

GENERAL PROVISIONS

§ 152.001 PURPOSE AND INTENT.

(A) *Title.* The official title of this chapter is the “Zoning Ordinance of the City of Windom, Minnesota”.

(B) *Purpose and intent.* This chapter is intended to promote the general health, safety, morals, convenience and welfare of the people of the city. These regulations are necessary to provide adequate open spaces, avoid undue concentration of population, secure safety from fire and other disasters and danger, maximize the use of public facilities and resources, control and abate unsightly use of buildings or land, facilitate other public needs (such as schools, parks and emergency services), encourage the most appropriate use of land, and conserve and stabilize the value of property. It is the policy of the city that the enforcement, amendment and administration of this chapter be accomplished with due consideration of the recommendations contained in the comprehensive plan as developed and amended from time to time by the Planning Commission and the City Council.

(C) *Compliance.* No structure shall be located, erected, constructed, moved, converted or enlarged; nor shall any structure or land be used, or be designed to be used, except in full compliance with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.

(D) *Severability.* If any provision of this chapter or application of any provision to particular circumstances is held invalid, the remainder of the ordinance or application of the provision to other circumstances shall not be affected.

(E) *Repeal.* All ordinances or parts of ordinances in conflict with this chapter, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect.

(F) *Effective date.* This chapter shall take effect following adoption by the City Council and publication in the official newspaper.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.002 RULES OF CONSTRUCTION; DEFINITIONS.

(A) *Rules.* For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows.

(1) The word person includes a firm, association, partnership, trust, company or corporation as well as an individual.

(2) The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

(3) The word shall is mandatory, the word may is permissive.

(4) The words used or occupied include the words intended, designed or arranged to be used or occupied.

(5) The word lot includes the words plot or parcel.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING OR STRUCTURE. Any building, structure or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

ACCESSORY USE. A subordinate use that is located upon the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of the building or main use.

AGRICULTURAL RIVER. These river segments are located in well-roaded, intensively cultivated areas of the western and southern regions of the state. Cultivated crops are the predominant land use, with some pasture and occasional feedlots, small municipalities and small forest areas. Residential development is not common, but some year-round residential use is occurring within commuting distance of major cities.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that, the operation of any accessory uses shall be secondary to that of the normal agriculture activities.

ALLEY. A public right-of-way less than 30 feet in width which affords secondary access to abutting property.

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

AQUIFER RECHARGE AREAS. All land surface areas which by nature of their surface and/or subsurface characteristics are determined to contribute to the replenishment of subsurface water supplies.

ARTIFICIAL OBSTRUCTION. Any obstruction which is not a natural obstruction. (See **OBSTRUCTION.**)

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 12,000 pounds gross weight, but not including any operation specified under "Automobile Repair - Major".

AUTOMOBILE WRECKING OR JUNK YARD. Any place where two or more vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of the motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

BASEMENT. A portion of a building located partially underground, but having less than one-half its floor to ceiling height below the average land grade.

BED AND BREAKFAST FACILITY. An owner- or manager-occupied single-family dwelling in which a room or rooms are rented on a nightly basis for periods of less than a week. Meals may or may not be provided. Meals may be served to the general public.

BED AND BREAKFAST UNIT. A room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

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

BLUFF. A topographic feature such as a hill, cliff or embankment having the following characteristics:

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) 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% or greater; and
- (d) The slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BOARDING HOUSE. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten persons.

BOATHOUSE. A structure designed and used solely for the storage of boats and boating equipment.

BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.

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

BUILDING LINE. A line measured across the width of the lot at the point where the principal structure is placed in accordance with setback provisions.

BUILDING LINE IN THE SHORELAND DISTRICT. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

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

CARPORT. A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on three sides.

CELLAR. The portion of a building having more than one-half of the floor to ceiling height below the average land grade.

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

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

CLUB or LODGE. A non-profit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

COMMERCIAL PLANNED UNIT DEVELOPMENT. 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 **COMMERCIALLY PLANNED UNIT DEVELOPMENTS**.

COMMERCIAL RECREATION. Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theater, firearms range, boat rental, amusement rides, campgrounds, park and similar uses.

COMMERCIAL USE. The principal use of land or buildings for sale, lease, rental or trade of products, goods and services.

CONDITIONAL USE. A use that, because of special control problems the use presents, requires effectuation of reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the municipal land use plan.

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

CONDOMINIUM. A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to the provisions of the State Condominium Law, M.S. §§ 515.01 and 515.19, as may be amended from time to time.

CONVENIENCE FOOD ESTABLISHMENTS. An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

COOPERATIVE (HOUSING). A multiple-family dwelling owned and maintained by the residents and subject to the provisions of M.S. §§ 515B.1-102 et seq., as may be amended from time to time. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate, individual occupant ownership.

CROWDING POTENTIAL. The ratio of total acreage to shore miles.

DAY CARE. The care of children outside of their own homes for a part of the 24-hour day by persons unrelated to them by blood or marriage. **DAY CARE** includes family day care, group family day care and care in group day care centers.

DAY CARE - FAMILY. A program providing day care for no more than five children at one time, including the family day care provider's own children under school age.

DAY CARE - GROUP NURSERY. A service provided to the public, in which children of school or pre-school age are cared for during established business hours, including Montessori schools.

DECK. 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.

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

DEPOSITION. Any rock, soil, gravel, sand or other material deposited naturally or by humans into a waterbody, watercourse, floodplains or wetlands.

DISTRICT. A section or sections of the city for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DOG KENNEL. Any place where three dogs or more over six months of age are boarded, bred and/or offered for sale, except as a veterinary clinic.

DRIVE-IN ESTABLISHMENT. An establishment that accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

DWELLING. A structure designed or used as the living quarters for one or more families.

DWELLING - SINGLE-FAMILY. A residence designed for or occupied by one family only.

DWELLING - TWO-FAMILY. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each. This would include single-family homes with an apartment in the basement. A **TWO-FAMILY DWELLING (DUPLEX)** with rooming unit(s) shall be considered and classified as a **MULTI-FAMILY DWELLING**.

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.

DWELLING MULTI - FAMILY. A building designed for or occupied by more than two families.

EFFICIENCY APARTMENT. A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets or dining alcove.

ELDERLY (SENIOR CITIZEN) HOUSING. A public agency owned or controlled multi-dwelling building with open occupancy limited to elderly persons.

ESSENTIAL SERVICES. The erection, construction or maintenance by public utilities or municipal or other governmental agencies of underground or overhead communications, gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, traffic signals, hydrants, street signs and other similar equipment and accessories in connection therewith, reasonably necessary for furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of encroachment lines so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the floodplain along both sides of a stream for a significant reach.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as amended from time to time.

FAMILY. One or more persons related by blood, marriage, adoption or other legal relationship, 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. Legal relationships shall include guardianship, foster parent/child or any other relationship which is created by court order.

FEEDLOT. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purpose of this chapter, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered **ANIMAL FEEDLOTS**. Pastures shall not be considered **FEEDLOTS**.

FENCE. Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure.

FOREST LAND CONVERSION. The clear-cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

GENERAL DEVELOPMENT LAKE. These lakes are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and are usually heavily developed around the shore. Second and third tiers of development are fairly common.

GROUP CARE FACILITY. A facility which provides resident services to seven or more individuals of whom one or more are unrelated. These individuals are disabled, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. Category includes uses such as homes for the physically disabled, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.

GUEST COTTAGE. 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.

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

HEIGHT OF BUILDING. The vertical distance measured from the grade level to the highest point of the roof.

HOME OCCUPATION. An occupation, profession, activity or use carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, which does not change the character thereof

HOTEL. Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six or more guest rooms, designated or intended to be used, let or hired out to be occupied, or which are occupied by six or more individuals for compensation.

IMPERVIOUS SURFACE. An artificial or natural surface through which water, air or roots cannot penetrate.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

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

JUNK YARD. Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled, including, but not limited to, scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.

LAND RECLAMATION. The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

LOADING SPACE. The portion of a lot or plot designed to serve the purpose of loading or unloading all types of vehicles.

LOT. A parcel of land occupied or capable of being occupied by one or more structures.

LOT, DEPTH. The mean horizontal distance between the front and rear lot lines.

LOT, WIDTH. The mean width measured at right angles to its depth.

LOT AREA. The total horizontal area within the lot lines of a lot exclusive of any portion of the right-of-way of any public roadway.

LOT OF RECORD. Any lot which, individually or as a part of a subdivision, has been recorded in the office of the Recorder of the Deeds of the county.

MANUFACTURED HOUSING. (See **MOBILE HOMES**.) A factory-built, single-family, detached housing unit that is manufactured according to the National Manufactured Housing Construction and Safety Act of 1974, being 42 U.S.C. §§ 5401 et seq. and shall include manufactured homes or mobile homes.

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

MOBILE HOME. Any type of potentially mobile structure which is designed, constructed and equipped for use as a single-family dwelling unit suitable for year-round occupancy, not drawn by its own power, but with its own permanently attached metal frame undercarriage to which wheels may be attached.

MOBILE/MANUFACTURED HOME PARK. A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing for dwelling purposes.

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

MOTOR FUEL STATION. A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the

public on the premises, and including minor accessories and services for automobiles, but not including, major repairs and rebuilding.

NON-CONFORMITY. A use or activity which lawfully existed prior to the adoption, revision or amendment of this chapter, but which fails by reason of the adoption, revision or amendment to conform to the use district in which it is located.

NON-CONFORMING STRUCTURE. Any structure that does not meet the limitations on structure size and location on a lot, for the district in which the structure is located, or for the use to which the structure is being put.

NON-CONFORMING USE. A lawful use of land that does not comply with the use regulations for its zoning district, but which complied with applicable regulations at the time the use was established.

OBSTRUCTION. Any construction or excavation related vehicle, equipment, fence, structure, bulk waste container, building or construction materials or debris, barricade, cone, sign, barrel or other thing or object that is placed, planted, left or erected in or upon a roadway or sidewalk that would in any manner prevent or restrict public use of or access to any part of the roadway or sidewalk or restrict the drainage system of the roadway or sidewalk.

OPEN SPACE. An area that is intended to provide light and air, and is designed for either environmental, scenic or recreational purposes. **OPEN SPACE** may include, but not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. **OPEN SPACE** shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

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

PLANNED UNIT DEVELOPMENT. Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A **PLANNED DEVELOPMENT** includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A **PLANNED DEVELOPMENT** is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used and related to each other, and plans for other uses and improvements on the land as related to the buildings. A **PLANNED DEVELOPMENT** includes a program for the provisions, operations and maintenance of the areas, facilities and improvements as will be common use by some or all of the occupants of the planned development district, but which will not be provided, operated or maintained at the general public expense.

PRINCIPAL STRUCTURE. A structure in which is conducted the principal use of the lot on which it is situated.

PRINCIPAL USE. The primary use of land or structure, as distinguished from a secondary or accessory use.

PUBLIC WATERS. Any waters of the state, as defined in M.S. § 103G.005, Subds. 14 and 15, as amended from time to time; not including, however, a lake, pond or flowage of less than ten acres in size or a river or stream having a total drainage area less than two square miles. In addition, bodies of water created by private users, where there was no previous shoreland (for a designated private use authorized by the Commissioner of Natural Resource) shall also be considered **PUBLIC WATERS**. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds or flowages shall be the area listed in the Division of Waters, Soils and Minerals Bulletin 25, an inventory of state lakes, or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner. The Commissioner shall have administration over the use, allocation and control of public waters and wetlands. For purposes of statutes other than M.S. §§ 103G.005, 103A.201 and 103G.101, as amended from time to time, the term **PUBLIC WATERS** shall include those wetlands as defined as Types 3, 4 and 5 in the U.S. Fish and Wildlife Circular No. 39 (1971) and are two and one-half acres or larger in size in incorporated areas.

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

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure and property line. Distances are to be measured from the most outwardly extended portion of the structure.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as amended from time to time. 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 State Archaeologist or the Director of the State Historical Society. All unplatted cemeteries are automatically considered to be **SIGNIFICANT HISTORIC SITES**.

STRUCTURE. Anything constructed or erected, the use of which requires a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, decks and other building features, but not including sidewalks, drives, fences and patios.

SUBDIVISION. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

SURFACE WATER-ORIENTED COMMERCIAL USE. 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 the use.

TOE OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOWNHOUSES. Structures housing three or more dwelling units of not more than two stories each and contiguous to each other only by sharing of one common wall, the structures to be of the town or row house type as contrasted to multiple-dwelling apartment structures. No single structure shall contain in excess of eight dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

TRAVEL TRAILER. Any vehicle or structure designed and used for human living quarters which meets all of the following qualifications:

- (a) Is not used as the permanent residence of the owner or occupant;
- (b) Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities; and
- (c) Is towed or otherwise transported, by its own or by other motive power on public streets or highways incidental to the recreational or vacation activity.

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

VARIANCE. A relaxation of the terms of the zoning ordinance where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a ***VARIANCE*** is authorized only for area, size of structure, size of yards, setback and side yard requirements, and parking requirements; establishment or expansion of a use otherwise prohibited shall not be allowed by ***VARIANCE***, nor shall a ***VARIANCE*** be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. 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 the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

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

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

WETLANDS.

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

1. Vegetation belonging to the marsh (emergent aquatic) bog, fen, sedge, meadow, shrubland, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, 1971 Edition):

2. Mineral soils with grey horizons or organic soils belonging to the Histosol order (peat and muck); and

3. Soil which is water-logged or covered with water at least three months of the year.

(b) Swamps, bogs, marshes, potholes, wet meadows and sloughs are wetlands, and properly may be shallow waterbodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable.

(c) The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

YARD. An open space on the lot which is occupied and unobstructed from its lowest level to the sky. A **YARD** extends along a lot line at right angles to the lot line to a depth or width specified in the yard regulations for the zoning district in which the lot is located.

YARD, FRONT. A yard extending across the front of the lot between the side lot lines and lying between the front line of the lot and the nearest line of the building.

YARD, REAR. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

YARD, REAR DEPTH. The mean horizontal distance between the rear line of the building and the centerline of the alley, where an alley exists; otherwise, a rear lot line.

YARD, SIDE. A yard between the side line of the lot and the nearest line of the building and extending from the front lot line of the lot to the rear yard.

ZONING ADMINISTRATOR. The person appointed by the City Council to grant zoning certificates and, following Council approval, conditional uses or variances.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.003 ESTABLISHMENT OF ZONING DISTRICTS AND MAP.

(A) *Establishment of districts.* For the purpose of this chapter, the city is hereby divided into nine zoning districts and four special overlay districts, all of which are described in this chapter. These prescribed district regulations for land use and building and development standards shall be enforced uniformly within each district. The purpose of the district, permitted uses and yard and lot requirements are listed for each general land use district. Any use not permitted by right or located in a city utility easement shall require a conditional use permit.

(1) *Residential districts.* Districts designated for residential use, R-1, R-2 and R-3, are limited to uses normally associated with residential neighborhoods. The uses include schools, churches and parks. However, under the provisions of PUD (planned unit development), planned residential projects are permitted, under conditional use permit, which may include limited business facilities integrated into neighborhood design:

- (a) R-1, Single-Family Residential District;
- (b) R-2, Urban Residential District; and
- (c) R-3, Multi-Family Residential District.

(2) *Agricultural-Open Space District.* This district, A-O, will allow suitable areas of the city to be retained and utilized for low density residential, open space and/or agricultural uses: A-O, Agricultural-Open Space District.

(3) *Commercial districts.* Districts designed for commercial use B-1, B-2 and B-3 are limited to business activities and certain residential uses. Establishment of compact commercial districts provides for more efficient extension of city utilities and services. Most industrial uses are separated from other uses in order to maximize access and reduce hazards typically associated with industrial uses. However, research industrial uses and light industrial uses are permitted if they are of a nature that hazards are not present and they meet specific requirements set forth in this chapter:

- (a) B-1, Neighborhood Business District;

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- (b) B-2, Highway Business District; and
- (c) B-3, Central Business District.

(4) *Industrial districts.* The districts designated for industry, I-1 and I-2, provide suitable space for future industrial development performance standards, parking specifications and yard regulations are set forth in the chapter in order to ensure safe industrial development that is compatible with adjacent uses:

- (a) I-1, Light Industrial District; and
- (b) I-2, Heavy Industrial District.

(5) *Special districts.* The purpose of these districts, FP, W and S, are to promote public health, safety and general welfare. The PUD district is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential, commercial and industrial uses:

- (a) FP, Floodplain District;
- (b) W, Wetlands Systems District;
- (c) S, Shoreland District; and
- (d) PUD, Planned Unit Development District.

(B) *Zoning map.* The location and boundaries of the districts established by this chapter are hereby set forth in the zoning map entitled "Zoning Map of Windom". The map on file with the Zoning Administrator, and hereinafter referred to as the "zoning map", which map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference.

(C) *Annexations.* No annexation petition shall be considered unless and until a hearing has also been petitioned for placing the annexed territory in a zoning district or districts.
(Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.004 DISTRICT USE REGULATION.

Unless otherwise allowed by the provisions of this chapter, it is unlawful to use or permit the use of any building or premises for any purpose other than as stated herein. The use is further subject to all of the terms, limitations and other provisions of this chapter having general or special applications to various uses or classes of uses. No building permit shall be issued for any purpose inconsistent with land uses permitted in the affected district, or inconsistent with a variance or conditional use permit duly granted in accordance with the city code.

(Ord. 125, 2nd Series, passed 12-15-2003) Penalty, see § 152.999

§ 152.005 ZONING ADMINISTRATOR.

(A) An administrative staff member designated by the City Council who shall be responsible for the enforcement of this chapter.

(B) The duties of the Zoning Administrator shall be as follows:

(1) Examine all applications pertaining to the use of land, buildings or structures, take appropriate action on the applications when in conformance with the provisions of this chapter, including granting approval and issuing permits; schedule public hearings when necessary and complete the processing of applications pursuant to the provisions of this chapter;

(2) Attend all scheduled meetings and hearings of the Planning Commission and Zoning Board of Appeals and Adjustments in an ex-officio capacity;

(3) Periodically inspect buildings, structures and uses of land to determine compliance with the provisions of this chapter;

(4) Take any action authorized by this chapter, the city code or other existing laws to ensure compliance with or to prevent violation of the provisions of this chapter;

(5) Keep a record of all non-conforming uses within the zoning districts of the city;

(6) Notify the City Attorney of any violation of a provision of this chapter indicating the nature of the violation; and

(7) Maintain permanent records of all permits, zoning certificates, certificates of zoning compliance, maps, amendments, conditional uses and variances; and, on request, provide information to any person having a proprietary or tenancy interest in any specific property or to any individual seeking an understanding or clarification of the regulations and procedures stipulated in this chapter. (Ord. 125, 2nd Series, passed 12-15-2003)

§ 152.006 SCHEDULE OF FEES, CHARGES AND EXPENSES.

(A) The Council, by resolution, may establish a schedule of fees, charges and expenses and a collection procedure for zoning permits, certificates of zoning compliance, conditional use permits, appeals application and other matters pertaining to this chapter.

(B) This schedule of fees shall be available in the office of the Zoning Administrator and may be altered or amended only by the Council by resolution.

(Ord. 125, 2nd Series, passed 12-15-2003)