located nearer the front lot line than the principal structure or three hundred (300) feet setback from centerline of local, collector or arterial streets. If the Principal Structure is closer than the required setback, any additional accessory structure shall comply with the setback requirements for the principal structure, except that one (1) accessory structure may be located in the front yard, closer to the front lot line than the principal structure, provided it meets the following criteria:

1. The accessory structure shall comply with the minimum setback requirements for the principal structure.

2. The overall floor area of the accessory structure may not exceed eight hundred (800) square feet, with sidewall height not to exceed ten (10) feet.

3. The exterior, such as roofing, siding and trim of the accessory structure must be similar in color and materials to the principal structure, as well as the roof pitch and other design elements.

4. The building may not be located more than sixty (60) feet from the principal structure, nor directly in front of it.

B. An Accessory Structure shall not be constructed on any lot prior to the principal structure. Color and design is to compliment the principle structure, and unpainted galvanized metal shall not be used. A minimum 3/12-roof pitch is required. Elliptical roof shapes are only permitted for agricultural uses (as defined in this Chapter).
C. Number of Accessory Structures:

1. On lots ten (10) acres or more, there is no limit to the number or maximum square footage of accessory structures.

2. On lots of five (5) acres but less than ten (10), a maximum of three (3) accessory structures are allowed, with a total floor area not to exceed six thousand four hundred (6,400) square feet in size, and maximum height of thirty (30) feet.

3. On lots two and one half (2.5) acres but less than five (5) acres, a maximum of two (2) accessory structures are allowed, with a total floor area not to exceed three thousand two hundred (3,200) square feet in size and a maximum height of twenty-five (25) feet.

4. On lots less than two and one half (2.5) acres, a maximum of one (1) accessory structure is allowed, with a total floor area not to exceed two thousand four hundred (2,400) square feet in size and a maximum height of twenty-five (25) feet.

5. On lots in Planned Unit Developments a maximum of one (1) accessory structure is allowed with a total floor area not to exceed one thousand six hundred (1,600) square feet in size and twenty-five (25) feet in height.

6. One (1) additional garden shed/playhouse type structure, not exceeding one hundred twenty (120) square feet is permitted.

D. If property is split with existing buildings, the size of any parcel must be large enough to accommodate the number and square footage of accessory structures as stated previously in this Section. (Ordinance #3, adopted November 9, 2010)

11-4-3: HOME OCCUPATIONS: Home occupations are defined and described either as Permitted Home Occupation under subpart A of this section, or as Extended Home Occupations under subpart B. The Permitted Home occupations are permitted within all zoning districts so long as all requirements are met. There are no variances from requirements for Permitted Home Occupations. Extended Home Occupations are only permitted as Interim Uses. Any home occupation that does not fully comply with Permitted Home Occupation requirements shall be reviewed as an Extended Home Occupation.

A. Permitted Home Occupations: A home occupation shall be permitted in all zoning districts if it complies with the requirements of this section.
1. The home occupation shall be carried on by one or more members of the family residing in the dwelling unit, and the leasing of space to another person is prohibited. No outside employees will be permitted.

2. The home occupation shall be carried on wholly within the principal structure. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its residential use. A home occupation is not to be conducted in an attached garage.

3. No retail sale of any product or material is allowed on the premises of a Permitted Home Occupation.

4. A home occupation may be identified by one sign, without lights or illumination, and of maximum six (6) square foot size. With the exception of any such permitted sign, there shall be no exterior displays or exterior storage of materials. There shall be no exterior indication of a home occupation nor any variation from the residential character of the principal structure. (Ordinance 2013-04, adopted April 9, 2013)

5. The City Council shall have the authority to review individual Permitted Home Occupations based on nuisance regulations. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated, or discharged.

6. Any Permitted Home Occupation shall not create vehicular traffic within the neighborhood in greater volume than would normally be expected in the zoning district.

7. Permitted home occupations are subject to review by the City Council and, if determined not to be in keeping with the residential nature of the neighborhood may be prohibited or may be reviewed as an Interim use.

B. Extended Home Occupations: An extended home occupation shall be reviewed as an interim use and shall be allowed in the Rural Residential Agriculture District if the business is listed as an interim use in and if the business complies with the requirements as stated herein and of those stated in Section 10 of this Chapter.

1. Extended home occupations shall be carried on by one (1) or more members of the property owner’s family who shall reside in the dwelling unit, with not more than one (1) full-time or (2) two part-time on site employees who are not part of the family. If the extended home occupation is on property that is fully accessed on bituminous roads, up to two (2) full-time or (4) part-time on site employees may be permitted. (Ordinance 2013-04, adopted April 9, 2013)
2. Extended home occupation may be permitted within either the principal structures or within accessory structures. The number and sizing of accessory structures shall be as defined in Section 11-4-2 of this Chapter.

3. The leasing of space to another person or firm requires an Interim Use Permit and must be obtained by the property owner, not the lessee. The rental of space for the storage of boats, vehicles, etc. are considered as extended home occupations and are subject to the interim use provisions.

4. Retail sales related to extended home occupations shall be limited to minor products that are ancillary to a home occupation service. Such minor retail sales shall be similar to:
   a. Hair care products ancillary to home beauty or hair care occupations;
   b. Spare or replacement parts ancillary to a small engine or a small machine (motorcycle, lawn mower, snow blower or snowmobile) repair occupation.

5. An extended home occupation may be identified by one sign, without lights or illumination and of maximum six (6) square foot size. All signs shall be subject to review. With the exception of any such permitted sign there shall be no exterior displays. No exterior indication of a home occupation or any variation from the residential character of the principal structure shall be permitted.

6. Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced. No hazardous or toxic chemical/wastes shall be generated, or discharged.

7. Access:
   a. If the extended home occupation is conducted on property that is accessed in total or in part on a gravel or aggregate surfaced street, the home occupation shall not create vehicular traffic within the neighborhood in greater volume than would normally be expected in the zoning district. For purposes of this Section, maximum normal residential traffic consists of two (2) round trip vehicle trips per driving age family member.
   b. If the extended home occupation is located on and has access totally from bituminous surfaced streets, the use shall not create vehicular traffic that would cause unusual damage to the road or create excessive traffic volumes with the determination of unusual damage or excessive volume totally by the City Council on a specific cost permit basis.
c. Limited scale trucking operations may be permitted as Extended Home Occupations only if the property is accessed from a continuous network of bituminous streets and the limitations related to the occupation are being carried on by family members and no more-than two (2) on-site employees is met.

8. Outside storage of materials and equipment used for extended home occupations may be permitted if such storage conforms to the setback, location and maximum size requirement for accessory structures. All outside storage shall be screened from view. If such storage is within one hundred (100) feet of the property line or one hundred twenty (120) feet from any current or potential abutting property residence, it shall be screened by opaque fencing.

9. All extended home occupations shall be reviewed as an interim use and shall be periodically reviewed for compliance with such interim use permits with the review frequency as established by the City Council. (Ordinance #3, adopted November 9, 2010)

11-4-4: MANUFACTURED HOMES

A. Restricted Use/Location: Except as referenced in Section 11-4-7, Temporary Habitation, mobile homes are restricted to manufactured home parks which comply with all applicable State, County, and City regulations and ordinances. The City will not consider applications for mobile home parks unless and until municipal sewer and water facilities are in place serving the proposed site. At such time, the City will promulgate regulations to process such applications.

B. Modular Homes: Modular homes on permanent foundations shall be considered as single family dwelling units and allowed under the same regulations. (Ordinance #3, adopted November 9, 2010)

11-4-5: GENERAL STANDARDS:

A. Front Yard Setback: Where structures and adjoining lots exist at the time of adoption of this Chapter have a different setback than that required under this Chapter, the front yard of the new structure may be set to conform to the prevailing setback in the immediate vicinity. The Building Official shall determine the necessary setback in such cases.

B. Street Frontage Required: No lot shall be considered for a single family dwelling unit unless it has one hundred fifty (150) feet of frontage on a publicly dedicated street. Said access shall be one hundred fifty (150) feet at its narrowest width the entire length from parcel to street. The street shall be of a width and
construction suitable to traffic requirements of the neighborhood and in compliance with City standards. (Ordinance 2013-03, adopted April 9, 2013)

C. Exterior Storage: The exterior storage or parking of inoperable or unlicensed vehicles is limited to two (2). Three (3) or more such inoperable or unlicensed vehicles on the premises shall constitute an automobile salvage business and shall not be permitted. Semi-trailers and trucks used for temporary storage must be operable and currently licensed. Storage containers and dumpsters may be used for temporary storage. These temporary storages which include all four (semi-trailers, trucks, storage containers, dumpsters) such to facilitate a move may be used for a period of time not to exceed 6 months.

D. Storm Water Runoff: No land shall be developed and no use permitted that results in storm water runoff, flooding, or erosion on adjacent properties. Such runoff shall be properly channeled into storm drains, water courses, ponding areas, or other public drainage facilities. (Ordinance #3, adopted November 9, 2010)

11-4-6: ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT: There shall be no more than one (1) principal building on each lot designed for single family dwelling units. (Ordinance #3, adopted November 9, 2010)

11-4-7: TEMPORARY HABITATION:

A. Residing in accessory buildings, mobile homes, recreational vehicles, or partially completed houses is prohibited, except for a temporary period of time and only by City Council action.

B. The owner of any unimproved parcel of land may place or cause to be placed, a mobile home for temporary use as a dwelling unit on said property, by securing authorization from the City Council. Without said authorization prior to the placement of the mobile home, the property owner shall be in violation of this Chapter.

C. The City Council shall require that prior to granting the approval, the applicant secure a building permit and post a security deposit, as determined by the City Council, with the City Clerk to guarantee compliance with this Section.

D. The City Council may grant temporary occupancy in a mobile home for an initial period not to exceed one-hundred eighty (180) days. Upon a finding by the Building Official of substantial progress, the City Council may extend the temporary occupancy an additional ninety (90) days.

E. Non-compliance with the terms of approval as set by the City Council shall result in forfeiture of said amount to the City but shall in no way grant any rights to the
violator to keep said trailer on that location, nor shall such violation be immune to the punishment under the terms of this Chapter.

F. The City Council may, in the case of a partially completed house where a hardship exists, allow temporary occupancy with stipulated conditions after reviewing the recommendations of the Building Official. In this case, the said security deposit shall be held by the City until final occupancy is granted and the mobile home is removed.

G. There shall be no occupancy in accessory buildings within the City. (Ordinance #3, adopted November 9, 2010)

H. OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593: Pursuant to authority granted by Minnesota Statutes, Section 462.3593, Subdivision 9, the City of Nowthen opt-out of the requirements of Minnesota Statute §462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Ordinance 2016-04, adopted August 10, 2016).

11-4-8: SUBSTANDARD LOT PROVISIONS:

A. Standards: A substandard lot or parcel of land for which a deed has been recorded in the office of the Anoka County Recorder on or prior to the effective date of this Chapter shall be allowed as a building site provided it:

1. Has frontage on a public right-of-way.
2. Such use is permitted in the zoning district.
3. The lot was in separate ownership from abutting lands upon or prior to the effective date of this Chapter.
4. Its area and dimensional measurements are within Fifty (50%) percent of the requirements of this Chapter.
5. All sanitary requirements are complied with as far as practicable.
6. The resulting structure will not pose a hazard to the public health, safety, welfare of adjoining property owners.

B. Contiguous Lots: If, in a group of contiguous parcels of land, under a single ownership, any individual parcel does not meet the lot size minimum area and dimensional requirements of this Chapter, such individual parcel cannot be considered as a separate parcel of land for the purposes of sale or development, but must be combined with adjacent parcels under the same ownership, so that the combination of parcels will equal one or more parcel of land, each meeting
the requirements of the applicable zoning district. (Ordinance #3, adopted November 9, 2010)

11-4-9: DwellingS or other buildings moved into or within the city:

A. Moving Permit: No buildings of any nature shall be moved into or within the City by any means without first obtaining a permit thereof. Each application to move any building shall be on a form available from the Building Official. The applicant shall furnish a recent photograph(s) of the building, which photograph(s) shall clearly show the building proposed to be moved. The City Council requires a performance bond, not to exceed the current amount set by resolution, to ensure the exterior of the building is finished and approved by the Building Official. Each application shall state:

1. The current location of the building.

2. A Certificate of Survey showing the location where the principal structure is proposed to be located. A site plan is acceptable for accessory structures where a Certificate of Survey is provided.

3. The owner of the property on which the building will be located.

4. The owner of said building, if different than the land owner.

5. The person or firm planned to move the building and the proposed route.

6. The date of construction of the building, if known, or approximate age of the structure.

B. Inspection and Review Criteria: The Building Official shall thoroughly inspect said building at its initial location. The Building Official shall report to the City Council on the condition of the structure and any deficiencies from the State Building Code as adopted. The City Council shall take into account the report of the Building Official and the physical appearance of the structure and its compatibility with the residences in the proposed location. If the City Council finds the structure to be suitable for moving into the City, and would constitute an asset to the City, they shall authorize the Building Official to issue the moving permit.

C. Permit Conditions: Said permits shall apply only for said building and shall not be transferable to anyone other than the person to whom it was issued. All such permits shall expire ninety (90) days after issuance, and are subject to renewal by the Building Official only in instances where he is satisfied that extenuating circumstances exist.
1. All dwellings approved to be moved into or within the City shall be located, based on a certificate of survey on a parcel of record, and shall comply with all current applicable City standards and ordinances.

2. All structures moved into the City will be required to be brought up to the standards of the State Building Code as adopted by the City prior to securing a certificate of occupancy. (Ordinance #3, adopted November 9, 2010)

11-4-10: MINING/EXCAVATING: (see also Chapter 6, Section 5)

A. The extraction or storage of any incidental process of sand, gravel, or other material from the land in the amount of one thousand (1,000) cubic yards or more and removal thereof from the site shall be considered as mining, and shall be subject to the rules and regulations of the City Code.

B. In all districts, the conduct of mining shall be permitted only upon securing an Interim Use Permit. Such permit shall include, as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land.

C. All other excavations require an excavation permit. (Ordinance #3, adopted November 9, 2010)

11-4-11: USE OF DYNAMITE/EXPLOSIVES: The use of dynamite and/or other high explosives is prohibited in the City. The use of said explosives may be allowed only upon securing an interim use permit. (Ordinance #3, adopted November 9, 2010)

11-4-12: CERTIFICATE OF OCCUPANCY:

A. Required: A certificate of occupancy shall be obtained before:

1. Any building hereafter erected or structurally altered is occupied or used; or,

2. The use of any existing building is altered or changed.

B. Application and Issuance:

1. Application for a certificate of occupancy for a new building or for an existing building which has been structurally altered shall be made to the Building Official as part of the application for a building permit. The certificate shall be issued within ten (10) days after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter.
2. Pending the issuance of such a certificate, the Building Official may issue a temporary certificate of occupancy for period not to exceed six (6) months during the completion of the erection or alteration of such building. The temporary certificate shall not be construed as altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately insure the safety of the occupants.

C. Content, Record, Fee: Every certificate of occupancy shall state that the building or the change of use of the building complies with all provisions of law and of this Chapter. A record of all certificates of occupancy shall be available for inspection by any person having a proprietary or tenancy interest in the building. There shall be no fee charged for a certificate of occupancy. (Ordinance #3, adopted November 9, 2010)

11-4-13: DEVELOPMENT STANDARDS FOR SINGLE FAMILY DWELLING UNITS: All single family homes to be constructed in the RRA and Districts shall comply fully with the following standards:

A. All residential structures shall have permanent concrete or treated wood foundations which will anchor the structure, which comply with the state building code as adopted in the State of Minnesota and which is solid for the complete circumference of the house.

B. No residential structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.

C. All single family dwellings other than approved earth sheltered homes shall have at least a three/twelve(3/12) roof pitch.

D. All single family dwellings must be built in conformance with Minnesota Statute 327.31 to 327.35, and the State Building Code

E. All single family dwellings shall have roof overhangs which extend a minimum of one foot from all the walls of the structure.

F. Any metal siding upon single family residential structures shall have horizontal edges and overlapping sections no wider than twelve (12) inches. Sheet metal siding shall not be permitted in residential districts. All siding to be utilized must give an appearance similar to conventional single family housing units.
G. All single family housing units must have a dwelling size of at least nine hundred sixty (960) square feet above grade on the main level, excluding any garage area.

H. Attached garages may not exceed one hundred (100%) percent of the main floor area of the residential portion of the structure. Basement level (pre-stressed concrete plank; i.e. spancrete garages), not exceeding the size of the main level garage may be allowed, in addition to a main level garage. (Ordinance #3, adopted November 9, 2010)

11-4-14: JUNKYARDS/UNLICENSED VEHICLES: The City does not permit the operation of a junkyard under the terms of this Chapter. The City also provides for a limit of two (2) unlicensed vehicles, per residential dwelling unit. Any number in excess of two (2) is determined to be a public nuisance and a violation of the terms of this Chapter. Any and all costs involved with clean up and removal shall be paid by owner. If unpaid, costs plus ten (10) percent penalty shall be assessed on property. (Ordinance #3, adopted November 9, 2010)

11-4-15: ANIMALS:

A. Exotic or regulated animals: It shall be unlawful for anyone to own or possess exotic or regulated animals.

B. Non-Domestic Animals:

1. Minimum of Three (3) Acres. Non-Domestic animals shall only be kept on any lot or parcel of land containing three (3) or more acres provided the following conditions are met:

   a. As many as three animal units may be kept on a lot or parcel of land containing three (3) acres. One (1) additional animal unit per acre may be kept upon lots or parcels of land containing more than three (3) acres.

2. Less Than Three (3) Acres. Chickens (Gallus domesticus) may be kept on properties less than three (3) acres provided the following conditions are met:

   a. The number of chickens does not exceed ten (10) chickens per acre.

   b. Roosters shall not be permitted.

   c. Chickens must be contained within a fenced area located a minimum of twenty (20) feet from all property lines.
d. Chickens, including any shelters, coops and/or containment fencing, must be located in side or rear yards only. (Ordinance 2013-10, adopted December 10, 2013)

C. The following equivalents shall apply when determining animal units as defined below:

<table>
<thead>
<tr>
<th>Animal</th>
<th>Animal Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cow, Steer, Heifer, Horse, Buffalo, Donkey, Mule</td>
<td>1.0 (1 = 1 unit)</td>
</tr>
<tr>
<td>Swine, Llama, Emus, Ostrich</td>
<td>.5 (2 = 1 unit)</td>
</tr>
<tr>
<td>Goat, Sheep, Alpaca</td>
<td>.2 (5 = 1 unit)</td>
</tr>
<tr>
<td>Goose, Duck, Chicken, turkey or other types of fowl</td>
<td>.05 (20 = 1 unit)</td>
</tr>
</tbody>
</table>

For animals undefined, the animal unit factor as defined by the MN Pollution Control Agency shall apply.

D. Domestic Animals: Shall be regulated pursuant to the City Code. (Ordinance #3, adopted November 9, 2010; Ordinance 2013-04 adopted April 9, 2013)

11-4-16: EXTERIOR STORAGE:

A. In all districts, the placing of vehicles, boats, trailers, fish houses, sheds, equipment, construction materials, firewood, debris of any kind, or other such items within five (5) feet of the side or rear property lines is prohibited.

B. Piles of trash, construction waste, debris or brush, which may harbor rodents or other pests, or which may otherwise be considered a health or safety hazard, are prohibited.

C. Storage of vehicles, boats, recreational vehicles, or other such items not belonging to the property owners, for monetary purposes constitutes a storage lot, and requires an interim use permit. (Ordinance #3, adopted November 9, 2010)

D. Vehicle Storage in Residential Districts:

1. Truck and trailer storage: Except as provided below, it shall be illegal to park or store, or permit to be parked or stored on residential property a truck or commercial vehicle licensed for more than twenty thousand (20,000) pounds gross vehicle weight, a truck-tractor, a semi-trailer, dumpsters or special mobile equipment. This section shall not apply to the following:
a. Major recreational equipment as defined in Section 11-2-2 of this Chapter.

b. Any motor vehicle which is being actively loaded or unloaded.

c. Any vehicle being utilized to render a service.

d. Properties which have been issued an Interim Use Permit to park or store such vehicles, in compliance with the following:

   (1) The property fronts on an improved County or State Road which is determined by the City Engineer to be capable of carrying the vehicles in question without undue damage;

   (2) The type of vehicle to be parked does not create an unreasonable safety hazard to neighboring residents or the public utilizing the street(s) serving the property;

   (3) The site upon which the vehicle is parked has adequate space to allow turning movements and parking which does not result in the backing of vehicles from or onto the public street;

   (4) The parking of such vehicles does not adversely affect neighboring property owners as it relates to noise;

   (5) The parking of such vehicles is screened from neighboring properties and the public right-of-way to the extent as determined necessary by the City Council;

   (6) Engine brakes or compression release brakes, frequently called jake brakes, may not be used to slow vehicles within residential areas. (Ordinance 2013-04 adopted April 9, 2013)

e. Currently licensed and operable trucks, trailers, and storage containers which are being used for temporary storage, (such as to facilitate a move), for a period of time not to exceed six (6) months.

2. Major recreational equipment: Major recreational equipment in a residential district shall conform to the following standards:

a. No major recreational vehicle shall be used for living, sleeping or housekeeping purposes on the premises, except that one (1) major recreational vehicle shall be allowed for occasional living purposes to accommodate visitors.
b. No major recreational equipment shall be stored on a public street right-of-way.

c. Major recreational equipment stored outside shall be in a condition for the safe and effective performance of its intended function or it shall be repaired to put such equipment in such condition. Equipment being repaired shall not be stored longer than twenty (20) days.

d. There shall be no more than three (3) major recreational vehicles per residential dwelling unit.

3. Number of vehicles.

a. The number of vehicles on a residential parcel may exceed by only two (2) the number of persons with valid drivers licenses residing on the premises. The following vehicles shall be exempted from this requirement:

   (1) Temporary visitor parking.

   (2) Major recreational vehicles.

   (3) Collector vehicles stored in fully enclosed buildings and registered as pioneer, classic, collector or street rod vehicles. The collector plates must be displayed on the vehicle.

   (4) Trailers, trucks, and other vehicles used in loading, unloading, maintenance, or construction on the premises.

   (5) Two- (2) or three- (3) or four- (4) wheeled recreational vehicles.

b. Park or Store Vehicles. It shall be illegal to park or store or permit to be parked or stored any vehicle on undeveloped residential property. This provision shall not apply to vehicles used in conjunction with City approved projects.

4. Junk Vehicles:

a. Residential Property:

   (1) The parking, storage, repairing, dismantling, demolition, or abandonment of junk vehicles or part thereof on a residential property is prohibited, except that a resident of the premises may repair one (1) vehicle on the property if the vehicle is
owned by a resident and such repair does not exceed twenty (20) days.

(2) In residentially zoned property the parking or storage of unlicensed vehicles outside, other than major recreational equipment, is limited to two (2). The property around the vehicle must be kept mowed and free of debris. Such vehicles shall be included in the number of permitted vehicles under Section 11-4-14 of this Chapter.

b. Other Property. For other property, the parking, storage, or maintenance of junk vehicles is allowed only if incidental to a permitted use and if the vehicles are being actively repaired. Such vehicles shall be stored within an enclosed building or be so screened that they are not visible from public streets or adjoining properties.

5. The regulations of this Section include the streets within and adjacent to such subdivisions. (Ordinance #5, October 12, 1993)

11-4-17: DEVELOPMENT STANDARDS FOR COMMERCIAL OR INDUSTRIAL USES: All permitted uses within the Commercial or Industrial Districts shall comply with the following standards.

A. All structures shall have permanent concrete or treated wood foundations which will anchor the structure, which comply with the building code as adopted by the State of Minnesota and which is solid for the complete circumference of the structure.

B. No structure shall have a width of less than twenty-four (24) feet at its narrowest point. Width measurements shall not take into account overhangs or other projections beyond the principal exterior walls.

C. All structures must be built in conformance with Minnesota Statute 327.31 to 327.35, and the Building Code as adopted by the State of Minnesota.

D. All commercial or light manufacturing principal structures shall have a minimum of two thousand (2,000) square foot ground floor area.

E. The size of structures on any lot shall not exceed twenty (20%) percent of the total lot area. The maximum area of impervious land coverage, to include the building and all paved or impervious surfaces, shall not exceed seventy (70%) percent of the total lot area. (Ordinance #3, adopted November 9, 2010)
F. Off-street access and parking shall be provided in accordance with Section 6 of this Chapter. (Ordinance #38, adopted October 11, 2011)

G. No commercial or light manufacturing use shall be approved unless that use is accessed from a paved street with a total pavement structure sufficient for commercial traffic. All pavements within commercial industrial areas shall be designed minimum nine (9) ton standards in accordance with Mn/DOT bituminous street design procedures. (Ordinance #3, adopted November 9, 2010)

H. Signs shall be allowed in accordance with Section 7 of this Chapter. (Ordinance #38, adopted October 11, 2011)

I. Any new commercial or light manufacturing uses shall be allowed only after review and approval of site plans including water supply, proper waste disposal and appropriate surface water management.

J. All Commercial or Light Manufacturing Uses are required to have a screened/fenced trash enclosure area for dumpsters or waste receptacles.

K. All outside storage shall be screened from view and in an area enclosed with opaque fencing, with a minimum height of six (6) feet as measured from finished grade. All fences over 6 feet in height require a building permit and approval by the Architectural Review Committee. Fencing material must be new, un-used durable material in sound condition and properly installed and maintained. Permitted materials include:

1. Chain-link with vinyl or metal slats.
2. Naturally decay resistant or chemically treated wood.
3. Decorative masonry or concrete.
4. Low or maintenance-free vinyl.
5. Other materials may be approved by the Nowthen Architectural Review Committee.
6. Fabric Fencing or screening material is prohibited.

L. All storage lots must maintain a minimum of thirty (30) feet front set back to the fencing and such area shall be landscaped.

M. Screening and buffers: Any commercial or industrial development that abuts any existing residential development or abuts any parcel planned or zoned for housing shall be screened from view from the housing site using a combination of fencing, plantings and/or berming to the satisfaction of the City:
1. Landscape terms:
   
a. Bufferyard: Landscaped area between land uses of different intensities sharing a lot line.

b. Screening: Methods used to obscure or block unsightly views.

2. Screening and Buffering:

   a. A minimum of one hundred (100) feet of bufferyard is required along property lines which separate commercial or industrial and residential uses which may consist of either natural, wetland, woods open space, man-made ponding or a combination thereof.

   b. The following uses shall be screened or buffered in accordance with the requirements of this Section.

(1) Principle buildings and structures and any accessory structures located in any business district containing non-residential uses shall be screened and buffered from lots used for any residential purpose.

(2) Off-street parking spaces shall be screened and buffered from lots which are zoned residential.

(3) Loading docks, trash and recycling storage facilities shall be screened from all lot lines and public streets.

(4) Outside storage in business districts that is allowed by other provisions of this ordinance shall be screened from all public views.

   c. Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials.

(1) All walls and fences shall be architecturally harmonious with the principal building.

(2) Earth berms shall not exceed a slope of 4:1, with a minimum height of 6 feet and must include the planting of two (2) or more rows of trees on top of the berm. Trees must consist of approximately fifty (50%) percent evergreen and fifty (50%) percent deciduous with a minimal height of six (6) feet.
The screen shall be designed to employ materials that provide an effective visual barrier during all seasons.

d. All required screening or buffering shall be located on the lot occupied by the use, building, facility, or structure to be screened. No screening or buffering shall be located on any public right-of-way.

e. Screening or buffering required by this subdivision shall be of a height needed to accomplish the goals of this Chapter. Height of plantings required under this section shall be measured at the time of installation. (Ordinance #3, adopted November 9, 2010)

N. Exterior walls:

1. The use of architectural features, such as gables, eyebrows, overhangs, porches, shutters, window grids and other trim is strongly encouraged. Alternatives may be considered and must be submitted to the Nowthen Architectural Review Committee for approval.

2. Exterior materials shall comply with the requirements of Section 6 of this Chapter. (Ordinance #38, adopted October 11, 2011)

O. Landscape: A landscape plan is required for all commercial, industrial and non-residential primary uses in non-residential zoning districts.

1. Minimum Landscaping Requirements: For commercial, industrial and non-residential primary uses in the non-residential zoning district:

   a. One (1) overstory deciduous shade tree or one (1) coniferous tree for every two thousand (2,000) square feet of total building floor area.

   b. One (1) understory shrub for every 300 square feet of total building floor area.

   c. The City may require additional landscaping as necessary to provide adequate screening or to provide a complete quality landscape treatment of the site.

   d. All new overstory trees shall be balled and burlapped or removed from the growing site by a tree spade.

   e. Size:

      (1) Deciduous trees shall have a minimum caliper of two and one-half (2 ½) inches.
(2) Coniferous trees shall be a minimum of six (6) feet in height.

(3) Ornamental trees shall have a minimum caliper of one and one-half (1 ½ ) inches.

(4) Shrubs shall be consistent in size to what a twenty-four (24) inch pot would normally contain.

f. All site areas not covered by buildings, sidewalks, parking lots, driveways, patios, or similar hard surface materials shall be covered with sod or an equivalent groundcover approved by the City. This requirement shall not apply to site areas preserved in a natural state.

g. No more than fifty (50) percent of the required number of trees shall be composed of one (1) species. Due to various ecological and maintenance related concerns, no required tree shall be any of the following:

(1) A species of the genus (elm), except those bred to be immune to Dutch Elm Disease.

(2) Common Buckthorn.

(3) Russian Olive

(4) Black Locust.

(5) Box-elder.

(6) Additional trees may be restricted from specific locations due to ecological and maintenance related issues. It is the responsibility of the landowner and/or applicant to confirm with the City whether or not a specific tree species is appropriate.

2. Maintenance of Landscaping:

a. The owner and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat, and orderly appearance, and free from refuse and debris.

b. Plants and groundcover which are required by an approved site or landscape plan and which are diseased or have died shall be replaced with like kind and size within three (3) months of
notification by the City. However, the time for compliance may be extended up to nine (9) months by the City in order to allow for seasonal or weather conditions.

c. Plantings placed upon public right-of-way or major easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height and shall be the property owner’s responsibility to maintain. (Ordinance #3, adopted November 9, 2010)

11-4-18: RESIDENTIAL HOUSING STANDARDS:

A. General Provisions:

1. Title: This Section shall be known as the Nowthen Residential Housing Maintenance Standards Section and will be hereinafter referred to as “this section.”

2. Scope: All provisions of this section shall apply to all residential properties and structures, occupied or unoccupied, within the City, and shall constitute the minimum standards for safe and sanitary occupancy and maintenance thereof.

3. Purpose.

   a. The purpose of this section is to maintain the City’s sanitation, public health, safety, morals, and general welfare and attractiveness, by legislation which shall be systematically enforced upon all residential property to avoid excessive or disproportionate expenditures of public funds for public health and safety, crime prevention, fire protection, and other public services. The City Council finds that the following objectives, among others, are important in achieving the goal of maintaining a safe and healthy community:

      (1) To protect the character and stability of residential areas within the City;

      (2) To correct and prevent conditions that adversely affect or are likely to adversely affect the life, safety, general welfare, and health, including the physical, mental and social well being, of persons owning or renting residential facilities within the City;
(3) To provide for the sound standards and maintenance of cooking, heating, sanitary, electrical, light, and ventilation systems necessary for health and safety;

(4) To prevent the overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;

(5) To provide minimum standards for the maintenance of existing residential structures to prevent deterioration and blight;

(6) To preserve the value of land and structures throughout the City.

(7) With respect to rental disputes, and except as otherwise specifically provided by the terms of this Section, it is not the intention of the City Council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City Council does not intend to intervene as an advocate of either party, nor to act as arbiter, nor to be receptive to complaints from tenant or landlord which are not specifically and clearly relevant to the provisions of this Section. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government. Neither, in enacting this Section, is it the intention of the city council to interfere or permit interference with legal rights to personal privacy.

b. Every building, as well as its premises, and all occupied premises within the City shall conform to the requirements of this Section, irrespective of when such building may have been constructed, altered or repaired.

4. Definitions: For the purposes of this Section, only the following definitions shall apply. Whenever the words “dwelling”, “dwelling unit”, “premises”, “building” or “structure” are used in this Section, they shall be construed as though they were followed by the words “or any part thereof.”

**Accessory Structure:** A structure subordinate to the main or principal building which is not used or authorized to be used for living or sleeping by human occupants and which is located on the premises.
Approved: Approved as to construction, installation, and maintenance in accordance with applicable statutes of the State and the provisions of the City ordinances.

Basement: That portion of a building between floor and ceiling, which is partly below grade but so located that the vertical distance from grade to floor below, is more than the vertical distance from grade to ceiling.

Bath: Bath shall mean a bathtub or shower stall.

Bedroom: A habitable room within a dwelling unit which is used or intended to be used primarily for the purpose of sleeping, but shall not include any kitchen or dining area.

Building: Any structure having a roof built for the shelter or enclosure of persons, animals, or other items.

City: City of Nowthen, Anoka County, Minnesota.

City Council: The City Council of the City of Nowthen, Anoka County, Minnesota.

Clean: The absence of rubbish, garbage, vermin, and other unsightly, offensive, or extraneous matter.

Compliance Official: The Nowthen Building/Zoning Official and/or designated agents authorized to administer and enforce this Section.

Dwelling: Any building, or portion thereof, that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied for living purposes including one-family dwellings, two family dwellings and multiple family dwellings, but not including hotels or motels.

Dwelling Unit: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

Easily Cleanable: Readily accessible and of such material and finish and so fabricated and placed that residue which may accumulate can be completely removed by normal cleaning methods.

Egress Window: A window which is sized and constructed so as to provide an emergency means of exit from a sleeping room or basement, and which complies with the State Building Code.
Exit: A continuous and unobstructed means of egress to a public or private way and shall include intervening doors, doorways, corridors, ramps, stairways, smoke proof enclosures, horizontal exits, exit passageways, exit courts and yards.

Family:

a. An individual, or group of persons related by blood, marriage, or adoption, including foster children, living together as a single housekeeping unit;

b. Residents of a State licensed community residential facility as defined and authorized by State law.

Functioning: In such physical condition as to safely perform the service or services for which an item is designed or intended.

Garbage: Includes all putrescent animal, vegetable, or other matter that attends the handling, preparation, cooking, consumption, display, dealing in or storage of food, including the cans, containers or wrappers wasted along with such materials.

Habitable Building: Any building or part thereof that meets minimum standards for use as a dwelling or place of abode by one or more persons.

Habitable Room: A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes; excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electrical outlets and required exit facilities), pantries, utility rooms, foyers, communicating corridors, stairways, closets, storage spaces, workshops, hobby and recreation areas.

Heated Water: Water heated to a temperature of not less than 120 degrees Fahrenheit, or such lesser temperature as may be required from time to time by governmental authority, measured at the faucet outlet.

Infestation: The presence within or around a dwelling of any insect, rodent, or other pests.

IBC: International Building Code

IRC: International Residential Code

Kitchen: A habitable room intended to be used for the cooking of food or the preparation of meals, which includes a sink with adequate water,
counter working space, and adequate space for cooking and refrigeration equipment.

**Maintenance:** To keep in a good state of repair; to preserve from deterioration.

**Noncombustible:** Any material or combination of materials which will not ignite or support combustion during a five (5) minute exposure (refer to State Building and Fire Codes)

**NFPA:** National Fire Protection Association.

**Occupancy:** The purpose for which a building, or part thereof, is used or intended to be used.

**Occupant:** Any person residing in a structure, building, dwelling, dwelling unit, rooming unit, or premises, or any part thereof.

**Operator:** The owners or their agents who have charge, care, control, or management of a building or part thereof.

**Owner:** Any person, group, partnership, corporation, or other entity, alone, jointly or severally with others, who shall have a legal or equitable interest in the property and/or be in actual possession of, or have charge, care or control of, any building or a portion thereof within the City as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual owner shall be bound to comply with the provisions of this Section to the same extent as the owner.

**Permissible Occupant Load:** The maximum number of individuals permitted to occupy a building or space within a building.

**Person:** An individual, firm, partnership, association, corporation, or joint venture or organization of any kind.

**Pests:** Rodents, insects, at any stage of development, and other destructive or offensive vermin including, but not limited to, rats, mice, flies, roaches, and fleas.

**Plumbing:** All of the following supplied facilities and equipment in a building: Gas pipes, gas burning equipment, water pipes, steam pipes, garbage disposal units, waste drain & vent pipes, water closets, sinks, dishwashers, lavatories, bathtubs, shower baths, clothes washers, catch basins, and other similar fixtures and the installation thereof, together with all connections to water, sewer, and gas lines.
Refuse: All solid waste products or those having the character of solids rather than liquids in that they will not flow readily without additional liquid and which are composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes, organic wastes or residue from animals sold as meat, fruit or other vegetable or animal matter from kitchen, dining room or any place dealing in or handling meat, fowl, fruit, grain or vegetables offal, animal excreta, or the carcass of animals; trees or shrub trimmings, or other waste matter resulting from the demolition, alteration, repair or construction of buildings or structures, accumulated waste materials, cans, containers, junk vehicles, ashes, tires, junk or other such substance which may become a nuisance.

Rental Dwelling or Rental Dwelling Unit: A dwelling or dwelling unit let for rent or lease.

Rental Facility: A residential building or development containing one or more units where the building and/or units are intended to be rented or let to tenants even if the owner occupies one or more of the units.

Repair: To restore to a sound and acceptable state of operation, serviceability, or appearance in the determination of the Building Official.

Residential Building: A structure containing one or more dwelling units.

Rodent Harborage: Any place where rodents live, nest or seek shelter.

Rooming Unit: Any room or group of rooms forming a single unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

Rubbish: All solid waste consisting of both combustible and noncombustible waste including, but not limited to paper, cardboard, tin cans, grass and shrubbery clippings, wood, glass, brick, plaster, bedding, crockery, and similar materials.

Safety: The condition of being reasonably free from danger and hazards which may cause injury or disease.

Sewer System: A functioning sewer connection free from defects, leaks or obstructions with sufficient capacity to drain all fixtures or appliances which feed into it. The sewer system, be it municipal or private, must be capable of disposing of sewage in a safe, sanitary, and adequate manner.

Single-Family Dwelling: A residential structure containing one dwelling unit.
**State Building Code:** The Minnesota State Building Code as adopted by the State of Minnesota, which includes the International Residential Code and the International Building Code, along with Minnesota amendments.

**Structure:** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which is permanently or temporarily supported on the ground.

**Substandard Dwelling:** Any dwelling that does not conform to the minimum standards established by State or local laws and ordinances.

**Two-Family Dwelling:** A residential structure containing two dwelling units having a single wall in common.

**Unsafe:** As applied to a structure, a condition or combination of conditions which is dangerous or hazardous to persons or property.

**Unsanitary:** As applied to a structure, conditions which are dangerous or hazardous to the health of persons.

**Water Closet:** An enclosed room with a toilet, with a bowl and trap made in one piece, which is connected to an approved water supply and sewer system.

**Water Supply:** A functioning plumbing connection free from defects, leaks or obstructions providing a potable, controllable flow of water.

5. **Occupancy:**

   a. No person shall occupy or permit another person to occupy any residential or non-residential structure, building, or premises, or any part thereof, unless the structure, building, or premises is clean, sanitary, conductive to a safe and healthy environment, and in compliance with all applicable Federal, State, and local laws and ordinances.

   b. Residing in accessory structures, trailers, fish houses, tents, recreation vehicles, trucks, automobiles, or partially constructed or partially demolished buildings of any kind is prohibited.

6. **Administration:**

   a. The Building Official shall administer and enforce the provisions of this Section and they are hereby authorized to cause inspections on a scheduled basis or when reason exists to believe that a violation of this Section has been or is being committed.
b. When the Building Official determines a violation, the Building Official’s written evaluation of the deficiencies shall be considered prima facie evidence in any subsequent litigation of a violation under this Section.

c. If any owner, occupant, or other person in charge of a dwelling unit fails or refuses to permit free access and entry to the structure or premises under that person’s control for an inspection pursuant to this Section, the Building Official may seek a court order authorizing such an inspection.

B. General Regulations:

1. Responsibility of Owners: The owner of a dwelling shall be responsible for the maintenance of that structure and for meeting the provisions of this Section. Those responsibilities may not be abrogated by a private agreement.

2. Removal of Basic Equipment or Facilities: No owner, operator, or occupant shall cause any facility or equipment which is required under this Section to be removed from or shut off from any occupied building or dwelling unit except for such temporary interruptions as may be necessary while such repairs or alterations are in progress, or during temporary emergencies.

C. Minimum Standards for Services and Utilities: No person shall occupy or permit another person to occupy, any dwelling or dwelling unit for the purpose of living, sleeping, cooking and eating therein which do not comply with the following requirements:

1. Permissible Occupancy: Except for families as defined herein, the number of occupants of a rental dwelling unit shall not exceed two (2) times the number of bedrooms in the dwelling unit. No more than one (1) family shall occupy a dwelling unit for more than sixty (60) days.

2. Plumbing. All plumbing in every dwelling unit shall be properly installed and maintained in a sanitary, safe, and functioning condition and shall be connected to an approved sewer system.

3. Toilet Facilities. Within every dwelling unit there shall be a non-habitable room that is equipped with a flush water closet in good working condition. Such flush water closet shall be equipped with easily cleanable surfaces, shall be properly connected to an approved water supply system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and shall be connected to an approved sewer system.
4. Lavatory Sink. Within every dwelling unit there shall be a lavatory sink. Such lavatory sink may be in the same room as the flush water closet or, if located in another room, the lavatory sink shall be located in close proximity to the door leading directly into the room in which the flush water closet is located. The lavatory sink shall be in good working condition and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system.

5. Bathtub or Shower. Within every dwelling unit there shall be a non-habitable room, which is equipped with a bathtub or shower in good working condition. Such bathtub or shower may be in the same room as the flush water closet, or in another room, and shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated running water under pressure, and shall be connected to an approved sewer system.

6. Bedrooms. All habitable rooms used for sleeping must have a minimum floor area of seventy (70) square feet, and must be provided with an emergency escape/rescue window which must meet the following requirements:
   a. The window must have a clear net opening area of five and seven-tenths (5.7) square feet;
   b. The minimum clear net open width of twenty (20) inches horizontally, and twenty-four (24) inches vertically; and,
   c. The sill must be not more than forty-four (44) inches above the floor.

7. Access Through Bedrooms and Bathrooms. No dwelling unit containing two (2) or more bedrooms shall have a room arrangement such that access to a bathroom or water closet compartment intended for use by occupants of more than one (1) bedroom can be gained only by going through a bedroom, nor shall the room arrangement be such that access to a bedroom can be gained only by going through another bedroom. A bathroom or water closet compartment shall not be used as the only passage way to any habitable room, hall, basement or cellar or to the exterior of the dwelling unit.

8. Heating. All dwelling units shall have heating facilities which are properly installed and which are maintained in safe and good working condition and which are capable of safely maintaining a minimum indoor temperature of 68 degrees Fahrenheit at an outside temperature of 20 degrees below
zero Fahrenheit at 36 inches above the floor in all habitable rooms, bathrooms, and water closet compartments. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this Section. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirements of this Section and is prohibited. No owner or occupant shall install, operate or use a heater employing a flame that is not vented outside the structure in an approved manner. Every fuel-burning heater shall be properly vented to a chimney or duct leading to outdoor space, and have a fire-resistant panel or noncombustible floor beneath it. Every heater must be properly installed according to its listing, and in compliance with the State Building Code.

9. Water Heating: Every dwelling unit shall have water heating facilities which are installed in an approved manner, are maintained and operated in a safe and good working condition, are properly connected to the plumbing system and are capable of allowing heated water to be drawn at every required fixture at a minimum temperature of one hundred twenty (120) degrees Fahrenheit.

10. Electrical: Every dwelling unit and all public and common areas shall be supplied with electric service, functioning over-current protection devices, electric outlets, and electrical fixtures which are properly installed, which are maintained in safe and good working condition in compliance with the edition of the National Electrical Code in effect as of the date of construction or improvements thereto, and which are connected to a source of electric power in a manner prescribed by State and local laws, ordinances, rules and regulations.

11. Ceiling Height: In order to qualify as habitable, rooms shall have a clear ceiling height of not less than seven feet except that in attics or top half stories used for sleeping, study, or similar activities, the ceiling height shall not be less than seven feet over at least half of the floor area.

12. Light and Ventilation:
   a. Habitable Room Light and Ventilation: Except where there is supplied some other device affording adequate ventilation and approved by the Building Official, every habitable room shall have at least one window facing directly outdoors which can be opened easily. The minimum total openable window area in every habitable room shall be per State Building Code.
   b. Non-habitable Room Ventilation: Every bathroom and water closet compartment shall contain at least one openable window or an approved mechanical ventilation system.
13. Foundations, Exterior Walls, Roofs. The foundation, exterior walls, and exterior roof shall be substantially watertight and shall be kept in sound condition and repair. The foundation shall adequately support the building at all points. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards, and any other condition that might admit rain or dampness to the interior portion of the walls or spaces of the building. All exterior wood surfaces other than decay resistant materials, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface is unpainted or determined by the compliance official to be paint blistering, the surface shall be painted. If the exterior surface of the pointing of any brick, block or stone wall is loose or has fallen out, the surface shall be repaired. The roof shall be tight and have no defects which admit rain, and roof drainage shall be adequate to prevent rainwater from causing dampness in the walls of the dwelling unit.

14. Grading and Drainage. Except for wetlands and approved ponds, the area surrounding any structure, and all walkways, driveways and other portions of the premises on which a building stands shall be graded and drained so as to be reasonably free of standing water. The water must not be drained onto adjacent properties except as provided in legally recorded easements or other documents.

15. Facilities for Storage and Disposal of Rubbish and Garbage. Every owner of a dwelling unit shall be responsible for providing and maintaining facilities for the sanitary and safe storage and disposal of rubbish, garbage, and recyclable materials and for arranging for the collection of this material.

16. Pests and Extermination. All structures and exterior property shall be free from rodent harborage and infestation. Materials and food sources for pests shall not be allowed to accumulate either inside or outside structure in a manner that attracts an infestation of pests. All openings with a diameter of one half (1/2) inch or more shall be sealed in an approved manner so as not to permit an infestation of pests. The occupant of a unit shall be responsible for the extermination of any infestation of pests within the unit or on the premises under the immediate control of the occupant.

D. Basic Safety Requirements for Interior and Exterior Maintenance:

1. Kitchen Facilities. Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked and which is connected to an approved sewer system. Kitchen facilities in every dwelling unit shall be maintained in the following manner:

a. A kitchen sink shall be in good working condition and properly connected to an approved water supply system which provides at
all times heated and unheated running water under pressure, and which is connected to an approved sewer system.

b. Cabinets and/or shelves and counters or tables shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect on food.

c. A stove for cooking and a refrigerator for the safe storage of food shall be properly maintained with all necessary connections for safe, sanitary, and efficient operation.

2. Windows, doors and screens. Every window, exterior doorway, and other exterior opening shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door, and frame shall be constructed as to exclude rain, wind, and pests from entering the building. Every openable window shall be provided with screens during insect season.

3. Floors, interior walls, and ceilings. Every floor, interior wall and ceiling shall be kept in sound condition and good repair. Floors shall be free of loose, warped, protruding or rotted flooring material. Walls and ceilings shall be free of holes and large cracks, and shall be maintained in a tight, waterproof condition.

4. Stairways, porches, decks and balconies. Every stairway, inside or outside of a dwelling, and every porch, balcony or deck shall be kept in a safe condition and sound repair, and conform to the Minnesota State Building Code requirements.

E. Immediate Health and Safety Standards. The following are considered immediate hazards to health and safety for human occupancy:

1. Heating systems that are unsafe due to: Burned out or rusted out heat exchangers (fire box); burned out or plugged flues; lack of proper venting; unsafe connections to gas supplies; failing to meet the minimum heating standards set forth in Section 11-4-18.C.8 of this Section.

2. Water heaters that are unsafe due to: burned out or rusted out heat exchangers or burners; burned out, rusted out or plugged flues; lack of proper venting; unsafe connections to electric or gas supplies; missing or defective temperature and pressure relief valve.

3. Electrical systems that are unsafe due to: dangerous over-loading; damaged or deteriorated equipment; improperly spliced wiring; exposed or non-insulated wiring; improper use of extension cords; improper grounding of appliances and/or equipment.
4. Plumbing systems that are inoperable or unsanitary due to: leaking waste, drain or vent piping; lack of a water closet; lack of washing and bathing facilities; cross connections; or other system failure.

5. Structural systems, walls, chimneys, ceilings, roofs, foundations, and floor systems that will not safely carry imposed loads.


7. Infestation of rodents, insects, vermin, and other pests.

8. Water supply that is inoperable or unsanitary due to: leaking water pipes, fixtures, and traps, or system failure.

F. Unfit for Human Habitation:

1. Declaration. Any dwelling unit which is damaged, decayed, dilapidated, unsanitary, unsafe, pest infested, or which lacks provision for illumination, ventilation, or sanitary facilities to the extent that the defects create a hazard to the health, safety, or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any premises, building, or dwelling unit has been declared unfit for human habitation, the Building Official shall order the building or affected dwelling unit vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation.

2. Use of Vacated Building. It shall be unlawful for a vacated dwelling unit which has been declared unfit for human habitation as provided in Section 11-4-18.E.1 to be used for human habitation until the defective conditions have been corrected and inspected and approved by the Building Official, and a Certificate of Occupancy has been issued. It shall be unlawful for any person to deface or remove the placard from any such dwelling.

3. Hazardous Building Declaration. In the event that a dwelling unit has been declared unfit for human habitation, and the owner has not remedied the defects within a reasonable time, the dwelling unit may be declared a hazardous building and treated consistent with the provisions of Minnesota State Statutes.

G. Vacant Buildings:

1. Securing of Vacant Buildings. The owner of any dwelling unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of sixty (60) days or more, shall make the same safe and secure so that it is not hazardous to the health, safety, and welfare of the public
and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the health, safety, and welfare of the public and a public nuisance within the meaning of this Section, and shall be made safe and secure immediately by boarding the openings. Boarding must be done with sound materials that are securely fastened to the building. The premises of a vacant building shall be maintained in an appropriate manner including, but not limited to: mowing of yard areas; removal of weeds from driveways, landscaping, parking areas, etc; collection and removal of garbage and debris; watering and maintaining landscaping.

H. Administration and Enforcement:

1. Officials Designated; Conduct of Inspections. The compliance official shall administer and enforce the provisions of this Section and is hereby authorized to cause inspections on a scheduled basis for rental dwelling units and other buildings which reason exists to believe that a violation of this Section has been or is being committed. Inspections shall be conducted during reasonable daylight hours, and the compliance official shall present evidence of official capacity to the occupant in charge of a respective dwelling unit. This Section shall not apply to investigations conducted by the Police or Sheriff’s Department regarding prohibited conduct or other similar illegal activities.

2. Access Restrictions. Any owner, occupant, or other person in charge of a building may refuse to permit free access and entry to the structure or premises under his control for inspection pursuant to the Section, whereupon the compliance official may seek a court order authorizing such inspection.

3. Compliance Order. Whenever the Building Official and/or Fire Official determines or has reasonable grounds to believe that any building or portion thereof, or the premises surrounding any of the buildings fails to meet the provisions of this Section, the Building Official shall give notice of such alleged violation in the form of a Compliance Order setting forth the violations of this Section and ordering the owner, occupant, operator, or agent to correct such violations shall be issued. Such order shall:

a. Be in writing.

b. Include a description of the real estate sufficient for identification.

c. Describe in sufficient detail the location and nature of each violation of this Section.

d. Contain an outline of remedial action that, if taken, will effect compliance with the provisions of this Section.
e. Establish a reasonable time, not to exceed sixty (60) days for the performance of any act required.

f. Be served upon the owner, agent, operator or occupant as the case may require. Such notice shall be deemed to be properly served if a copy thereof is:

   (1) Served personally upon said owner, agent or occupant,

   (2) Sent by certified mail to the last known address of the owner, agent, operator or occupant; or

   (3) Upon failure to serve the Compliance Order through (a) or (b) above, said order will be posted at a conspicuous place in or about the affected dwelling unit.

4. Penalties. Failure to meet the requirements of the Compliance Order shall be a violation of this Section and a misdemeanor and is subject to all penalties as provided by State Statute. Each day the violation continues in existence shall be deemed a separate violation. No provision of this Section designating the duties of any official or employee of the city shall be so construed as to make such official or employee liable for the penalty provided in this section because of failure to perform such duty, unless the intention of the city council to impose such penalty on such official or employee is specifically and clearly expressed in the section creating the duty.

5. Execution of Compliance Orders. Upon failure to comply with a Compliance Order within the time set and no appeal having been taken, the Council may, by resolution, cause the cited deficiency to be remedied as set forth in the Compliance Order. The cost of such remedy shall be levied against the subject property and may be levied and collected as a special assessment in the manner provided by Minnesota State Statutes.

6. Appeals. When it is alleged, by any person to whom a Compliance Order is directed that such Compliance Order is based upon erroneous interpretation of this Section, such person may appeal the Compliance Order to the City Council sitting as a board of appeals as set forth below. The filing of an appeal shall stay all proceedings, unless such a stay would cause imminent peril to life, health, safety or property.

   a. The City Council shall serve as the Board of Appeals.

   b. An appeal shall only be applicable to the administration of the provisions of this Section.
c. An appeal from the ruling of the City Building Official shall be initiated in writing by the property owner or their agent within five (5) days of the date of the Building Official’s written Order.

d. The written notice of appeal must state the specific grounds upon which the appeal is made. Said written application shall be accompanied by a fee as established by Section 1-1-2 of the City Code.

e. The Board of Appeals shall make its decision by adopting a resolution stating findings of fact within a timeframe as prescribed by Minnesota Statutes Section 15.99. The board of appeals may reverse, modify, or affirm, in whole or in part, the compliance order, and may order return of all or part of the filing fee if the appeal is upheld.

7. Emergency Cases. When a violation of this Section constitutes an imminent peril to life, health, safety or property, the City may require immediate compliance and if necessary take appropriate action to correct the violation.

8. Restrictions on Transfer of Ownership. The owner of any building, or any part thereof, upon whom a pending Compliance Order has been served, may not sell, transfer, mortgage, lease, or otherwise dispose of the building or any part thereof, to another person until the provisions of the Compliance Order have been complied with, unless such owner shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or Compliance Order and shall obtain and possess a receipt of acknowledgement. Anyone securing an interest in the building, or any part thereof, who has received notice of the existence of a violation or Compliance Order shall be bound by such violation or Order without further service of notice and shall be liable for all penalties and procedures provided by this Section.

I. Existing Structures and Units: Any structure or unit existing prior to the adoption of this Section shall be deemed conforming if it was in conformance with all applicable laws and ordinances when it was constructed or last reconstructed, remodeled, repaired or altered.

J. Severability. Should any portion of this Section be found to be in violation of any provisions of the Constitution of the State of Minnesota or the United States of America, such a finding will affect only such portion and the remainder of this Section shall continue in full force and effect. (Ordinance #3, adopted November 9, 2010)
A. Purpose: The purpose of this section is to create standards for outdoor lighting so that it does not interfere with the reasonable use and enjoyment of property within the City. It is the intent of this section to encourage lighting practices and systems which will reduce light pollution while increasing nighttime safety, utility, security, and productivity. This is done through regulation of types, kind construction, installations, and use of outdoor electrically powered illuminating devices.

B. Temporary Holiday Lighting. This Section does not prohibit the use of temporary outdoor lighting used during customary holiday seasons as long as the lighting does not create an undue hardship to neighboring properties or create a traffic hazard.

C. Civic Event Lighting. This Section does not prohibit the temporary outdoor lighting used for civic celebrations and promotions.

D. Emergency Lighting. This Section does not prohibit the use of outdoor lighting by police, fire, and rescue authorities.

E. Non-conforming Uses:
   1. All permitted outdoor lighting fixtures lawfully existing and legally installed prior to the effective date of this section are exempt from the regulations contained in this section. Replacement of the light source cannot exceed existing intensity/foot candles.

   2. Whenever an outdoor light fixture that existed on the effective date of this section is replaced by a new outdoor light fixture, the new fixture must meet the standards of this section.

F. Method of measuring light intensity: The footcandle level of a light source shall be taken after dark with the light meter facing the light source. A reading shall be taken with the light source on, and then with the light source off. The difference between the two (2) readings will be identified as the illumination intensity.

G. Performance Standards:
   1. Residential Lighting Standards: In all residential districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged to deflect light away from any adjoining residential property or from the public street.
a. Shielding: The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity as defined below.

b. Intensity – No light source or combination thereof which casts light on a public street shall exceed one (1) footcandle meter reading as measured from the centerline or said street, nor shall any light source or combination thereof which casts light on adjacent property exceed five-tenths (0.5) footcandles as measured at any point of the property line.

2. Business/Industrial Lighting Standards: Any lighting used to illuminate an off-street parking area or other structure or area shall be arranged to deflect light away from any adjoining property or from the public street.

a. Shielding: The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity as defined below. The lighting shall contain a shield that directs and cuts off the light at an angle of ninety (90) degrees or less.

b. Intensity: No light source or combination thereof which cast light on a public street shall exceed one (1) footcandle meter reading as measured from the centerline of said street, nor shall any light source or combination thereof which cast light on adjacent property exceed five-tenths (0.5) footcandles as measured at any point of the property line.

c. Height: The maximum height above the ground grade permitted for light sources mounted on a pole is thirty (30) feet except by conditional use permit. A light source mounted on a building shall not exceed the height of the building, and no light sources shall be located on the roof unless said light enhances the architectural feature of the building and is approved by the City Council.

d. Location: The light source of an outdoor light fixture shall be set back a minimum of five (5) feet from a street right-of-way and five (5) feet from an interior side or rear lot line.

e. Hours of Lighting – The City may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on surrounding properties.

3. Prohibitions: No flickering, revolving, or flashing lights other than public safety lights and devices shall be permitted in any zoning district except for lighted signs for which a sign permit has been issued.
4. Submission of Plans: For any permits requiring outdoor lighting, the Applicant shall submit evidence that the proposed outdoor lighting will comply with this section. The submission shall contain the following:

(a) Plans indicating the location and the type of illuminating devices, fixtures, lamps, support, reflectors, and other devices.

(b) Descriptions of illuminating devices, fixtures, lamps, supports, reflectors, and other devices. The description may include, but not limited to, catalog cuts by manufacturers and drawings (including sections where required).

(c) Photometric data furnished by manufacturers showing the angle of the cutoff and light emissions. (Ordinance #3, adopted November 9, 2010)

11-4-20: PERMANENT STORMWATER AND WETLAND MANAGEMENT STANDARDS:

A. Purpose:

1. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition.

2. Stormwater runoff contributes to increased quantities of water-borne pollutants.

3. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

4. The purpose of this Section is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public and environment in the watersheds within the City of Nowthen as stipulated in the City of Nowthen Water Management Plan, adopted by the City Council on May 12, 2009.

5. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The
requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

B. Applicability: Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must meet the requirements of this Chapter. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan, or a waiver of the approval requirements, has been obtained with the provisions of this Chapter. This ordinance shall be applicable to all site development permit applications, unless eligible for an exemption under the provisions of this Chapter.

1. Exemptions. The provisions of this Section do not apply to:
   a. The plowing, tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.
   b. Additions or modifications to existing single family structures.
   c. Site development of lots for which a stormwater management plan was approved as part of a larger common development plan.
   d. Any emergency activity which is immediately necessary for the protection of life, property or natural resources.

2. Waivers. Every applicant shall provide for stormwater management as required by this Section, unless a written request is filed to waive this requirement. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this ordinance upon making a finding that compliance with the ordinance would cause an unnecessary hardship and the waiver of such requirement will not adversely affect the objectives of this ordinance. Requests to waive the stormwater management requirements shall be submitted to the City of Nowthen for approval as a Variance under the terms of this Chapter.

3. In instances where meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site, the City of Nowthen may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the City of Nowthen that the waiver will not result in the following impacts to downstream waterways:
a. Deterioration of existing culverts and other structures.

b. Increase in stormwater runoff rates and volume, soil erosion, siltation, stream temperature, or nonpoint source pollution.

c. Accelerated stream bank or streambed erosion or siltation.

d. Increased threat of flood damage to public health, life, property.

4. Where compliance with minimum requirements for on-site stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one (1) of the mitigation measures selected by the City of Nowthen. Mitigation measures may include, but are not limited to, the following:

a. The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance.

b. Monetary contributions (Fee-in-Lieu) to fund stormwater management activities that are designed to service multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(1) Where the City of Nowthen waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City of Nowthen.

(2) When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be calculated on a case-by-case basis by the City Engineer. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.

c. Dedication of Land. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City of Nowthen for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the
applicant and the City of Nowthen prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

C. Storm Water Management Plan:

1. It is the policy of the City of Nowthen to require development to control urban stormwater quantity and quality through a management approach of detention and infiltration basins. Detention and infiltration basins, whether on-site or regional in nature, shall be designed to incorporate all requirements of the Minnesota NPDES/SDS General Stormwater Permit for Construction Activity (MN R100001).

2. The Storm Water Management Plan shall be in conformance with the requirements of the approved local Water Management Plan for the City of Nowthen, as amended. Facilities shall be designed in accordance with the approved local Water Management Plan and Standard Specifications for the City of Nowthen, as amended.

D. Wetland Management Standards:

1. The City finds that wetlands serve a variety of beneficial functions and values. Wetlands maintain water quality, reduce flooding and erosion, provide food and habitat for wildlife, provide open space, and are an integral part of the city’s environment. Wetlands are important physical, educational, ecological, aesthetic, recreational, and economic assets to the City. They are critical to the city’s supply of clean drinking water, stormwater management, and other aspects of health, safety, and general welfare. Regulating wetlands and the land uses around them is therefore in the public interest.

2. In order to protect wetlands, this chapter incorporates by reference the Minnesota Wetland Conservation Act of 1991 (hereinafter referred to as the WCA) and any future amendments adopted by the legislature.

3. In addition to having regulations that affect the physical impacts within wetland areas, the state pollution control agency (PCA) has required the city to address potential non-point source impacts from future development with the establishment of buffer strip standards to complement the existing stormwater standards. A buffer strip is an upland area left in, or restored to, its natural state (non-turf grass) that surrounds a wetland or stormwater pond and reduces negative impacts to wetlands from adjacent development.

4. Drainage swales, ditches, storm sewers and culverts typically collect street and front yard drainage and direct the drainage to an appropriately sized pond for pre-treatment prior to discharge to a wetland or water body.
Back yard drainage typically reaches wetlands or water bodies without any pretreatment thereby allowing lawn and garden chemicals, sediments, pet wastes, fertilizer, and other types of contaminants to directly impact the receiving water body.

5. The city has found that wetlands vary significantly in the degree that they have been altered. Wetlands exhibit great variations in their overall quality. Therefore, the city has determined that it is necessary and beneficial to protect wetlands based on the needs for their existing quality.

6. Through the adoption and enforcement of this section, the City shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands, and requiring sound management practices and mitigation when development occurs in the vicinity of wetlands. Through the implementation of this section, the city seeks to accomplish the following:

a. To satisfy the requirements of the WCA as it may be amended and thereby achieve no net loss of wetlands within the city.

b. To satisfy the requirements of the Minnesota PCA by treating non-point source pollution that currently is not treated by ponds (primarily back yard drainage) and to limit disturbance from adjacent development by utilizing the appropriately sized buffer strip.

c. To balance the needs to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the city.

d. To promote water quality by maintaining the ability of wetlands to recharge groundwater and receive the discharge of groundwater, to retain sediment and toxins, and to filter nutrients from surface water runoff before it discharges into the Rum River and other receiving waters, thus avoiding the contamination and eutrophication of these water features.

e. To provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the city.

f. To prevent property damage and the losses associated with flood conditions, and reduce erosion problems.

g. To preserve the natural character of the landscape through the restoration of wetland ecosystems.
7. This section shall apply to any applicant for a subdivision approval, or a grading, excavation, or mining permit to allow wetland disturbing activities. No subdivision approval or grading permit to allow wetland disturbing activities shall be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in strict conformance with the provisions of this section and the Minnesota Wetland Conservation Act. This section applies to all land, public or private, located within the City of Nowthen.

8. Wetland Function and Value Assessment. A wetland function and value assessment shall be required in accordance with the provisions of the approved local Water Management Plan for the City of Nowthen, as amended. Function and value assessments shall be required when any of the following activities are proposed:

   a. Subdivision
   
   b. Any projects with wetland impacts as defined by the WCA (Minnesota Rules 8420).
   
   c. Wetland excavation greater than 0.5 acres.

9. Wetland Excavations. State law restricts excavations in some wetland types, but not in other wetlands. Pond digging and excavation have the potential for significant negative impacts if done improperly or in improper locations. Excavations shall be denied when any of the following conditions exist:

   a. Excavations in sedge meadow wetlands.
   
   b. Excavations in forested wetlands.
   
   c. Excavations in bogs.
   
   d. Excavations in wetlands identified as Natural Heritage Communities by the Minnesota County Biological Survey.
   
   e. Excavations in wetlands deemed a natural community, supporting ecologically sensitive flora and fauna, based on a field visit by the Soil and Water Conservation District.
   
   f. The excavation will not provide diversity to the wetland basin or complex.
   
   g. Wetlands which support a wide variety of plant species.
h. Wetlands that score high on the MnRAM vegetative diversity criteria.

i. Excavations for the purpose of creating aesthetic reflecting pools.

10. Buffer Strips. Wetland buffers are unmowed areas adjacent to wetlands that contain non-invasive vegetation, preferably dense native vegetation. Buffers filter pollutants before they can enter the wetland, reduce erosion, protect vegetation diversity and wildlife habitat, and minimize human impacts to the wetlands. Buffers are required around all wetlands within new subdivisions, with the width dependent upon relative susceptibility.

a. Design standards. Buffer strips shall be designed in accordance with the approved local Water Management Plan and Standard Specifications for the City of Nowthen, as amended.

b. Minimum buffer widths. Minimum widths are shown in Table 1 below.

<table>
<thead>
<tr>
<th>Wetland Class</th>
<th>Minimum Buffer Width</th>
<th>Structure Setbacks</th>
<th>Sequencing and Avoidance</th>
<th>Wetland Replacement Ratios</th>
<th>Excavation</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Priority Wetlands</td>
<td>25 ft</td>
<td>150 ft</td>
<td>No impacts allowed without demonstrating significant public benefit.</td>
<td></td>
<td>Minnesota Wetland Conservation Act (WCA) ratios apply</td>
</tr>
<tr>
<td>Moderate Priority Wetlands</td>
<td>20 ft</td>
<td>100 ft</td>
<td>WCA sequencing applies.</td>
<td></td>
<td>All excavations &gt;0.5 acres regulated per text</td>
</tr>
<tr>
<td>Minor Priority Wetlands</td>
<td>15 ft</td>
<td>75 ft</td>
<td>WCA sequencing applies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use Wetlands</td>
<td>15 ft</td>
<td>75 ft</td>
<td>WCA sequencing applies.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
E. Inspection and Maintenance: All stormwater management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes, and to be structurally sound. It shall be the responsibility of the applicant to obtain or provide any necessary easements or other property interests to allow for inspection and maintenance purposes.

The City of Nowthen may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

F. Enforcement:

1. Stop-Work Order and Revocation of Permit. In the event that any person holding a site development permit violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.

2. Violations and Penalties

   a. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Section.

   b. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each seven (7)-day period during which any violated provision is continued or permitted, shall constitute a separate offense.

   c. In addition to the other penalties authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this Section shall be required to bear the expense of such restoration.

   d. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal or state law or other City ordinances and it is within the discretion of the City of Nowthen to seek cumulative remedies. (Ordinance 2013-04, adopted April 9, 2013)
SECTION 5
BUILDING TYPE AND CONSTRUCTION

Section:
11-5-1 Purpose
11-5-2 General Provisions
11-5-3 Exterior Building Finishes

11-5-1: PURPOSE: Buildings in all zoning districts shall maintain a high standard for exterior architecture to ensure a high quality of development and land use compatibility that contribute positively to community image in regard to material quality, visual aesthetics, permanence and stability and to prevent use of materials that are unsightly, deteriorate rapidly, contribute to depreciation of area property values, or cause urban blight. (Ordinance #38, October 11, 2011)

11-5-2: GENERAL PROVISIONS:

A. General Design Concept: Building and/or project designs shall utilize materials, colors, or details to meet the intent of these architectural standards.

B. Design Elements: Projects may be required to utilize building ornamentation features, including, but not limited to: columns, arches, parapets, cornices, friezes, canopies, moldings, dentils, corbels, quoins, rustication, vaults, domes, and cupolas.

C. Corporate Identity: The intent and purpose of these architectural standards supersede corporate identity designs; when a corporate identity design does not meet the intent and purpose of the architectural standards, the corporate identity design shall be limited to the area immediately adjacent to the main entry but shall otherwise be consistent with the intent of this Section. (Ordinance #38, October 11, 2011)

11-5-3: EXTERIOR BUILDING FINISHES:

A. For the purpose of this subsection, allowed building materials shall be divided into categories as follows:

1. Grade A:
   a. Brick.
   b. Natural or artificial stone.
c. Glass.

2. Grade B:
   a. Integral color specialty concrete block such as textured, burnished block or rock faced block.
   b. Integral color architecturally precast concrete panels having an exposed aggregate, light sandblast, acid etch, form liner, tooled, natural stone veneer, brick face and/or cast stone type finish.
   c. Masonry stucco.
   d. Ceramic.
   e. Exterior insulation and finish system (EIFS).
   f. Opaque panels.
   g. Ornamental metal.
   h. Fiber-cement exterior siding.

3. Grade C:
   a. Integral color smooth as cast concrete block.
   b. Integral color smooth scored concrete block.
   c. Integral color smooth as cast concrete panels.
   d. Integral color architecturally precast concrete panels having a smooth as cast finish.
   e. Glass block.
   f. Wood provided that the surfaces are finished for exterior use or the wood is of proven durability for exterior use, such as cedar, redwood or cypress.

4. Grade D:
   a. Steel, aluminum.

5. Grade E:
   a. Vinyl.
B. Steel Or Aluminum Buildings: Except in association with farms as defined by this Chapter, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as COR-TEN steel shall be permitted in any zoning district.

C. Integral Color: For the purpose of this Section, exterior finish materials requiring integral color shall not include natural gray.

D. Foundations: Building foundations not exceeding one foot (1') and other such portions of a building's facade below the elevation of the first floor need not comply with the requirements for the primary facade treatment or materials.

E. Exceptions: Garage doors, window trim, flashing accent items and the like, shall not constitute required materials that make up the exterior finish of a building for the purposes of this section.

F. Residential Uses:

1. The primary exterior building finish for residential uses shall consist of grade A, B, C, D, and/or E materials.

G. Commercial Districts: The exterior of buildings within commercial districts shall include a variation in building materials and forms to be distributed throughout the facade and coordinated into the design of the structure to create an architecturally balanced appearance and shall comply with the following requirements:

1. The primary exterior building finish shall consist of grade A, B, and/or C materials except that the exterior building finish for any side facing a collector or arterial street shall be composed of at least sixty five percent (65%) grade A materials and not more than thirty five percent (35%) grade B or grade C materials only.

2. All sides of the principal and accessory structures are to have essentially the same or coordinated harmonious exterior finish treatment.

H. Industrial Districts:

1. The primary exterior building finish shall consist of grade A, B, C, and/or D materials.

2. Steel or aluminum curtain wall panels (nonstructural, non-load bearing) shall be allowed within industrial districts provided that:

   a. The panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
b. The building shall be required to be faced with grade A, B, C or D material on wall surfaces abutting public rights of way, a nonindustrial zoning district, an adjacent industrial building with brick, wood, stone or decorative concrete wall surfaces, residential uses, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

I. Other Requirements:

1. Back Of Parapets: The back of parapets that are visible shall be finished with materials and colors compatible with the front of the parapet.

2. Exposed Roof Materials: Exposed roof materials shall be similar to, or an architectural equivalent of a three hundred (300) pound or better asphalt or fiberglass shingle, wooden shingle, standing seam metal roof or better.

3. Contrasting Colors: Use of contrasting colors for building elements such as cloth or metal awnings, trim, banding, walls, entries or any portion of the overall building shall be minimized, but in no case shall such coloring exceed ten percent (10%) of each wall area.

J. Expansions:

1. Remodeling or maintenance of existing buildings that do not increase the floor area of the existing structure shall be regulated by Section 11-4-1 of this Chapter.

2. Additions of less than fifty percent (50%) of the floor area of the existing building may use the same or higher grade materials as the existing structure.

3. Not more than one (1) exterior wall designed for removal to allow future building expansion may be allowed to use grade D materials notwithstanding other applicable provisions of this section provided that the wall does not face a public street.

K. Exceptions: Exceptions to the provisions of this Section may be granted as a conditional use subject to the following criteria:

1. The use is an essential service as defined by this Chapter; or

2. The applicant shall have the burden of demonstrating that:

   a. The proposed building maintains the quality in design and materials intended by this Chapter.
b. The proposed building design and materials are compatible and in harmony with other structures within the district.

c. The justification for deviation from the requirements of this Section shall not be based on economic considerations. (Ordinance #38, October 11, 2011)
SECTION 6
OFF-STREET PARKING REGULATIONS

Section:
11-6-1 General Provisions
11-6-2 Stall, Aisle and Driveway Design
11-6-3 Maintenance
11-6-4 Location
11-6-5 Use of Required Area
11-6-6 Disability Parking
11-6-7 Number of Stalls Required

11-6-1: GENERAL PROVISIONS:

A. Floor Area: The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structures or use times the number of floors, minus ten (10) percent, except as may hereinafter be provided or modified.

B. Reduction of Existing Off-Street Parking Space or Lot Area: Off-street parking spaces and loading spaces or lot area existing upon the effective date of this Section shall not be reduced in number or size, unless said number or size exceeds the requirements set forth herein for a similar new use.

C. Change of Use or Occupancy of Land: No change of use or occupancy of land already dedicated to parking spaces, driveways, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this Section.

D. Change of Use or Occupancy of Buildings: Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Section.

E. Calculating Stalls:

1. When determining the number of off-street parking stalls results in a fraction, each fraction shall constitute another stall.

2. In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar
seating facilities, each twenty-two (22) inches of such seating facilities shall be counted as one seat for the purpose of determining requirements.

3. Should a structure contain two (2) or more types of use, the sum of each shall be calculated separately and shall be used for determining the total off-street parking stalls required. (Ordinance #38, October 11, 2011)

11-6-2: **STALL, AISLE AND DRIVEWAY DESIGN:**

A. Parking Stall Size: Except for disability accessible parking stalls, each parking stall shall not be less than nine (9) feet wide and twenty (20) feet in length (exclusive of access aisles) and each stall shall be served adequately by access aisles.

B. Street Access:

1. All off-street parking facilities shall be designed and constructed with appropriate means of vehicular access to a public street.

2. Each lot shall have access directly onto an abutting, improved public street.

C. Lot Circulation: Except in the case of single family dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street and which does not require backing into the public street.

D. Intersection Separation: No curb cut access shall be located less than sixty (60) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.

E. Lot Design: Except in the case of single family dwellings, parking areas and their aisles shall be developed in compliance with the standards on the following Parking Lot Dimension Table:
F. Street Access Width:

1. Single Family Dwellings: The maximum width of an access within the right-of-way onto any public street shall not exceed thirty (30) feet.

2. Other Uses: The maximum width of an access within the right-of-way onto any public street shall not exceed twenty four (24) feet except as may be approved by the City Engineer in the case of traffic circulation needs.
G. Setbacks:

1. There shall be no off-street parking within ten (10) feet of any street surface.

2. Curb accesses shall be a minimum of five (5) feet from the side yard property line in all districts except as may be allowed as a conditional use permit provided that:
   
a. The reduction in setback is necessary to allow for shared access to two (2) or more properties.

b. Private ingress/egress easements allowing use of the shared curb access shall be recorded with each property and are subject to approval of the City Attorney.

c. Adequate provisions for management of stormwater drainage shall be provided and is subject to approval of the City Engineer.

d. The area paved for the shared access shall be the minimum necessary to provide adequate circulation; all other areas shall be landscaped in accordance with the requirements of this Chapter.

H. Curb Cut Spacing: Driveway access curb openings on a public street shall not be located less than forty (40) feet from one another except in the case of single family dwellings.

I. Grade: The grade elevation of any parking area or driveways shall not exceed four (4) percent.

J. Lot Access:

1. All property shall be entitled to one (1) access from a public street.

2. Commercial, industrial and institutional uses shall be allowed one (1) access from each one hundred twenty five (125) feet of street frontage subject to compliance this Section and approval of the City Engineer.

3. Single family residential uses shall be limited to one (1) access per property except that:
   
a. A lot smaller than two and one-half acres requires a conditional use permit to have a second access.

b. A second access shall be permitted on any lot with an area of two and one-half (2.5) acres or greater.

11-200
c. All lots with second accesses shall have a minimum frontage of one hundred twenty five (125) feet to a public street.

d. The location of all access points shall be subject to:

1. Submittal of a driveway permit application and review/approval by the City Maintenance Supervisor for accesses onto streets with City jurisdiction.

2. Compliance with the requirements of this Section and approval of the City Engineer and the County Engineer when applicable.

e. A lot having access from two (2) public streets (in the case of a corner lot or double frontage lot) may incur additional costs related to street improvement projects benefiting the property. (Ordinance 2016-05, adopted July 12, 2016)

K. Surfacing:

1. Farmsteads, farming operations and detached single family residential uses (including those with home businesses) shall have driveways and parking areas surfaced with materials suitable to control dust and drainage.

2. All other uses:

   a. All driveways and parking areas shall be surfaced with asphalt, concrete, cobblestone, or paving bricks.

   b. Plans for surfacing and drainage of driveways and stalls for parking areas of five (5) or more vehicles shall be submitted to the City Engineer for review and the final drainage plan shall be subject to written approval.

   c. For industrial uses which experience frequent heavy equipment utilization which could be expected to destroy or damage required surfacing materials, an exemption to the surfacing requirements may be allowed by an interim permit pursuant to Section 10 of this Chapter and provided that:

      (1) General public and employee access driveways and parking areas shall not be included in the exemption.

      (2) At such time as the presence of heavy equipment is reduced or eliminated, the surfacing of exempted areas shall be completed in compliance with this Section.
(3) All other performance standards related to parking and driveways shall be met.

3. Striping: All required parking stalls for commercial, industrial or institutional uses shall be marked with white or yellow painted lines not less than four (4) inches wide.

4. Curbing and Landscaping:
   a. Except for agricultural uses, single family dwellings and essential service uses, all open, off-street parking shall have a continuous concrete perimeter curb barrier around the entire parking lot.
   b. The curb barrier shall not be closer than five (5) feet to any lot line except by approval of a conditional use permit provided that:
      (1) The reduction in setback is necessary to allow for shared circulation and/or off-street parking to two or more properties.
      (2) Each property shall provide the number of parking stalls required by this Section upon the respective property.
      (3) Private ingress/egress easements allowing use of the shared circulation and off-street parking areas shall be recorded with each property and are subject to approval of the City Attorney.
      (4) Adequate provisions for management of stormwater drainage shall be provided and is subject to approval of the City Engineer.
      (5) The area paved for the shared access shall be the minimum necessary to provide adequate circulation;
   c. Grass plantings and landscaping shall be provided in all areas bordering the parking area.

L. Required Screening: All open off-street parking areas of five (5) or more spaces shall be screened and landscaped from abutting or surrounding residential districts and uses, and the public right-of-way.
M. Snow Storage: Adequate space for snow storage shall be provided on the site so as not to reduce the required minimum number of parking spaces. In those cases where excessive snow cannot be properly stored on site, it shall be immediately removed from the site. (Ordinance #38, October 11, 2011)

11-6-3: MAINTENANCE: It shall be the joint responsibility of the lessee and owner of the principal use, uses or buildings to maintain in a neat and adequate manner, the parking space, access lanes, striping, landscaping and required screening. (Ordinance #38, October 11, 2011)

11-6-4: LOCATION: Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served. (Ordinance #38, October 11, 2011)

11-6-5: USE OF REQUIRED AREA: Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, repair work, storage of inoperable vehicles, and/or storage of snow. (Ordinance #38, October 11, 2011)

11-6-6: DISABILITY PARKING: Except for agriculture and single family dwellings disability parking stalls shall be provided in accordance with requirements of the Americans with Disabilities Act and Minnesota Statutes, Section 168.021, as may be amended. (Ordinance #38, October 11, 2011)

11-6-7: NUMBER OF STALLS REQUIRED: The following minimum number of off-street parking stalls shall be provided and maintained for the respective uses hereinafter set forth:

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Required Stalls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal hospital/kennel:</td>
<td>5 stalls plus 1 space per 500 square feet over 1,000 square feet.</td>
</tr>
<tr>
<td>Auditoriums, theaters, religious</td>
<td>1 stall per 3 seats of design capacity of the main assembly with a maximum capacity less than or equal to 1,000 persons or 1 space per 2.5 seats of design capacity of the main assembly with a maximum capacity greater than 1,000 persons, plus additional spaces required for adjoined facilities, not</td>
</tr>
<tr>
<td>institutions, sports arenas:</td>
<td>11-203</td>
</tr>
</tbody>
</table>
including private or private nonprofit baseball fields (see below):

**Auto sales:** 1 stall per 500 square feet of showroom plus 1 stall for each 3,000 square feet of outdoor sales lot, plus additional parking required for ancillary service or repair.

**Auto repair (major and minor)**

boat/marine sales and repair, bottling company, trade shop with 6 or less employees, garden supply or building material sales:

8 stalls plus 1 stall per 1,000 feet of floor area.

**Barber/Beauty Shop:** 2 stalls per service chair.

**Baseball fields, private or private nonprofit:** 1 stall per 8 seats of design capacity.

**Bed and Breakfast Facilities and Craft Houses:** One (1) stall for each person the facility sleeps, plus two (2) more spaces. (Ordinance 2013-09, adopted December 10, 2013)

**Daycare facilities:** 1 stall for each 4 persons of licensed capacity.

**Golf course:** 4 stalls per hole, plus 50 percent of the requirements for any other associated use.

**Manufacturing:** 1 stall per 350 square feet of floor area exclusive of company vehicle parking.

**Motor Fuel Facility:** 4 stalls plus other requirements for uses or sales of goods.

**Office:** 1 stall per 200 square feet of floor area.

**Restaurant, convenience:** 1 stall per 15 square feet of floor area designated for patron queuing plus 1 stall per 40 square feet of dining area.
and 1 stall per 80 square feet of food preparation area.

Restaurant, general: 1 stall per 40 square feet of dining area and 1 stall per 80 square feet of food preparation area.

Retail business: 1 stall per 200 square feet of floor area.

Retail business with 50% or more floor area used as storage: 1 stall per 200 square feet of sales/service/office area plus 1 stall per 800 square feet of storage area.

School, elementary and junior high: 1 stall per 7 students of building design capacity.

School, high school and post secondary schools: 1 stall per 3 students based on building design capacity, plus 1 stall per classroom.

Single-family dwellings: 2 stalls.

Warehouse: 1 stall per 200 square feet of office plus 1 stall per 1,000 square feet of storage exclusive of company vehicle parking.

Uses not identified: Calculated by the Zoning Administrator based upon but not limited to characteristics for similar uses and professional studies prepared by the APA or ITE. (Ordinance #38, October 11, 2011)

11-6-8: **JOINT FACILITIES:** The City Council may approve an interim use permit, pursuant to Section 10 of this Chapter, for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. To qualify for joint parking, the following conditions are required to exist:
A. As determined by the City Council on a case-by-case basis, up to thirty (30) percent of the parking facilities required for a theater, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in Item D below.

B. Up to fifty (50) percent of the off-street parking facilities required for any use specified under Item D below as primarily daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, theaters, bars, apartments or restaurants.

C. Up to eighty (80) percent of the parking facilities required by this Section for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified in Item D below as primarily daytime uses.

D. For the purposes of this Section, the following uses are considered as primarily daytime uses: public schools, banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale and similar uses.

E. Conditions Required for Joint Use:

1. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three-hundred (300) feet of such parking facilities.

2. Documentation as specified by the City shall be submitted demonstrating that there is not substantial conflict in the principal operating hours of the two buildings or uses (for which joint use of off-street parking facilities is proposed).

F. A parking, access easement and maintenance agreement, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the Anoka County Recorder. (Ordinance 2013-04, adopted April 9, 2013)

11-6-9 OFF-SITE PARKING:

A. Any off-site off-street parking which is used to meet the requirements of this Chapter shall require an interim use permit as regulated by Section 10 of this Chapter.
B. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Chapter.

C. The parking lot is to be used only for the parking of passenger vehicles of employees, customers or guests of the person or firm controlling and operating the lot, said person to be responsible for its maintenance.

D. The parking lot is not to be used for sales, repair work or servicing of any kind.

E. Reasonable access from off-site parking facilities to the use being served shall be provided.

F. No advertising sign or material is to be located on the property where the parking lot is located.

G. All parking is to be kept behind the building setback line with barriers unless otherwise specifically authorized by the City Council.

H. Except as provided below, off-site parking for non-residential uses shall not be located more than three hundred (300) feet from the main public entrance of the principal use being served.

I. Any use which depends upon off-site parking to meet the requirements of this Section shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.

J. Compliance with off-street parking requirements provided through leased off-street parking may be approved by the City Council, subject to the following conditions:

K. The lease shall specify the total number and location of parking spaces under contract and this number when added to any on-site parking required, must be equal to the total number if parking spaces required.

L. The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the City.

M. The lease agreement shall incorporate a release of liability and any other provisions, as recommended by the City Attorney, that are deemed necessary to ensure compliance with the intent of this Section.

N. Any other conditions as may be deemed necessary by the City Council to protect the welfare and character of the nearby land uses. (Ordinance 2013-04, adopted April 9, 2013)
SECTION 7
SIGN REGULATIONS

Section:
11-7-1  Findings, Intent and Effect
11-7-2  Substitution Clause
11-7-3  Sign Permits
11-7-4  General Provisions
11-7-5  Zoning District Regulations
11-7-6  Prohibited Signs

11-7-1:  FINDINGS, INTENT AND EFFECT:

A.   Findings: The City Council hereby finds as follows:

1.   Exterior signs have a substantial impact on the character and quality of
     the environment.

2.   Signs provide an important medium through which individuals may convey
     a variety of messages.

3.   Signs can create traffic hazards, aesthetic concerns and detriments to
     property values, thereby threatening the public health, safety and welfare.

4.   This Section has included the regulation of signs in an effort to provide
     adequate means of expression and to promote the economic viability of
     the business community, while protecting the City and its citizens from a
     proliferation of signs of a type, size, location and character that would
     adversely impact the aesthetics of the community and threaten the health,
     safety and welfare of the community. The regulation of physical
     characteristics of signs within the City has had a positive impact on traffic
     safety and the overall appearance of the community.

B.   Intent. It is not the purpose or intent of this Section to regulate the message
     displayed on any sign; nor is it the purpose or intent of this Section to regulate
     any building design or any display not defined as a sign, or any sign which
     cannot be viewed from outside a building. The purpose and intent of this Section
     is to:

1.   Regulate the number, location, size, type, illumination and other physical
     characteristics of signs within the City in order to promote the public
     health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

3. Improve the visual appearance of the City, while providing for effective means of communication, consistent with constitutional guarantees and the City’s goals of public safety and aesthetics.

4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the City.

C. Effect. A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of these regulations. The effect of this Section, as more specifically set forth herein, is to:

1. Allow a wide variety of sign types in commercial zones and a more limited variety of signs in other zones, subject to the standards set forth in this Section.

2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zoning districts, subject to the standards set forth in this Section.

3. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

4. Provide for the enforcement of the provisions of this Section. (Ordinance #38, October 11, 2011)

11-7-2: **SUBSTITUTION CLAUSE:** The owner of any sign which is otherwise allowed by this Section may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary. (Ordinance #38, October 11, 2011)

11-7-3: **SIGN PERMITS:**

A. Permit Required. No sign shall be erected or existing sign structure expanded without first securing a permit from the City, except when changing only the face of the sign without altering the area, height or location of the sign:
1. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

2. Application for a sign permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.

3. The Zoning Administrator shall process and review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Section within sixty (60) days of submission of a complete application.

4. Permit Not Required: The following signs shall not require a permit and are allowed in addition to those signs allowed by Section 11-7-5 and 11-7-6 of this Section.

   a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on site changes involving sign painting elsewhere than directly on a building.

   b. Signs two (2) square feet or less in size.

   c. One sign per single family residential property not to exceed twelve (12) square feet.

   d. All noncommercial signs of any size posted in any number from forty six (46) days before the state primary in a state general election year until ten (10) days following the general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

   e. Official signs placed by the City of Nowthen, State of Minnesota or Federal agency.

   f. One sign shall be allowed per street frontage when a building is offered for sale or lease, provided that:

      (1) No sign shall exceed twelve (12) square feet in area and six feet (6') in height for single-family dwellings.

      (2) For all other uses and in those cases where a parcel of land exceeds ten (10) acres, regardless of its use, no sign shall exceed sixty four (64) square feet in area or ten (10) feet in height. (Ordinance #38, October 11, 2011)
Temporary Signs as regulated under Sections 11-7-4.L and M of this Chapter.

11-7-4: GENERAL PROVISIONS:

A. No signs, other than those of governmental jurisdictions, shall be permitted within public right-of-way or roadway easements.

B. No sign or sign structure, unless otherwise regulated by this Section, shall be closer to any lot line than ten (10) feet.

C. No sign shall be placed within any drainage or utility easement.

D. No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the Building Official.

E. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress of any building or structure.

F. The installation of electrical signs shall be subject to the State's Electrical Code and electrical service to freestanding signs shall be underground.

G. Illuminated signs shall be shielded to prevent lights from being directed onto residential property, or at oncoming traffic in such brilliance that it impairs the vision of the driver.

H. Area calculations:

1. The area within the frame of a sign shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, freestanding structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.

2. Only one side of a double sided freestanding sign shall be used in computing total surface area provided that the sign structure constructed
is so that the faces are not shall not have an angle separating the faces exceeding twenty (20) degrees or the total area of both sides added together does not exceed the maximum allowable sign area for that district.

I. Height:

1. The height of a freestanding sign shall be measured from the ground at the base to the highest most part of the structure.

2. The top of a wall mounted sign, including its structure, if any, shall be no higher than the roof of the building to which such sign may be attached.

J. Window signs shall not exceed twenty five (25) percent of the total area of the window in which they are displayed.

K. Except for farm buildings, at least one address sign identifying the correct property numbers at least three (3) inches in height shall be required on each principal building in all districts.

L. The use of banners, pennants and similar devices or temporary portable signs for commercial, industrial and institutional uses shall be subject to the following provisions:

1. Temporary signs shall be limited to no more than forty-two (42) days during any twelve (12) month period. (Ordinance 2013-10, adopted December 10, 2013)

2. The area of a temporary sign shall not exceed fifty (50) square feet per sign face.

3. The height of a freestanding temporary sign shall not exceed eight (8) feet.

4. Not more than one (1) temporary sign shall be displayed upon a property at any one time.

5. The sign shall not be illuminated.

M. Temporary Off-Premises Signs:

1. Temporary signs shall be limited to no more than forty two (42) days during any twelve (12) month period. (Ordinance 2013-10, adopted December 10, 2013)
2. Signs shall be allowed only in yards abutting arterial or major collector streets and shall not be located within any public right-of-way or drainage and utility easement.

3. The area of the temporary off-premises sign shall not exceed four (4) square feet.

4. The height of a freestanding sign shall not exceed three (3) feet.

5. Not more than one (1) temporary sign shall be displayed upon a property at any one time.

6. The sign shall not be illuminated.

N. Separate commercial or industrial uses on a single lot as two principal uses may each locate one freestanding sign subject to approval by the zoning administrator, provided that:

1. The area of each of the individual business signs shall be consistent with the applicable district provisions of this Section.

2. The height of the freestanding sign shall be consistent with the applicable district provisions of this Section.

3. An agreement addressing construction, maintenance, and repair responsibilities and trespass rights is established and filed with the Anoka County recorder against the title of the property involved with amendment or cancellation of the agreement shall be allowed only upon written approval by the Zoning Administrator.

O. Multiple Occupancy Commercial And Industrial Buildings: When a single principal building is occupied to two (2) or more commercial or industrial commercial uses, signs shall be allowed subject to review and approval of the Zoning Administrator based upon the following requirements:

1. The maximum individual sign sizes for multiple occupancy buildings and individual businesses that may display a sign shall not exceed the maximum provisions in the same zoning district as provided for by this Section.

2. Multiple occupancy buildings may display one (1) freestanding sign consistent with the applicable zoning district provisions in this Section.

3. Individual tenants of a multiple occupancy building within a commercial or industrial zoning district shall not display separate wall, canopy, or marquee signs unless the tenant's business has an exclusive exterior entrance and subject to the following requirements:
a. The number of individual wall, canopy, or marquee signs shall be limited to one (1) per tenant space except one (1) additional sign may be displayed on a second facade for the tenant of a corner suite or a suite that extends through the building thus having two (2) exterior walls.

b. Each sign shall be limited to the maximum wall sign size permitted in the applicable zoning district provisions outlined in this Section.

c. The sign shall be located only on the exterior wall of the tenant space to which the sign permit is issued, but are not required to face a public street.

P. Subdivisions:

1. Permanent Signs: One sign shall be allowed for a subdivision having not less than three (3) lots or principal buildings at its entrance from a collector or arterial street provided that:

   a. The area of the face of each sign shall not exceed one hundred (100) square feet.

   b. Freestanding signs shall be limited to a maximum height of:

      (1) Ten (10) feet for residential uses.

      (2) Twenty (20) feet for commercial, industrial and institutional uses.

   c. The sign(s) shall be located to accommodate said sign and related landscaping to meet all setback requirements. If the sign(s) is to be located on outlots, the outlots shall be designated on the preliminary plat and detailed plans for the area identification signs shall be submitted with the final plat.

   d. The area around the sign shall be landscaped and detailed site and landscape plans shall be included with each sign permit application and shall be subject to review and approval of the Zoning Administrator.

2. Temporary Signs: A comprehensive signage plan for additional temporary signs shall be allowed upon approval of a final plat for a subdivision having not less than three (3) lots or approval of site and building plans for one lot by the Zoning Administrator provided that:

   a. One sign shall be allowed per project or subdivision or one sign for each frontage to a collector or arterial street, whichever is greater.
(1) The area of the sign face shall not exceed sixty four (64) square feet.

(2) Freestanding signs shall be limited to a maximum height of eight (8) feet.

b. Model homes shall be allowed the following signs:

(1) One freestanding sign with a sign face not to exceed thirty two (32) square feet or a maximum height of eight (8) feet.

(2) Not more than three (3) flags with a maximum area of sixteen (16) square feet per face per flag and maximum height of twenty four (24) feet shall be allowed upon lots within the subdivision.

c. Unless extended by the zoning administrator, the temporary signs and flags allowed by this Section shall only be displayed for a period not to exceed three (3) years from the date a permit is issued for the sign or flag or until building permits have been issued for one hundred percent (100%) of the lots within a final plat or subsequent phases of the same preliminary plat of a subdivision.

(Ordinance #38, October 11, 2011)

11-7-5: ZONING DISTRICT REGULATIONS:

A. Within the C-1 District the following additional regulations shall apply:

1. Freestanding Sign:

a. One (1) sign is allowed per lot.

b. The area of a freestanding sign may not exceed eighty (80) square feet each side.

c. The maximum height of the sign shall be thirty-five (35) feet.

2. Wall, Canopy, or Marquee Sign:

a. For single occupancy buildings, wall, canopy, or marquee sign(s) shall be permitted on one (1) facade fronting a public street, except in the case of a corner lot or through lot where wall signs may be installed on two (2) facades fronting a public street.

b. The area of individual signs shall not exceed one hundred (100) square feet except the area of one individual sign for single
occupancy buildings or individual tenant spaces with a gross floor area of forty five thousand (45,000) square feet or larger shall not exceed four hundred forty (440) square feet.

4. Changeable Copy Signs:
   
a. Within the allowed area of a freestanding sign, a maximum of forty (40) square feet of non-electronic changeable copy shall be allowed per frontage to a major collector or arterial street.

b. For City of Nowthen public administration, fire stations, and public maintenance buildings, the changeable copy sign allowed by this section may utilize electronic changeable copy.

c. For motor fuel facilities, within a freestanding sign, an additional area not to exceed twenty four (24) square feet shall be allowed for continuous display (no flashing, scrolling or other animation) of electronic or non-electronic changeable copy identifying current fuel prices in accordance with Minnesota State Statutes Section 239.751.

B. Within the I-1 District the following additional regulations shall apply:

1. Freestanding Sign:
   
a. One (1) sign is allowed per lot.

b. The area of a freestanding sign may not exceed eighty (80) square feet each side.

c. The maximum height of the sign shall be thirty-five (35) feet.

d. For motor fuel facilities, within a freestanding sign, an additional area not to exceed twenty four (24) square feet shall be allowed for continuous display (no flashing, scrolling or other animation) of electronic or non-electronic changeable copy identifying current fuel prices in accordance with Minnesota state statutes section 239.751.

2. Wall, Canopy, or Marquee Sign:
   
a. For single occupancy buildings, wall, canopy, or marquee sign(s) shall be permitted on one (1) facade fronting a public street, except in the case of a corner lot or through lot where wall signs may be installed on two (2) facades fronting a public street.

b. The area of individual signs shall not exceed one hundred (100) square feet except the area of one individual sign for single
occupancy buildings or individual tenant spaces with a gross floor area of forty five thousand (45,000) square feet or larger shall not exceed four hundred forty (440) square feet.

C. Other Districts:

1. One (1) sign is allowed per lot.

2. The area of a sign may not exceed twelve (12) square feet each side in the case of free standing signs.

3. The maximum height of the sign if free standing shall be (12) feet.

4. The sign shall not be illuminated. (Ordinance #38, October 11, 2011)

11-7-6: **PROHIBITED SIGNS:** The following signs are prohibited:

A. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

B. All signs over four hundred forty (440) square feet in area.

C. Balloon signs.

D. Content classified as "obscene" as defined by Minnesota Statutes Section 617.241.

E. Dynamic display signs.

F. Electronic changeable copy signs except as allowed in 11-7-5 of this Section.

G. Electronic graphic display signs.

H. Flashing signs.

I. Multivision signs.

J. Off-premises signs except as specifically allowed by this Section.

K. Roof signs.

L. Rotating signs.

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M. Shimmering signs.

N. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.

O. Video display signs. (Ordinance #38, October 11, 2011)

SECTION 8

WIRELESS COMMUNICATION TOWERS AND ANTENNAS

Section:
11-8-1 Purpose
11-8-2 Interim Use Permit Required
11-8-3 Co-Locations Requirements
11-8-4 Tower and Antenna Design Requirements
11-8-5 Tower Setbacks
11-8-6 Tower Height
11-8-7 Tower Lighting
11-8-8 Signs and Advertising
11-8-9 Accessory Utility Buildings
11-8-10 Abandoned or Unused Towers or Portions of Towers
11-8-11 Antennas Mounted on Roofs, Walls and Existing Towers
11-8-12 Interference with Telecommunications
11-8-13 Additional Submittal Requirements
11-8-14 Construction Requirements
11-8-15 Existing Antennas and Towers
11-8-16 Lighting and Additional Attachments
11-8-17 Violations

11-8-1: PURPOSE: In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary in order to:

A. Facilitate the provision of wireless telecommunication services to the residents and business of the City.

B. Minimize adverse visual effects of towers through careful design and siting standards:

C. Avoid potential damage to adjacent properties from tower failure through structural standards and set back requirements; and
D. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community. (Ordinance #3, November 9, 2010)

11-8-2: INTERIM USE PERMIT REQUIRED:

A. It shall be unlawful for any person, or corporation to erect, construct in place, place or re-erect, or replace any tower without first making application to the City and securing an interim use permit therefore as hereinafter provided.

B. The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons. Routine maintenance of towers and related structures shall not require the issuance of a conditional use permit. (Ordinance #38, October 11, 2011)

11-8-3: CO-LOCATION REQUIREMENTS: All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:

A. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be documented by the applicant that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-half mile search radius of the proposed tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer licensed by the state of Minnesota, and existing or approved tower cannot be reinforced, or modified to accommodate planned or equivalent equipment at cost less than 125 percent of the cost of a new tower.

2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified licensed engineer and the interference cannot be prevented at a reasonable cost. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified licensed engineer.
3. Other reasons affecting technical performance, system coverage, and system capacity which make it impractical to place or locate the planned telecommunications equipment upon an existing or approved tower or building as determined by the City Council during its review of an application for approval of a conditional use permit.

B. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. (Ordinance #3, November 9, 2010)

11-8-4: TOWER AND ANTENNA DESIGN REQUIREMENTS: Proposed or modified towers and antennas shall meet the following design requirements:

A. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

B. Towers and antennas shall be placed on public property or lands whenever feasible. When a public property or land provides for the location of a tower and antenna equivalent to or superior to a private property placement the tower and antenna shall be placed on the public property.

C. Commercial wireless telecommunication service towers shall be of a monopole design unless determined that an alternative design would better blend into the surrounding environment.

D. Metal towers shall be constructed of, or treated with, corrosive resistant materials.

E. No part of any antenna, tower, equipment, wires, braces, cables or similar devices shall at any time extend across or over any part of the public right-of-way or property line.

F. All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration. (Ordinance #3, November 9, 2010)

11-8-5: TOWER SETBACKS: Towers shall conform with each of the following minimum setback requirements:
A. Towers shall be setback from any property line a minimum distance equal to one half of the height of the tower including all antennas and attachments, provided that a professional engineer licensed by the state of Minnesota certifies that the tower is designed such that it will fold on itself in the event of collapse. If the tower is not designed to fold on itself in the event of a collapse, it will be setback from any property line a minimum distance equal to the height of the tower.

B. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure. (Ordinance #3, November 9, 2010)

11-8-6: TOWER HEIGHT: All proposed towers shall not exceed 200 feet in height. (Ordinance #3, November 9, 2010)

11-8-7: TOWER LIGHTING:

A. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower.

B. Notwithstanding this provision, the City Council may, in its sole discretion, approve the placement of an antenna on existing or proposed lighting provided that the antenna is integrated with such lighting in a manner which substantially camouflages the antenna array and related facilities. (Ordinance #3, November 9, 2010)

11-8-8: SIGNS AND ADVERTISING: The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. (Ordinance #3, November 9, 2010)

11-8-9: ACCESSORY UTILITY BUILDINGS: All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Accessory buildings shall not be more than 2,000 square feet in size. (Ordinance #3, November 9, 2010)
11-8-10: **ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS:**
Abandoned or unused towers or portions of towers shall be removed as follows:

A. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Council. A copy of the relevant portions of a signed lease, easement, or other conveying instrument which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

B. Unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. (Ordinance #3, November 9, 2010)

11-8-11: **ANTENNAS MOUNTED ON ROOFS, WALLS AND EXISTING TOWERS:**
The placement of wireless telecommunication antennas on roofs, walls, and existing towers shall be approved by issuance of a conditional use permit in the same manner as approval of new towers. (Ordinance #3, November 9, 2010)

11-8-12: **INTERFERENCE WITH TELECOMMUNICATIONS:** No new or existing telecommunications service shall interfere with public safety telecommunications, or private telecommunications, including without limitation, radio, television, and personal communications, in accordance with rules and regulations of the Federal Communications Commission. (Ordinance #3, November 9, 2010)

11-8-13: **ADDITIONAL SUBMITTAL REQUIREMENTS:** In addition to the information required elsewhere in this code, development applications for towers and antennas shall include the following supplemental information:

A. A report from a qualified professional engineer licensed by the state of Minnesota with (1) describes the tower and antenna height and design including a cross section and elevation; (2) documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; (3) describes the tower's capacity, including the number and type of antennas that it can accommodate; and (4) includes an engineer's stamp and registration number.

B. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and
conditions for shared use, including without limitation, reasonable rental rates for such shared use.

C. Before the issuance of a building permit, the following supplemental information shall be submitted: (1) a written statement from the applicant that the proposed tower and antenna comply with regulations administered by Federal Aviation Administration.

D. A written statement from a qualified licensed engineer licensed by the state of Minnesota stating that use of the proposed tower and antenna will not interfere with established telecommunications. (Ordinance #3, November 9, 2010)

11-8-14: CONSTRUCTION REQUIREMENTS: All antennas and towers erected, constructed, or located within the City, and all wiring therefore, shall comply with the following requirements:

A. All applicable provisions of this Code.

B. Towers shall be certified by a qualified professional engineer licensed by the state of Minnesota to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.

C. Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

D. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least six and one-half feet above the ground at all points, unless buried underground.

E. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons by erection of a security fence at least six feet in height. (Ordinance #3, November 9, 2010)

11-8-15: EXISTING ANTENNAS AND TOWERS: Antennas and towers in existence as of July 1, 1997, which do not conform to or comply with this Section are subject to the following provisions:

A. Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Section.
B. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be fifty percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Section. (Ordinance #3, November 9, 2010)

11-8-16: LIGHTS AND OTHER ATTACHMENTS: No antenna or tower adjacent to any residential zoning district shall have affixed or attached to it in any way except during time of repair or installation any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair. This provision shall not prohibit the attachment of an antenna mounting framework to any tower. (Ordinance #3, November 9, 2010)

11-8-17. VIOLATIONS: Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor. (Ordinance #3, November 9, 2010)
SECTION 9

Wind Energy Systems

Section:
11-9-1  Purpose and Intent
11-9-2  Wind Energy Systems
11-9-3  Alternative Energy Systems

11-9-1:  PURPOSE AND INTENT: To establish standards and procedures by which the installation and operation of alternative energy systems shall be governed and to encourage alternative energy sources that have a positive impact on energy production and conservation while not having an adverse impact on the community.

11-9-2:  WIND ENERGY CONVERSION SYSTEMS (WECS):

A.  Location and Height.

   1.  Accessory Use. Installation of one (1) WECS that does not exceed 45 feet in height may be allowed as a permitted accessory use in all zoning districts upon property that is a minimum of 2 ½ acres in size subject to approval by the Zoning Administrator and approval of a building permit by the Building Official.

   2.  Interim Use. Installation of one (1) or more WECS up to 120 feet in height may be allowed in all zoning districts subject to the regulations and requirements of this Chapter on property that is a minimum of five (5) acres in size, subject to approval by the Zoning Administrator and approval of a building permit by the Building Official. The City Council may impose conditions on the granting of a WECS interim use permit to carry out the purposes and provisions of this Chapter.

B.  Site Plan Drawing. All applications for WECS interim use permit shall be accompanied by a detailed site survey drawn to scale and dimensioned, displaying the following information:

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

   2.  Location and height of all adjacent buildings, structures, aboveground utilities and trees located within three hundred fifty feet (350’) of the exterior boundaries of the property in question.
3. Sketch elevation drawing of the premises accurately depicting the proposed WECS and its relationship to structures on the subject site and adjacent lots.

4. Applications for an interim use permit under this Section shall include studies documenting sufficient access to unobstructed wind necessary for operation of the proposed turbine.

C. Standards.

1. Height. Height shall be determined by measuring from the base of the tower to the highest possible extension of the rotor. The height must comply with FAA regulations.

2. Blade length. A maximum blade length of 15 feet is permitted.

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

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

5. Installation.

   a. All towers used to support a WECS shall be certified by a structural engineer or manufacturer that the structure is capable of supporting the WECS.

   b. Roof mounted wind turbines or WECS installed on an existing structure shall require certification of a structural engineer that the existing structure is capable of supporting the WECS.

6. Setbacks. The base of the wind turbine tower shall be set back from all property lines a distance equal to the hub height. No part of a WECS shall be located within or above any required front, side or rear yard setback. Wind energy systems shall only be permitted in the rear yard except by Interim Use Permit.

7. Easements. Wind energy systems shall not be located within thirty (3) feet of any public drainage, utility, roadway or trail easements.

8. Noise. Wind energy systems shall comply with Minnesota Pollution Control Agency standards outlined in Minnesota Rules Chapter 7030 at all property lines.
9. **Aesthetics.** All portions of the wind energy system shall be a non-reflective, non-obtrusive color, subject to the approval of the City Council. The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the wind energy system pursuant to industry standards. Systems shall not be used for displaying any advertising. Systems shall not be illuminated.

10. **Feeder lines.** The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

**D. Safety.**

1. **Standards and Certification.**

a. **Standards.** Wind energy systems shall meet minimum standards such as International Electrotechnical Commission (IEC) 61400-2 or the American Wind Energy Association’s (AWEA) Small Wind Turbine Performance and Safety Standard or other standards as determined by the Building Official or Zoning Administrator.

b. **Certification.** Wind energy systems shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Small Wind Certification Council or other body as determined by the Building Official or Zoning Administrator. The City reserves the right to deny a building permit for proposed wind energy systems deemed to have inadequate certification or testing for operation in a severe winter climate.

c. **Maintenance.** Wind energy systems shall be maintained by property owners as approved under an agreement or contract by the manufacturer or other qualified entity.

2. **Code Compliance.**

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

b. **National Electrical Code.** WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City. Each WECS shall be grounded to protect against natural lightning strikes.
3. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

4. Tower Access. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
   a. Tower climbing apparatus shall not be located within twelve feet (12') of the ground.
   b. A locked anti-climb device shall be installed on the tower.
   c. Towers capable of being climbed shall be enclosed by a locked, protective fence at least eight feet (8') high.

5. Signs. WECS shall have one sign, not to exceed two (2) square feet posted at the base of the tower and said sign shall contain the following information.
   a. Warning high voltage
   b. Manufacturer’s name
   c. Emergency phone number
   d. Emergency shutdown procedures

E. Abandonment.

1. If the wind energy system remains nonfunctional or inoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including foundations to below natural grade and transmission equipment.

2. An interim use permit allowing for installation of a WECS under this section shall terminate upon the occurrence of any of the following events, whichever occurs first:
   a. Operation or functioning of the WECS has ceased for a period of one (1) year;
   b. The property on which the WECS is located is subdivided and the resulting lot area is less than the minimum required acreage or the division results in setback requirements that no longer comply.
F. Inspection: The City hereby reserves the right at any time following issuance of any WECS interim use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.

G. Use of city-owned land for WECS.

1. Priority of users
   a. City of Nowthen;
   b. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the City of Nowthen and private entities with a public safety agreement with the city;
   c. Other governmental agencies, for uses which are not related to public safety;
   d. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public or wireless telecommunication services;
   e. Entities providing alternative energy sources including WECS.

2. Minimum requirements.
   a. The user must obtain a lease from the city, which shall take the following criteria into consideration:
      i. The WECS will not interfere with the purpose for which the city owned property is intended;
      ii. The WECS will have no adverse impact on surrounding private property;
      iii. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the City Council after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
      iv. The WECS will not interfere with other users who have a
higher priority as discussed in subsection G1 above;

v. Upon reasonable notice, the WECS may be required to be removed at the user’s expense;

vi. The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant’s WECS; and

b. The user must obtain all necessary land use approvals, including an interim use permit from the city.

11-9-3: ALTERNATIVE ENERGY SYSTEMS

A. Ground Source or Geothermal Heat Pump Systems

1. Ground source heat pump systems shall be allowed as a permitted accessory use in all zoning districts in accordance with State of Minnesota standards and manufacturer's guidelines.

B. Solar Energy Systems

1. Solar energy systems shall be allowed as a permitted accessory use in all zoning districts in accordance with State of Minnesota standards and manufacturer's guidelines.

C. Hydronic Furnaces

1. A wood-fired furnace, stove or boiler not located within a building intended for habitation by humans or animals shall be allowed as a permitted accessory use within all zoning districts in accordance with State of Minnesota standards and manufacturer's guidelines.
SECTION 10
CONDITIONAL AND INTERIM USE PERMITS

Section:
11-10-1 Purpose
11-10-2 Process
11-10-3 Criteria and Conditions
11-10-4 Change in Usage
11-10-5 Revocation or Modification

11-10-1: PURPOSE:

A. The purpose of this section is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. A conditional use is a use which, because of certain characteristics, cannot be properly classified as a permitted use in the zoning district with which it is proposed. An interim use is a temporary use of a property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permits it.

B. Conditional use and interim use permits are designed to meet the problem which arises where certain uses, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included within the zone because of hazards inherent in the use itself or special problems which its proposed location may present.

C. A conditional use permit or interim use permit must be secured for any use not listed as a permitted use or determined by the Planning Commission to be an accessory use.

D. Lots of less than five (5) acres shall not be considered for conditional uses or interim uses. (Ordinance #3, adopted November 9, 2010)

11-10-2: PROCESS:

A. Application:

1. The procedures outlined in this section of the ordinance shall apply to all conditional or interim use permits.
2. All applications for zoning actions to be reviewed by the Planning Commission and acted upon by the City Council shall be submitted to the City Clerk, who shall determine if sufficient information has been submitted with the application to meet the requirements of this Chapter.

3. All applications shall include the following information:

   a. A narrative explaining the proposed use of the property, hours of operation, number of employees, use and/or business characteristics, and any other information as may be required by the City; and

   b. Legal description of the property; and,

   c. Application fee, which shall be established in Section 1-1-2 of the City Code; and

   d. A plat or map of the property that shows, at a minimum, all lot lines and their dimensions, the location and dimensions of existing and proposed structures and their dimensions, driveways and parking areas including the number of spaces, and the existing and intended uses of the buildings or property; and

   e. All setbacks applicable to existing and proposed buildings and parking areas on the property; and

   f. Mailing labels of all properties situated wholly or partially within one thousand three hundred twenty (1,320) feet of the property.

B. Review:

   1. City staff shall review all applications within ten (10) days of their submission to determine their completeness.

   2. The applicant shall be notified of any information that is missing or incomplete with the application.

   3. The application shall be referred to the Planning Commission as well as any professional consultants retained by the City to review the application.

C. Review Costs: The applicant shall pay all costs associated with the review of all applications. The review costs generally include, but are not limited to professional consulting services retained by the City, copying charges, city staff time to review and process the application, hearing notice publications, postage for mailed notices, and any other costs necessary to process the application.

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D. Public Hearing:

1. All conditional and/or interim use permits shall be heard by the Planning Commission and the City Council.

2. The City Clerk shall set a date for a public hearing following receipt of a completed application. All applications for actions requiring public hearings shall be published in the official newspaper at least ten (10) days prior to the public hearing. Notice shall be sent to owners of property within one thousand three hundred twenty (1,320) feet of the property.

3. The failure to give mailed notice to all individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.

4. The petitioner or his representative shall appear before the Commission in order to answer questions concerning the proposed use. Any person may appear and testify at the hearing either in person or by duly authorized agent. The Commission shall review the testimony and consultant recommendations, if any, and forward its findings on the application to the City Council within thirty (30) days of the hearing, unless the petitioner agrees in writing to a time extension.

E. Review Period:

1. The City Council shall make a decision within sixty (60) days of submission of a completed application, or such longer period as not objected to by the applicant, provided that the application does not first require review by another public agency.

2. The review period for applications that first require a review process by another public agency shall begin following completion of the review process as described in Minnesota State Statute Chapter 15.99.

3. The City may extend the review period for an additional sixty (60) days if written notice is provided to the applicant stating the reason for the extension and specifying the amount of additional review time that is needed.

F. City Council Action:

1. The Council shall review the application and findings of the Commission and shall act on said application within thirty (30) days after receipt of the report from the Commission.

2. In evaluating the application(s), the City Council shall consider and adopt findings regarding compliance or noncompliance of the application(s) with
the Comprehensive Plan, the intent and purpose of this Chapter, and requirements and criteria of this Chapter.

3. The City Council may attach conditions to its actions to ensure compliance with ordinance requirements or to affect the purpose of this Chapter and protect adjacent properties.

4. All development, construction, and use shall be in accordance with the approved plan and conditions required by the City Council. Any development not in accord with the approved plan and conditions shall constitute a violation of this Chapter.

5. Whenever an application for a conditional or interim use permit has been considered and denied by the City Council, a similar application for the conditional or interim use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial, except as follows:
   a. If the City Council determines that the circumstances surrounding a previous application have changed significantly.
   b. If the City Council decides to reconsider such matter by a four-fifth's (4/5's) vote of the entire City Council.

G. Determination of Type and Duration of Permits: The City Council shall determine if a particular use shall qualify, for purposes of duration, as a conditional or interim use unless specifically stated in Section 3 of this Chapter.

1. A Conditional Use Permit shall remain in effect as long as the conditions agreed upon are observed, but nothing shall prevent the City Council from enacting or amending official controls to change the status of conditional uses.

2. An Interim Use Permit shall remain in effect for a specified period of time, until a specific end date, or until the occurrence of a particular event as long as the conditions agreed upon are observed, but nothing shall prevent the City Council from enacting or amending official controls to change the status of interim uses.
11-10-3: CRITERIA AND CONDITIONS:

A. In granting a conditional use permit or interim use permit, the City Council shall consider the advice and recommendations of the Planning Commission on the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands, existing and anticipated traffic conditions, including parking facilities, and the effect on values of property in the surrounding area. The City Council shall also review the conditional use or interim use application against the goals and policies set forth in the Comprehensive Plan.

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

1. Limiting the height, size, or location of buildings.

2. Controlling the location and number of vehicle access points.

3. Providing for a sufficient number of off-street parking spaces.

4. Limiting the number, size, location, or lighting of signs.

5. Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property. (Ordinance #3, adopted November 9, 2010)

11-10-4: CHANGE IN USES:

A. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use or the interim use permit issued shall require an amended conditional use or interim use permit. Said permit will be processed in the same manner as a new application.

B. The Clerk shall maintain a record of all conditional use permits and interim use permits issued, including information on the use, location, and conditions imposed by the Council, time limits, review dates, and such other information as may be appropriate.
11-10-5: REVOCATION OR MODIFICATION:

A. The City Council may hold a public hearing to revoke a conditional use upon the happening of any of the following events, whichever occurs first:

1. Upon violation of conditions under which the permit was issued;

2. The use or operation is discontinued for a period of one (1) year;

3. If no other time is specified in the Conditional Use Permit, a conditional use approved by the City Council must be exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, or the City Council may hold a public hearing to revoke the conditional use unless a request in submitted to the City in writing no less than thirty (3) days prior to the deadline. The City Zoning Administration may approve an extension which shall not exceed ninety (90) days whereafter consideration by the City Council may require reapplication and subsequent approval of a conditional use.

B. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

1. The date or event stated in the permit as determined by the City Council.

2. Upon violation of conditions under which the permit was issued.

3. The interim use permit shall terminate upon a change of occupancy or ownership of the principal use.

4. The use or operation is discontinued for a period of one (1) year. This does not apply to a specific part of a use or operation, or a single event, when the remainder of the use or operation has been on-going.

5. If no other time is specified in the Interim Use Permit, an interim use approved by the City Council must be exercised or put into effect within one (1) year of the date of approval, by fulfilling each and every condition attached thereto, or it shall terminate unless a request is submitted to the City in writing no less than thirty (3) days prior to the deadline. The City Zoning Administration may approve an extension which shall not exceed ninety (90) days whereafter consideration by the City Council may require reapplication and approval of the interim use.
6. The City Council may revoke a conditional use permit or an interim use permit upon violation of any condition of the permit, any City ordinance, any law of the State of Minnesota, or any law of the United States. (Ordinance #3, adopted November 9, 2010; Ordinance 2014-07, adopted August 11, 2014; Ordinance 2016-03, adopted July 12, 2016)
SECTION 11

BOARD OF ADJUSTMENT AND VARIANCES

Section:
11-11-1 Board of Adjustment
11-11-2 Variances

11-11-1: BOARD OF ADJUSTMENT:

A. Responsibility:
   1. In accordance with Minnesota Statutes 462.351 to 462.364, the City Council shall serve as the Board of Adjustment.
   2. The Board of Adjustment shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, take testimony under oath, and render decisions in writing within forty-five (45) days after the hearing or continued hearing.
   3. A fee shall be charged in accordance with a schedule adopted in Section 1-2-2 of the City Code for any appeal or proceeding filed with the Board of Adjustment.

B. Rule:
   1. The City Council, serving as the Board of Adjustment, shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the City Clerk, Building Official, or Commission in the administration of this Chapter.
   2. An appeal shall be in writing and filed with the City Clerk. Within ten (10) days after filing of the appeal, the City Clerk shall transmit to the Board of Adjustment all papers involved in the proceedings.
   3. Upon receipt of this material, the Board of Adjustment shall set a hearing date and give notice by mail of the time, place, and purpose thereof to the appellant and to the Planning Commission.
   4. The Board of Adjustment may reverse or affirm wholly or in part any ruling, decision, or determination and may issue or direct the issuance of a permit. The decision of the Board of Adjustment may be appealed to the District Court. (Ordinance #3, adopted November 9, 2010)
11-11-2: VARIANCES:

A. Purpose: The purpose of this section is to provide the City with an opportunity for amelioration or unnecessary hardships resulting from the rigid enforcement of its broad Zoning Ordinance. This variance provision authorizes the City Council to permit a particular property to be used in a manner not allowed for by the Ordinance by varying the terms of this Chapter.

B. Limitation of Use: The City Council, upon appeal, shall have the power to authorize variances from certain requirements of this Chapter. Variances shall pertain only to the physical characteristics of the land or structures to be built thereon, such as area, height, setback requirements, and density. Specifically, the City Council may grant only non-use or area variances and shall not grant use variances. (Ordinance #3, adopted November 9, 2010)

C. Review Criteria: A variance request (major or minor) shall not be approved unless a finding is made by the City Council that failure to grant the variance will result in practical difficulties.

1. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter and include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

2. The applicant for variance shall also demonstrate that the request satisfies the following criteria:

   a. That the variance would be consistent with the Comprehensive Plan.
   
   b. That the variance would be in harmony with the general purposes and intent of this Chapter.
   
   c. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
   
   d. That the purpose of the variance is not exclusively economic consideration.
   
   e. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.
   
   f. That the requested variance is the minimum action required to eliminate the practical difficulty. (Ordinance #39, adopted December 13, 2011)
D. **Conditions Imposed:** In granting any variance, the City Council may impose conditions to ensure compliance and to protect adjacent and affected properties.

E. **Procedure for Application:**

1. The person applying for a variance not determined to be minor, shall fill out and submit to the City Clerk an application, together with a fee, which shall be set in Section 1-2-2 of the City Code.

2. The applications shall be forwarded to the Board of Adjustment.

3. Within sixty (60) days after receipt of filing of a request for a variance or an appeal from an administrative order or determination, the Planning Commission shall hold a public hearing thereon, and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of such hearing shall be mailed not less than ten (10) days before the date of the hearing to the person or persons who filed the appeal or request and, in the case of a request for a variance, to each owner of property situated wholly or partly within three hundred fifty (350) feet of the property whereon the variance is requested, shall be submitted with, and made a part of, the application for variance.

4. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed variance.

5. The Planning Commission shall forward their recommendations to the City Council within thirty (30) days of the public hearing.

F. **Council Actions:** The City Council shall review the application and the findings of the Planning Commission and shall act on said application within thirty (30) days. A written variance including the legal description of the property shall be prepared and a certified copy there of shall be filed with the County Recorder. (Ordinance #3, adopted November 9, 2010)
SECTION 12
AMENDMENTS

Section:
11-12-1 Procedures
11-12-2 Criteria

11-12-1: PROCEDURES:

A. Application: An amendment to the text of the Chapter, or the Official Zoning Map, may be initiated by the City Council, Planning Commission, or by application of a property owner. Individuals wishing to initiate an amendment to the Zoning Ordinance shall fill out an application and submit it to the City Clerk, together with a fee, as set forth by Section 1-2-2 of the City Code.

B. Public Hearing:

1. Before voting on the enactment of an amendment, the Commission shall hold a public hearing thereon, pursuant to public notice. The hearing shall be held within forty-five (45) days after the request for the zoning amendment has been received. It shall be the responsibility of the Clerk to have notice of the time, place, and purpose of the public hearing published in the official newspaper ten (10) days prior to the hearing.

2. Also, when an amendment involves changes in district boundaries affecting an area of five (5) acres or less, a written notice of the hearing stating its time, place and purpose shall be mailed by the City Clerk at least ten (10) days before the day of the hearing to each owner or affected property and property situate wholly or partially within one thousand three hundred twenty (1,320) feet of the property to which the amendment relates. For the purpose of giving mailed notice, the Clerk may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Clerk and shall be made a part of the records of the proceedings. The failure to give mailed notice to the individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.

3. If, after any public hearing held upon an amendment, the proposed amendment is revised or further revised to include land previously not affected by it, the Commission shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
C. Planning Commission Report: The Commission shall make its report to the Council at the next regular City Council meeting following the hearing recommending approval, disapproval, or modified approval of the proposed amendment.

D. City Council Action: The City Council shall act upon the request within forty-five (45) days after receipt of the report from the Planning Commission. The applicant shall be notified of the action taken. The City Council shall maintain records of amendments to the text and Official Zoning Map of this Chapter.

E. Recommendation: No application of a property owner for an amendment to the text of this Chapter or the Official Zoning Map shall be considered by the Planning Commission within one (1) year following a denial of such request, except the Planning Commission may permit a new application, if, in the opinion of the Commission, new evidence or a change of circumstances warrant it. (Ordinance #3, adopted November 9, 2010)

11-12-2: CRITERIA: The City Council and the Planning Commission shall consider possible adverse effects of the proposed amendment. Their judgment shall be based upon (but not limited to) the following factors:

A. The proposed action's consistency with the specific policies and provisions of the Comprehensive Plan.

B. The proposed use's compatibility with present and future land uses of the area.

C. The proposed use's conformity with all performance standards contained within the Zoning Ordinance and other provisions of the City Code.

D. Traffic generation of the proposed use in relation to capabilities of streets serving the property.

E. The proposed use can be accommodated by existing public services and facilities and will not overburden the City's service capacity. (Ordinance #39, adopted December 13, 2011)
SECTION 13

ADMINISTRATION AND ENFORCEMENT

Section:
11-13-1 Administrative Officer
11-13-2 Duties of the City Clerk
11-13-3 Enforcement
11-13-4 Ordinance Repealed
11-13-5 Separability

11-13-1: ADMINISTRATIVE OFFICER: The Nowthen City Council shall instruct the Building Official to enforce this Chapter and perform the following duties:

A. Conduct inspections of buildings and use of land to determine compliance with the terms of this Chapter. (Ordinance #3, adopted November 9, 2010)

B. The City Council shall appoint a Building official to carry out the permit and inspection provisions of this Chapter.

11-13-2: DUTIES OF CITY CLERK: The Nowthen City Council shall instruct the Clerk to perform the following duties:

A. Maintain permanent and current records relating to this Chapter, including, but not limited to: all maps, amendments, conditional uses, variances, appeals, and applications therefore and minutes for all applicable meetings.

B. Receive, file, and forward all applications for appeals, variances, conditional uses, or other matters to the designated official bodies. (Ordinance #3, adopted November 9, 2010)

11-13-3: ENFORCEMENT:

A. Remedies: In the event of a violation or a threatened violation of this Chapter, the City Council or Planning Commission, in addition to other remedies, may request the Attorney to institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations.

B. Penalties: Any person, firm, partnership, corporation, or other legal entity who violates any of the provisions of this Chapter shall be guilty of a misdemeanor as defined by State Law. Each day that a violation is permitted to exist shall constitute a separate offense. (Ordinance #3, adopted November 9, 2010)
11-13-4:  ORDINANCE REPEALED:  Whereas the Building Code of the Town Board, Anoka County, Minnesota, including the Zoning Plan and Building Regulation adopted by the Town Board on October 8, 1957, is found inconsistent with this Chapter and is therefore repealed in its entirety (Ordinance #3, adopted November 9, 2010).

11-13-5:  SEPARABILITY:  It is hereby declared to be the intention that the several provisions of this Chapter are separable in accordance with the following:

1.  If any Court of competent jurisdiction shall adjudge any provisions of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.

2.  If any Court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures. (Ordinance #3, adopted November 9, 2010; Ordinance 2013-04, adopted April 9, 2013)