

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. SUBDIVISION REGULATIONS

152. ZONING REGULATIONS

CHAPTER 150: BUILDING REGULATIONS

Section

150.01 Building Official

Cross-reference:

Authority of Council over airport buildings, see ' 31.03

Authority of Council over public buildings and property, see ' 31.04

Numbering of houses and buildings, see ' ' 91.80 et seq.

▪ **150.01 BUILDING OFFICIAL.**

(A) *Establishment of office of Building Official.* The Council is hereby authorized when it deems necessary to appoint a Building Official who shall thereafter fulfill all the duties of Building Official under the *Minnesota State Building Code*. His or her appointment shall continue during good behavior and satisfactory service. During the absence or disability of the Building Official, the Council shall designate an Acting Building Official.

(B) *Duties of Building Official.* It shall be the duty of the Building Official to enforce all laws relating to the construction, alteration, removal, and demolition of buildings and structures.

(C) *Liability of Building Official.* The Building Official or any employee charged with the enforcement of this code acting in good faith and without malice on behalf of the city in the discharge of his or her duties shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any omission in the discharge of his or her duties. Any suit brought against the Building Official or employee because of such act or omission committed in the enforcement of any provisions of the code shall be defended by the City Attorney.

(D) *Right of entry.* The Building Official, in the discharge of his or her official duties, and upon proper identification, shall have authority to enter any building, structure, or premises at any reasonable hour.

CHAPTER 151: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS**▮ 151.01 TITLE.**

This chapter shall be known as the “Subdivision Ordinance of the City of Fertile”, and will be referred to herein as “this chapter”.

▮ 151.02 PURPOSE.

This chapter is hereby adopted in order to safeguard the best interests of the city, and to assist the subdivider in coordinating his or her developing plans with the aims and purposes of the city at large. It is the purpose of these regulations to prevent the unregulated, piecemeal development of new subdivisions which in turn might cause undesirable and costly traffic circulation patterns and disrupt the unified scheme of community development as set forth in the approved Comprehensive Plan for the city. In order to accomplish the foregoing, all subdivision of land hereafter submitted for approval to the Planning Commission shall, in all respects, fully comply with the regulations set forth in this chapter. It is the intent of this chapter to provide regulations and requirements for the platting of land within the city pursuant to the authority stipulated in M.S. Chapters 429, 471 and 505, as they may be amended from time to time, which regulations the City Council deems necessary for the health, safety, and general welfare of all residents.

▮ 151.03 JURISDICTION.

The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the city and the unincorporated area within two miles of its limits; provided that where a municipality lies less than four miles from the limits of the city these regulations shall apply only to a line equidistant from the city and the municipality; and provided further, that the governing body or bodies of unincorporated areas adjacent to the city have not adopted ordinances for the regulation of subdivision of land or platting. Copies of resolutions approving subdivision plats of land outside the city but not subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

▮ 151.04 APPLICABILITY OF PROVISIONS.

Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this chapter shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract, or parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or building development, whether immediate or future, including the re-subdivision or replatting of land or lots. Division of land in tracts larger than 2 1/2 acres in area and 150 feet in width shall be exempt from the requirements of this chapter.

Penalty, see ' 10.99

▮ 151.05 DEFINITIONS.

(A) *Rules of interpretation.* For the purpose of this chapter, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word “shall” is mandatory and not discretionary.

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

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

BLOCK. A track bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage, or boundary lines of the corporate limits of the city.

CITY. The City of Fertile.

CITY COUNCIL. The governing body of the City of Fertile.

COMPREHENSIVE PLAN. The group of maps, charts, and texts that make up the comprehensive long-range plan of the city.

DESIGN STANDARDS. The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum, or maximum dimensions of such items as right-of-way, blocks, easements, and lots.

EASEMENT. A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, and gas lines.

FINAL PLAT. A drawing or map of a subdivision meeting all the requirements of the city and in the form required by the county for purposes of recording.

LOT. One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory building, and including as a minimum such open spaces as required.

OWNER. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of any of them.

PARKS AND PLAYGROUNDS. Public lands and open spaces in the city dedicated or reserved for recreation purposes.

PEDESTRIAN WAY. A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and which may be used for the installation of utility lines.

PERCENTAGE OF GRADE. On a street center line, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

PLANNING COMMISSION. Shall consist of the City Council until such time a separate Planning Commission of the city is formed.

PRELIMINARY PLAT. A tentative drawing or map of the proposed subdivision meeting requirements herein enumerated.

PROTECTIVE COVENANTS. Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

ROAD. See AStreet.@

SKETCH PLAN. An informal plan describing the proposed subdivision development drawn prior to the preliminary plat application.

STREET. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

ARTERIAL STREET or THOROUGHFARE STREET. A street used primarily for heavy traffic and serving as an arterial traffic way between the various districts of the community, as shown on the Comprehensive Plan.

COLLECTOR STREET. A street that carries traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts, as shown on the Comprehensive Plan.

CUL-DE-SAC STREET. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

LOCAL STREET. A street which is used primarily for access to abutting properties.

MARGINAL ACCESS STREET. A minor street which is parallel and adjacent to a thoroughfare or highway, and which provides access to abutting properties and protection from through traffic.

STREET WIDTH. The shortest distance between lines of lots delineating the street right-of-way.

SUBDIVIDER. Any person, individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity commencing proceedings under this chapter to effect a subdivision of land.

SUBDIVISION. A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than two and one-half acres in area, or 150 feet in width, for the purpose of transfer of ownership or building developments, or, if dedication of a public street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

TANGENT. A straight line which is perpendicular to the radius of a curve where the tangent meets a curve.

VERTICAL CURVE. The surface curvature on a street, road, or highway center line located between lines of different percentage of grade.

▸ 151.06 COMPLIANCE AS PREREQUISITE FOR BUILDING PERMIT.

No building permits will be issued by the city for the construction of any building, structure, or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this chapter have been fully complied with.

PROCEDURE FOR SUBDIVISION APPROVAL AND RECORDATION**▸ 151.30 SKETCH PLAN.**

(A) Prior to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit for review with the City Administrator staff subdivision sketch plans which shall contain the following information:

- (1) Tract boundaries.
- (2) North point.
- (3) A description of the nature and purpose of the tract.
- (4) Streets on and adjacent to the tract.
- (5) Significant topographical and physical features.
- (6) The proposed general street layout.
- (7) The proposed general lot layout.

(B) The sketch plans will be considered as submitted for informal and confidential discussion between the subdivider and the City Administrator staff. Submission of a subdivision sketch plan shall not constitute formal filing of a plat with the Commission.

(C) As far as may be practical on the basis of a sketch plan, the City Administrator staff will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to ensure conformance.

▪ **151.31 PRELIMINARY PLAT REQUIREMENTS.**

(A) A preliminary plat shall be clearly and legibly drawn on tracing paper, tracing cloth, or mylar of good quality and all prints or copies thereof shall be clear and legible. The size of the tracing should be the same as the size used for the final plat. It shall be at a scale of 100 feet to one inch or more, showing clearly all details thereof.

(B) A preliminary plat, together with such accompanying sheets of data and other materials as are needed for the purpose, shall show the following:

(1) The proposed name of the subdivision, north arrow, scale, and date.

(2) Names and addresses of the owners, lien holders, subdivider, surveyor, engineer, and designer.

(3) Sufficient description to define the location of and boundary of the land to be divided and the location and names of all existing subdivisions, streets (and street widths), and unsubdivided property and ownership adjoining the proposed subdivision, between it and the nearest existing streets and for a distance of not less than 600 feet beyond the boundaries of the subdivision, and zoning on and adjacent to the subdivision; also, photographs, when required by the Planning Commission, identifying camera location, direction of view, and key numbers.

(4) A sketch, approximately to scale, clearly indicating an ultimate street and block layout for the entire ownership, when only a portion is proposed to be subdivided first.

(5) The locations, names, widths, and existing and proposed finished grades of all streets, highways, major thoroughfares, and alleys.

(6) The locations and widths of all easements and rights-of-way for drainage, sewerage, public utilities or railroads, or for other purposes.

(7) Lot lines, with approximate dimensions.

(8) The radii of all curves.

(9) Designation of areas which, before improvements, are subject to inundation or stream water overflow, and the location of all watercourses and drainage ditches.

(10) Proposed uses of the lots and parcels, proposed building setback (front yard) lines, minimum areas for building sites, other area requirements, and bulk and height requirements or restrictions, and an outline of proposed deed restrictions.

(11) Designation of proposed public streets, rights-of-way, easements, and other areas proposed to be dedicated for public purposes, and their purposes.

(12) Locations and types of existing structures, locations of large trees and other ground cover, and contours at an interval of one foot or at an interval of not more than five feet if the latter is acceptable to the Reviewing Authority.

(13) The location and approximate sizes and grades of existing and proposed water, sewer, gas, telephone, and electric lines, sidewalks, curbs, gutters, roadways, paving, tree planting, and other landscaping.

(14) A profile showing existing and proposed center line grades of streets, sidewalks, and gutters, and containing notations as to gradient and vertical curvatures.

(15) A statement of the improvements proposed to be made or installed and of the estimated time of completion of improvements.

(16) The name and address of the person to whom notice of the Planning Commission's hearing on the plat shall be sent.

▪ **151.32 PRELIMINARY PLAT PROCEDURE AND APPROVAL.**

(A) The tracing and four dark line prints of the preliminary plat and the original and four dark copies of sheets of data accompanying the plat shall be filed with the City Administrator, along with written application for conditional approval. The City Administrator, shall issue a receipt for same, dated as of the date of filing. If satisfactory, the original and two copies of everything shall be retained for the Planning Commission, and one copy given to the City Administrator for the City Council.

(B) Under each of the following conditions, an additional copy of everything shall be required in filing and shall be transmitted to the official referred to, with advice to the effect that any recommendations for consideration by the Planning Commission in acting on the plat should be received within 14 days after the date of filing:

(1) When land to be subdivided lies outside the corporate limits of Fertile, the County Highway Engineer of the appropriate county.

(2) When such land abuts on a state trunk highway, the State Highway Commissioner.

(C) Not less than five days before the date of a meeting of the Planning Commission at which a preliminary plat is scheduled for consideration, the City Administrator will so notify by United States mail the subdivider and the record owners of the property immediately adjoining the land within the plat. The Planning Commission shall act on the plat and give due consideration to any recommendations received.

(D) Before approval of a preliminary plat by the Planning Commission, the City Administrator, and City Council shall have reviewed and forwarded recommendation, when necessary, which take into consideration the prospective character of the development of the area included in the plat and of the surrounding territory, and shall be satisfied that the prospective development will conform to the land use or other portions of the Comprehensive Plan, density of population, kinds, widths, and orientation of streets, and kinds, locations, and sizes of other public areas and facilities.

(E) It is the intent of these regulations that the subdivider file for approval of the preliminary plat with the City Administrator, and that the action regarding the approval shall issue from the Planning Commission following consideration at a meeting for which the preliminary plat is scheduled. The consideration shall involve recommendations, if any, from the City Council and the City Engineer, and other concerned officials where necessary.

(F) If the Planning Commission fails to act within a reasonable time as fixed by the Council, the City Administrator shall advise the subdivider of any and all recommendations received with respect thereto and shall negotiate with him or her to the end that such of these recommendations as may be consistent with these regulations shall be satisfied. Thereupon the preliminary plot shall be resubmitted to the Planning Commission for action before the final plat is made.

(G) Conditional approval of a preliminary plat shall not constitute approval of the final plat (subdivision plat). Rather, it shall be deemed to be an expression of approval to the layout submitted on the preliminary plat, and act as an authorization and guide to proceed with the preparation of the final plat. This approval of the preliminary plot shall be effective for a period of six months, unless an extension is granted by the City Council. The subdivider may file a final plat limited to such portion of the preliminary plat which he or she proposes to record and develop at the time, provided that the portion must conform to all requirements of this chapter.

Cross-reference:

Variances requests to be submitted with preliminary plans, see ' 151.85

' 151.33 FINAL PLAT REQUIREMENTS.

(A) The final plat shall be drawn in waterproof black ink on tracing cloth or mylar of good quality, using a sheet or sheets 2 feet by 3 feet in size, and at a scale of 100 feet to one inch or more. When there is more than one sheet, an index sheet shall be attached showing the entire subdivision, including boundary lines and streets, at an appropriate scale, and indicating the separate sheets of the final plat and the sheet number of each. On each sheet, there shall be match marks for matching all adjoining sheets.

(B) The final plat shall show:

(1) The name of the subdivision, scale, north arrow, and date.

(2) The names and addresses of the owners, lien holders, subdivider, surveyor, and designer, and the names of record owners of adjoining unplatted land.

(3) Primary control points, approved by the City Engineer, or descriptions and ties to the control points, to which all dimensions, angles, bearings, elevations, and similar data shall be referred.

(4) Subdivision boundary lines, side and center lines of streets and other rights-of-way, lines of easements, lot lines, and lines of all other sites and of all reservations, with accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves, and minimum building setback lines on all lots and other sites, with dimensions.

(5) The location and a description of monuments. At least three iron or stone monuments shall be placed at some corners in the ground in such a way that the lines between the monument form two or more base lines from which to make future surveys.

(6) The names and widths of streets and other rights-of-way.

(7) Widths and purposes of easements.

(8) Block numbers, consecutive.

(9) Lot numbers, consecutive, starting with the figure A1A in each block.

(10) Dedication of any sites, in addition to streets, rights-of way, and easements, and the purpose.

(11) An owner's-statement offering streets, rights-of-way, and public areas for dedication to the public.

(12) The owner's power of attorney to the subdivider, if the owner is not the subdivider.

(13) A certificate of title or abstract showing ownership.

(14) Other data, certificates, affidavits, and endorsements that may be required by the Planning Commission or by the City Council.

(15) Accompanying the final plat shall be a final plan of all improvements to be installed by the subdivider, with grades and profiles for same as approved by the City Engineer.

(16) A certificate by the City Engineer or other designated authority that all required improvements have been satisfactorily installed or that, in lieu thereof, a surety bond or certified check running to the city in an amount sufficient to cover the cost of completion of all required improvements has been posted.

(17) Accompanying the final plat shall be restrictive covenants, if any, in a form for recording. On the plat shall be written an instrument of dedication which shall be signed and acknowledged by the owner of the land.

(C) The surveyor shall certify under oath on the plat that it is a correct representation of the survey, that all distances are correctly shown on the plat, that the monuments for guidance of future surveys have been correctly placed in the ground as shown, that the outside boundary lines are correctly designated on the plat, and that the topography of the land is correctly shown on the plat.

151.34 FINAL PLAT PROCEDURE AND APPROVAL.*(A) Surveying, staking, and monumenting.*

(1) After review and approval of the preliminary plat by the Council and Planning Commission, the subdivider shall cause the subdivision to be surveyed, staked, and monumented by a qualified land surveyor or registered professional engineer. Where permanent monuments are not already in place, monuments consisting of iron rods at least one-half inch in diameter and 48 inches in length and encased in concrete at least four inches in diameter shall be set at the intersections of all boundary angles of the subdivision and at intersections of street, alley, and boundary lines, all flush with the finished grade except that those within a roadway may be set at sub-grade level.

(2) Iron rods of one-half inch or more in diameter and 24 inches or more in length, set flush with the finished grade, shall be located at the boundary angles, intersections, and points of curvature of all lot, street, alley, and boundary lines, where permanent monuments are not set. Offset markers will be permitted in situations prohibiting the placing of markers in the locations described above. The exact location of all markers shall be shown on the final plat, together with accurate internal angles, bearings, and distances.

(B) Final plat preparation. The plat may then be prepared in final form, and both survey and plat shall conform to the preliminary plat as approved, including the required modifications.

(C) Form of final plat. A final plat shall conform to the requirements herein and any additional requirements of law or ordinance. The plat shall be drawn in waterproof black ink on mylar or tracing cloth of good quality, using a sheet or sheets 2 feet by 3 feet in size, and at a scale of 100 feet to one inch or more. When there is more than one sheet, an index sheet shall be attached, showing the entire subdivision, including boundary and streets, at an appropriate scale, and indicating the separate sheets of the final plat and the sheet number of each. On each sheet there shall be match marks for matching all adjoining sheets.

(D) Submission to City Administrator. The City Administrator shall check the final plat and accompanying data for conformity with the law and city ordinances and with these regulations, and any conditions or modifications of the preliminary plat, and shall also check the plat and survey for required accuracy, before accepting the plat for filing. A traverse of the boundaries of the plat and of all lots and blocks, when computed from field measurements of the ground, must close within a limit of error of one foot to 5,000 feet of perimeter. The final plat and at least four dark line prints thereof, with required data accompanying each, shall be filed with the City Administrator within six months after the date of approval of the preliminary plat.

(E) Approval of the Planning Commission. The final plat shall be submitted, along with written application for approval of the final plat, at least ten days prior to a Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten days after the meeting of the City Planning Commission at which the plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for the action and what requirements shall be necessary to meet the approval of the Commission.

(F) Approval of the Council.

(1) After review and approval of the final plat by the Planning Commission, the final plat, together with the recommendations of the Planning Commission, shall be submitted to the City Council for approval. At least one public hearing shall be held thereon after notice of the time and place thereof has been published once in the official newspaper at least ten days before the day of the hearing. At the hearing all persons interested in the plat shall be heard and the City Council may thereafter approve or disapprove the plat. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, alleys, easements, or other public ways and parks, or other open spaces dedicated to public purposes. Failure of the City Council to act on the application within 60 days after it has been submitted to the City Administrator under division (D) shall be deemed as approval. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the persons applying for approval.

(2) The form of approval by the Planning Commission is as follows:

Approved by the Planning Commission of the City of Fertile this ___ day of _____, 19__.

Signed:

Chairperson

Attest:

Secretary

(3) The form of approval by the City Council is as follows:

Approved by the City of Fertile, Minnesota, this ___ day of _____, 19__.

Signed:

Mayor

Attest:

City Administrator

151.35 REGISTERED LAND SURVEYS.

It is the intention of this chapter that all registered land surveys in the city should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Planning Commission shall first approve the arrangement, sizes, and relationship of proposed tracts in the registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Planning Commission and City Council in accordance with the standards set forth in this chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts unless so approved.

▮ **151.36 CONVEYANCE BY METES AND BOUNDS.**

No conveyance of two or more parcels in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are less than 22 acres in area and 150 feet in width unless the parcel was a separate parcel of record at the effective date of this chapter. Building permits will be withheld for buildings on tracts which have been subdivided and conveyed by this method and the city may refuse to take over tracts as streets or roads or to improve, repair, or maintain any such tracts.

Penalty, see ' 10.99

▮ **151.37 RECORDATION.**

No plat of any subdivision shall be entitled to be recorded in the County Register of Deeds Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this chapter.

▮ **151.38 APPROVALS NECESSARY FOR ACCEPTANCE OF SUBDIVISION PLATS.**

Before any plat shall be recorded or be of any validity, it shall have been approved by the City Planning Commission and by the City Council as having fulfilled the requirements of this chapter.

DESIGN STANDARDS

▮ **151.50 GENERAL DESIGN REQUIREMENTS.**

(A) General design, street pattern, street widths, proposed private and public areas, facilities and uses, and proposed density of population shall conform to applicable plans, ordinances, code provision, and regulations, including: the Land Use Plan, other portions of the Comprehensive Plan, building and zoning regulations, and other applicable regulations, and the Official Map adopted by reference.

(B) Valuable topographic and scenic features and ground cover shall be preserved and retained to the maximum possible extent. Drainage shall be provided for in the subdivision by adequate storm drains or by maintenance of natural drainage channels.

151.51 STREETS.

(A) *Generally.* The arrangement, character, extent, width, grade, and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by the streets.

(B) *Arrangement of streets.* Where such is not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

(2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission and City Council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

(C) *Street patterns.* The street patterns shall be adequate to serve platted lots when developed and shall not be such as to obstruct the development of adjoining unsubdivided lands in conformity with the Comprehensive Plan and platting, existing or proposed, as shown on the Official Map.

(D) *Minor streets.* Minor streets shall be so laid out that their use by through traffic will be discouraged.

(E) *Arterial street areas.* Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and which will afford separation of through and local traffic.

(F) *Railroad and limited access highway rights-of-way.* Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. The distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(G) *Street jogs.* Street jogs with center line offsets of less than 125 feet shall be prohibited.

(H) *Intersection angles.* Streets shall intersect or intercept each other at right angles with variations of not more than 10° permitted when considered necessary.

(I) *Street names.* Names of streets which are extensions of existing streets shall be the same. No street names shall be used which will duplicate or be confused with the names of separate existing streets. Street names shall be subject to the approval of the City Council.

(J) *Corners.* At residential street corners the street lines (property lines) at each corner shall be connected by a circular arc having a radius of not less than ten feet, and the curb lines (or lines designating outside edges of roadways) shall be connected by a circular arc having a radius of not less than 15 feet. At business and industrial corners, these lines shall be similarly connected by arcs or their equivalent chords according to standards approved by the City Council.

(K) *Half-width streets.* Half-width streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

(L) *Street width, length, and turnarounds.* Streets for residential development when of a length of 1,600 feet or more, and dead-end streets when of a length of 800 feet or more, shall be not less than 60 feet in width. When shorter, a lesser width, but not less than 50 feet, may be provided. Dead-end street shall be less than 500 feet in length, wherever possible. The roadway diameter at the dead-end shall be not less than 80 feet and the street property line diameter not less than 100 feet.

(M) *Access.* Unlimited access to railroads, trunk highways, and major thoroughfares, including all limited-access traffic ways, shall be discouraged. Local service streets parallel to any such facility or the rearing of lots upon its right-of-way line with intersections at infrequent intervals only, four or less per mile, and at regular spacing, shall be encouraged.

(N) *Right-of-way widths.*

(1) For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the Comprehensive Plan, and where not shown therein, the minimum right-of-way width for streets, arterial highways, or pedestrian ways included in any subdivision shall be not less than the minimum dimensions for each classification as follows:

<i>Classification</i>	<i>Desirable</i>	<i>Acceptable</i>
Urban expressway	C	138 feet
Principal arterial highway	104 feet	74 - 80 feet
Minor arterial highway	C	75 feet
Collector street	75 feet	66 feet
Local street	C	66 feet
Marginal service access roads	C	50 feet
Alley	C	20 feet
Pedestrian way	C	10 feet

(2) Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of rights-of-way, these shall be required.

(O) *Street grades.*

(1) The grades in all streets, arterial highways, collector streets, minor streets, and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

<i>Classification</i>	<i>Grade</i>
Urban expressway	(as required by the Minnesota State Highway Department)
Principal arterial highway	5%
Minor arterial highway	5%
Collector street	5%
Local street	8%
Alley	8%

(2) In addition, there shall be a minimum grade on all streets and arterial highways of not less than 0.5%.

(P) *Street alignment.* The horizontal and vertical alignment standards on all streets shall be as follows:

(1) *Horizontal.*

(a) The radii of center lines shall be as follows:

<i>Classification</i>	<i>Desirable</i>	<i>Minimum Acceptable</i>
Urban expressway	(as required by the Minnesota State Highway Department)	(as required by the Minnesota State Highway Department)
Principal arterial highway	800 feet	500 feet
Minor arterial highway	800 feet	500 feet
Collector street	500 feet	300 feet
Local street	500 feet	100 feet

(b) There shall be a tangent between all reversed curves of a minimum length as follows:

<i>Classification</i>	<i>Minimum Acceptable</i>
Urban expressway	(as required by the Minnesota State Highway Department)
Principal arterial highway	100 feet
Minor arterial highway	100 feet
Collector street	50 feet
Local street	50 feet

(2) *Vertical.* All changes in street grades shall be connected by vertical parabolic curves of such length as follows:

<i>Classification</i>	<i>Curve Length</i>
Principal or minor arterial highways	30 times the algebraic difference in the percent of grade of the two adjacent slopes
Collector or local street	20 times the algebraic difference in the percent of grade of the two adjacent slopes

(Q) *Dedication of streets.* All proposed streets shall be offered for dedication as public streets, except that private streets may be permitted, following approval of the variance application, within the boundaries of property under one ownership.

▪ **151.52 ALLEYS.**

(A) Alleys may be required at the rear of lots to be used for multiple dwellings, commercial, industrial, and industrial purposes, lots fronting trunk highways, and major thoroughfares and lots needing a secondary means of access.

(B) Alleys shall be not less than 20 feet in width.

(C) Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

(D) Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Planning Commission.

(E) The Planning Commission may recommend, and the City Council require, the placement of alleys in subdivision developments where they would be essential for utilities, services access, or health and general welfare.

▪ **151.53 EASEMENTS.**

(A) An easement for utilities at least six feet wide shall be provided along each side of a side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way at least 12 feet in width. If necessary for the extension of main water or sewer lines, electrical transformer pads, or similar utilities, easements of greater width may be required along lot lines or across lots.

(B) Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council, by ordinance, upon the recommendation of the Planning Commission.

(C) Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

(D) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, a storm water easement, drainage right-of-way, or park dedication, whichever the Planning Commission may deem most adequate, conforming substantially with the lines of the watercourse shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the Planning Commission.

▪ **151.54 BLOCKS.**

(A) The lengths, widths, and shapes of blocks, and lots within blocks, shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses.

(2) Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces.

(3) Needs for convenient access, circulations control, and safety of street traffic.

(4) Limitations and opportunities of topography.

(B) Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. Where residential blocks with lots deeper than 200 feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.

(C) Pedestrian crosswalks not less than ten feet wide shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

▪ **151.55 LOTS.**

(A) The lot size, width, depth, shape, and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(B) Lot dimensions shall conform to the requirements of the Zoning Ordinance and the following:

(1) No residential lot shall be less than 9,000 square feet in area, 75 feet in width at the building line, and 120 feet in depth. A corner lot shall have extra width for setback of a building adequately from both streets. No residential lot not served by public sewer and public water supply shall be less than 22,000 square feet in area, 160 square feet in width, and 135 feet in depth, provided that a lot served by public water supply but not public sewer may have a minimum area of 11,000 square feet, minimum width of 80 feet, and minimum depth of 135 feet.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(C) Ordinarily, side lines of lots shall be at right angles to straight lines and radial to curved street lines.

(D) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome special disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access shall be provided along the line of lots abutting the traffic artery or other disadvantageous use.

(E) The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street for purposes of firefighting, utilities, and other public and quasi-public services.

PROHIBITIONS**▮ 151.70 CONVEYANCE OF UNRECORDED PLATS.**

It shall be unlawful to sell, trade, or otherwise convey or offer to sell, trade, or otherwise convey, any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat of any subdivision or portion of the city unless the plan, plat, or replat shall have first been recorded in the office of the Register of Deeds of the county.

Penalty, see ' 10.99

▮ 151.71 RECEIVING OR RECORDING UNAPPROVED PLATS.

It shall be unlawful to receive or record in any public office any plans, plats, or replats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Planning Commission and the City Council.

Penalty, see ' 10.99

▮ 151.72 MISREPRESENTATIONS AS TO IMPROVEMENTS.

It shall be unlawful for any person, firm, or corporation owning an addition or subdivision of land within the city to represent that any improvement upon any of the streets, alleys, or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the city, when the improvements have not been so constructed, supervised, or inspected.

Penalty, see ' 10.99

ADMINISTRATION AND ENFORCEMENT**▮ 151.85 VARIANCES.**

(A) *Generally.*

(1) The City Council may grant a variance from these regulations following a finding that all of the following conditions exist:

(a) There are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land.

(b) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(c) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(2) In making this finding, the Council shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance as herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

(B) Special application requirements.

(1) Application for any variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission and City Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans, or other additional data which may aid the Planning Commission and City Council in the analysis of the proposed project. The plans for the development shall include any covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan.

(2) In all cases where applications for variance are submitted for conditional approval along with the preliminary plat, the action on the conditional approval shall issue from the City Council. Where a petition for variance is not involved, the Planning Commission may grant conditional approval subject to procedural requirements stated in this chapter.

Cross-reference:

Preliminary plat procedure and approval, see ' 151.32

• 151.99 PENALTY.

Anyone violating any of the provisions of this chapter shall be guilty of an offense punishable by a fine of not more than \$300 and/or by a commitment to jail for a period of not to exceed 90 days. Each month during which compliance is delayed shall constitute a separate offense.

CHAPTER 152: ZONING REGULATIONS

Section

- 152.01 Adoption of Zoning Ordinance
- 152A Zoning regulations

▪ 152.01 ADOPTION OF ZONING ORDINANCE.

(A) Hereby incorporated in the code are all zoning ordinances adopted as of the date hereof and such zoning ordinances as shall be adopted from time to time by the Council.

(B) The City Administrator shall maintain the original zoning ordinances in a separate file in his or her office at all times. Copies of the zoning ordinances shall be provided to members of the public upon request and at nominal charge.

CHAPTER 152A: ZONING REGULATIONS

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SECTION I. IN GENERAL

Subdivision 1. Statutory Authorization

This Zoning Ordinance is adopted pursuant to the authority conferred by the State of Minnesota in the municipal planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

Subdivision 2. Intent and Purpose

This ordinance is intended to serve the following purposes:

- A. To protect and promote the public health, safety, convenience, comfort and general welfare of the City;
- B. To guide the further growth and development of the city in accordance with the comprehensive plan;
- C. To establish minimum standards governing the appearance, condition, maintenance and occupancy of residential and non-residential premises to prevent the creation and growth of depressed areas, slums and blighted conditions, to protect and maintain property values, and to

prevent the necessity in time and the expenditure of large amounts of public funds to correct and eliminate the growth and spread of the aforementioned conditions;

- D. To provide adequate light, air, privacy and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties;
- E. To bring about the gradual conformity of the uses of land and buildings throughout the city through the comprehensive zoning plan set forth in this ordinance, and to minimize the conflicts among the uses of land and buildings;
- F. To promote the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city;
- G. To provide a guide for public policy and action in the efficient provision of public facilities and services and for private enterprises in building development, investment and other economic activity relating to uses of land and buildings throughout the city;

Subdivision 3. Rules.

For the purpose of this Ordinance, the following rules shall apply to the interpretation of the language used herein.

- A. The word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as an
- B. The singular includes the plural and the plural, the singular.
- C. The present tense includes the past and future tense and the future includes the present.
- D. The word *may* is permissive, the words *shall* and *must* are mandatory. Mandatory compliance with the Ordinance shall allow for variances thereto.
- E. All distances expressed in feet shall be to the nearest tenth of a foot, horizontally, or vertically.

Subdivision 4. Application of this Ordinance

- A. The provisions of this Ordinance shall apply to all land within the City of Fertile.
- B. In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements for the promotion of the public health, safety, and welfare. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the more restrictive or higher standard shall apply.

- C. The use of any land; 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 erection or placement of signs; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations. The construction of buildings and sewage treatment systems and the erection or placement of signs shall require a permit unless specifically excluded by the requirements of this Ordinance.
- D. Interpretation of this Ordinance shall be made by the Zoning Administrator, subject to appeal to the Board of Adjustment.

Subdivision 5. Enforcement.

The Fertile City Council shall bear ultimate responsibility for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including failure to comply with special conditions attached to granted conditional uses or variances, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section V, Subdivision 10.

Subdivision 6. Severability.

This Ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is judged to be unconstitutional or otherwise invalid for any reason by a court of competent jurisdiction, such finding shall not affect the remaining portions of this Ordinance.

Subdivision 7. Abrogations and Greater Restrictions.

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

Subdivision 8. Environmental Documents and Concurrent Permits

- A. It shall be the property owner's responsibility to secure necessary concurrent permits such as Minnesota Pollution Control Agency, State Waste Disposal permits, Health Department permits, Minnesota Department of Transportation, Corps of Engineers permits, DNR Water Appropriation permits or other permits as may be required. Approval by the City does not imply approval by other agencies.
- B. The proposer of any project exceeding the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental Review Program or as requested by the Planning Commission, shall submit a draft Environmental Assessment Worksheet (EAW) for the City to review with other pertinent data.

1. The applicant for a permit for any action for which environmental documents are required either by State law or rules or by the Planning Commission shall supply in the manner prescribed by this chapter all unprivileged data or information reasonably requested by the City that the applicant has in his possession or to which he has reasonable access.
2. The applicant for a permit for any action for which an Environmental Assessment Worksheet (EAW) is required either by State law or rules or by the Planning Commission shall pay all costs of preparation and review of the EAW and upon request of and in a manner prescribed by the City shall prepare a draft EAW and supply all information necessary to complete that document.
3. Both the City and the applicant shall comply with the provisions of the rules governing assessment of costs for Environmental Impact Statement (EIS). One copy of these rules is on file in the office of the City Clerk.
4. No permit for an action for which an EAW or EIS is required shall be issued until all costs of the preparation and review are paid and the environmental review process has been completed.
5. The Council and applicant may in writing, agree to a different division of the cost of the preparation and review of any EAW or EIS as provided in 6 MCAR 3.042.
6. The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

Subdivision 9. Use of Pre-existing lots.

Lots of record existing as of the effective date of this Ordinance that do not meet the minimum lot area and lot width requirements, *shall not* be used for the erection of a structure but wherever possible, shall be combined with abutting lots to form standard-sized lots.

Subdivision 10. Non-conforming Uses.

It is the intent of this ordinance to regulate non-conforming uses of structures and lots and to provide for their gradual elimination.

The lawful use of any land or building existing at the time of the adoption of this Ordinance may be continued if they are managed in accordance with applicable state statutes and the following standards, even if such use does not conform to the regulations of this Ordinance, provided:

- A. A non-conforming use of land shall not be enlarged or increased in land area, nor shall a non-conforming use be moved to any part of the parcel of land upon which the same was conducted on the effective date of this Ordinance.
- B. A non-conforming use shall not be enlarged or changed unless changed to a conforming use; such use shall not thereafter be changed to a non-conforming use.
- C. If such non-conforming use ceases for a continuous period of one (1) year, any subsequent use of said building shall be in conformity to the use regulations specified by this Ordinance for the district in which such building is located.
- D. Any structure which represents a non-conforming use shall not be rebuilt or reconstructed to its former use and physical dimensions if damaged fifty percent (50%) of its market value, or more by fire or other peril *and* no building permit has been applied for within 180 days of when the property is damaged. (The municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property).
- E. Alterations may be made to a residential building containing non-conforming residential units when alterations will improve the livability or safety of the unit provided the number of dwelling units in the building is not increased.
- F. The strengthening or restoration of a wall or structural member in a building maintained for non-conforming use is allowed when such action is taken pursuant to a building permit as hereinafter provided.

Subdivision 11. Building Standards. All new structures moved into or built within the city limits of Fertile must meet MN and UBC building codes.

Subdivision 12. Effective date.

This Ordinance shall repeal the previous Chapter 701.10 (Fertile Zoning Ordinance) and shall take effect and be in force on and after

Subdivision 13. Reserved.

Subdivision 14. Definitions

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

ACCESSORY STRUCTURE OR FACILITY. Any building, structure or facility incidental to another structure or facility on the same lot which, because of its nature, can reasonably be located at or greater than normal structure setback. Examples of such structures and facilities include but are not limited to: Swimming pools; tennis courts; saunas; solar collectors; wind generators; satellite dishes; detached garages; storage buildings; and recreational trailers and vehicles.

ACCESSORY USE. Any use which is incidental to the principal use of a lot.

ADMINISTRATOR. The administrator of the Fertile Zoning Office or its authorized agent or representative.

ADULT USES/ADULT ORIENTED BUSINESS. Adult use is defined as one in which there is an emphasis on the presentation, display, depiction or description of 'specified sexual activities' or 'specified anatomical areas.' "Specified sexual activities" and "specified anatomical areas" are enumerated in some detail.

ADULT USE - ACCESSORY. The offering of goods or services which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods or services offered by the establishment.

ADULT USE - PRINCIPAL. An establishment having more than 10% of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from, any adult use.

AGRICULTURE. The use of land for agricultural purposes including: farming; dairy; pasturage; horticulture; floriculture; viticulture; animal and poultry husbandry (not including feedlots) and the necessary accessory uses for packing, crating and storing the produce, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural activities. The term shall include incidental retail selling by the producer of the products raised on the premises providing customer parking space is located off the public right-of-way.

AGRICULTURAL STRUCTURE. Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

AIRPORT. Any area of land designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

ALLEYS. Any dedicated public (or private) way less than 30 feet in width, providing a secondary means of access to land or structures thereon.

AWNINGS. A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework (compare "Marquee").

BALCONIES. (See Deck).

BED AND BREAKFAST. A building occupied as a more or less temporary accommodation for individuals who are lodged, with or without meals, in rooms occupied singly or for remuneration, with or without dining facilities, and including not more than four sleeping rooms intended to provide such accommodations.

BOARDING AND ROOMING HOUSE. A business establishment which provides sleeping and living quarters (but not individual cooking facilities) in an immovable structure on a weekly or monthly commercial basis. A rooming house shall not include congregate dining facilities.

BUILDING. Any structure, either temporary or permanent, having a roof or other covering, and designed or used for the shelter or enclosure of any person, animal or property of any kind including tents, awnings or vehicle situated on private property and used for purposes of a building. It is not the intention of the ordinance to include any of the following structures: 1) temporary storage sheds or tents or awnings intended for resale or used for display or promotional purposes and having no permanent footings, slab or other foundation; 2) dog houses of less than 25 square feet and designed for one animal and having no permanent footings, run or slab or other foundations; 3) tents or other awnings used only for recreational purposes; and 4) storage sheds, wood sheds or awnings having an overall floor or surface area of less than 25 square feet and having no permanent footings or slab or other foundation.

BUILDING HEIGHT. The vertical distance from the established average finished grade at the building line to the highest point of a structure, excluding chimneys, antennas, or other similar projections.

BUILDING LINE. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices, eaves, and other ornamental features projecting from the walls of the building or structure, provided they do not project more than 5 feet into the required front or rear yard and not more than 3 feet or 50% of the required side yard, whichever is less.

CAMPGROUND: A land use consisting of designated campsites with appropriate facilities designed for temporary occupation by tents or recreational vehicles with single ownership, management services and with site rentals.

CANOPIES. A rigid multi-sided structure covered with fabric, metal or other material and supported by a building at one or more points or extremities and by columns or posts embedded in the ground at other points or extremities. May be illuminated by means of internal or external sources. (compare "Marquee").

CARPORT. An accessory roof-like structure, either attached to or detached from an allowable primary building, enclosed on not more than two sides, designed to provide cover for off-street vehicle parking.

CAR WASH. A lot on which motor vehicles are washed or waxed either by the patrons, or by others, using machinery specially designed for that purpose.

CHURCH. A building wherein persons regularly assembly for religious worship, which is used only for such purpose and those accessory activities as are customarily associated therewith.

CITY COUNCIL. The Fertile City Council.

CLEAR CUTTING. The removal of an entire stand of trees.

CLINIC. A place where medical, dental, optometry, chiropractic, psychiatric, or nursing care is furnished to person on an out-patient basis by one or more licensed professionals.

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

CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location, or relation to neighborhood, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in listed zoning districts upon application to the Planning Commission.

COOPERATIVE HOUSING. One or more residential units in a building or buildings owned or leased by a corporation, association, organizations, or other legal entity, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in such entity to occupy said residential units.

DAY CARE FACILITY. A facility designed or operated to provide care to children in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24 hour day.

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 six inches above ground. All decks are considered a part of the principal structures and shall, therefore, meet all structure setback provisions.

DUPLEX, TRIPLEX AND QUAD. Dwelling structures on a single lot having two, three and four units respectively, being attached by common walls and each unit having separate sleeping, cooking, eating, living and sanitation facilities.

DWELLING SITE. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING UNIT. 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.

DWELLING, SINGLE FAMILY. A structure, designated or used for residential occupancy by one family.

DWELLING, MULT-FAMILY. A structure designed or used for residential occupancy by more than one family, with or without separate kitchen or dining facilities, including apartment houses, boarding and rooming houses, boarding hotels, duplexes, triplexes, and townhouses.

DWELLING, TWO FAMILY. A structure, designated or used for residential occupancy by two separate and distinct families, including duplexes.

EASEMENT. A grant by a property owner for specified use of land by a corporation, the public or specified persons.

ENVIRONMENTAL ASSESSMENT WORKSHEET (EAW). A brief document, in worksheet format, that helps local governments determine if a proposed action is a major action with a potential for significant environmental effects, but also to consider alternatives and to institute methods for reducing environmental effects. A screening tool to determine whether a full environmental impact statement is needed.

ENVIRONMENTAL IMPACT STATEMENT (EIS). An in-depth analysis used for major development projects that will significantly change the environment. The statement covers social and economic influences, as well as environmental impact, and looks at alternate ways to proceed with the project.

EXTERNAL SOLID FUEL-FIRED HEATING DEVICE (Outdoor Furnaces). A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning, corn-burning or pellet-burning fireplaces or wood stoves in the interior of a dwelling.

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 Minnesota Statutes, Sections 93.44 through 93.51.

FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, including foster children or a group of not more than five (5) persons some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household, but not including sororities, fraternities or other similar organizations.

FAMILY DAYCARE. Any day care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.

FLOOR AREA. Total gross area of all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, and attics without floors, and open porches, balconies and terraces.

FLOOR AREA PERCENTAGE. The total floor area divided by the total lot area.

FLOOR SPACE. The floor area of all floors as measured from the inside surfaces of the walls enclosing the portion of a building occupied by a single occupant or shared by a distinct group of occupants, excluding common halls, stairwells, sanitary facilities, storage, and other areas to which patrons do not have regular access.

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

GARAGE. A fully enclosed accessory building designed or used for the storage of motor vehicles, equipment or tools, not including buildings in which fuel is sold or in which repair or other services are performed.

GAS STATION. A place where motor vehicle fuel is sold at retail.

GRADE. The average elevation of the finished ground at the exterior walls of the main building.

GROUND COVERAGE PERCENTAGE. The percentage of lot area included within the outside lines of exterior walls of all buildings located on the lot and including: porches, decks, breezeways, balconies, and bay windows.

GROUP FAMILY DAY CARE. Daycare for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence.

GROUP FAMILY HOME. Any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.

HARDSHIP. As defined in M.S. Chapter 462, a hardship exists when the property in question cannot be put to reasonable use under the strict interpretation of the official controls; the plight of the landowner is due to circumstances unique to his property and was not created by the landowner; and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

HOME OCCUPATION. A use conducted entirely within an enclosed dwelling, which is clearly secondary and incidental to residential occupancy, and which does not change the character thereof. Specifically excluded are any activities which result in an alteration of a building, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from outside of the lot on which such use is located.

HOTEL/MOTEL. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than three (3) sleeping rooms, with no cooking facilities in an individual room or apartment.

HOUSING WITH SERVICES ESTABLISHMENT. An establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services or an establishment that registers under MN Statutes, section 144D.025. (see MN Statutes 2006-144D.01.)

INDIVIDUAL SEWAGE TREATMENT SYSTEM. A sewage treatment system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise

indicated, the word "system", as it appears in this Ordinance, means an individual sewage treatment system.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INTENSIVE VEGETATIVE CLEARING. The substantial removal of trees or shrubs in a contiguous patch, strips, row or block.

JUNKYARD. A place maintained for keeping, storing, or piling in commercial quantities, whether temporary, irregularly or continuously; items to be bought or sold at retail or wholesale which from its second-hand or worn condition render it practically useless and commonly classed as junk.

KENNEL. Any lot or premises on which five or more dogs or cats aged six months or older are kept, either owned or boarded, either permanently or temporarily.

LAUNDROMAT. A place where patrons wash, dry or dry clean clothing or other fabrics in machines operated by the patron.

LIGHT MANUFACTURING. The manufacture predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing and custom manufacturing.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

LOT AREA. The area of land within the boundaries of a lot, excluding that portion of a lot which is below the ordinary high water level.

LOT LINE. A line dividing one lot from another lot or from a street or alley.

LOT LINE - FRONT. That boundary of a lot which abuts an existing or dedicated public street.

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, connecting the side lot lines and parallel to the front lot line.

LOT LINE - SIDE. Any boundary of a lot which is not a front lot line or a rear lot line.

LOT OF RECORD. Any lot which is one (1) unit of a recorded plat designated by auditors plat, subdivision plat, or other accepted means and separated from other parcels or portions of said description for the purpose of sale, lease or separation thereof that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.

LOT WIDTH. The horizontal distance between the side lot lines of a lot measured at right angles to the depth.

MARQUEES. A permanent roof-like structure or canopy of rigid materials supported by and extending from the façade of a building. (compare “Awning”).

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacture voluntarily files a certification required by the secretary and complies with the standards established under M.S. Chapter 327. Manufactured homes shall be treated as single family housing units if they meet the requirements set forth in Section IV, Subdivision 10. No manufactured home shall be moved into the City of Fertile that does not meet the Manufactured Home Building Code as defined by Minnesota Statutes.

MANUFACTURED HOME PARK any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosed used or intended for use as part of the equipment of the manufactured home park. Sales lots on which automobiles or unoccupied manufactured homes, new or used, are parked for purposes of inspection or sale are not included in this definition. For purposes of this Ordinance, manufactured home parks shall be considered a conditionally permitted use.

MINING. The use of land for surface or subsurface removal of metallic minerals and peat as regulated under Minnesota Statutes, Sections 93.44 through 93.51.

MULTIPLE-FAMILY. A district intended for apartments, townhouses, dormitories and other buildings for two or more dwelling units.

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

NURSING HOME. A structure used for residential occupancy and providing limited medical or nursing care for occupants on the premises, but not including a hospital, clinic, or mental health center.

OFF-SITE ADVERTISING SIGN. A sign that is located on a lot, tract or parcel of land that is a lot, tract or parcel other than the one on which the goods or services being advertised are sold.

ON-SITE ADVERTISING SIGN. A sign, free standing, attached, or painted, located on the property where the goods or services being advertised are available.

PERFORMANCE BOND. A bond which may be required by the City Council, Planning Commission, or Board of Adjustment to insure the completion of any activity falling under the jurisdiction of this Ordinance.

PLANNING COMMISSION. Shall consist of the City Council until such time a separate Planning Commission of the city is formed.

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

PROFESSIONAL OFFICES. Offices of occupations involving the dispensation of a service that involves either some skill or knowledge, or that requires connections to other businesses not easily or readily available to the general public (examples are doctors, lawyers, architects, financial services, stockbrokers, engineers, etc.) A distinction is made between purveyors of professions and purveyors of merchandise or repair of articles.

PUBLIC USE. A use by any agency or department of the city, county, state or federal government. This shall also include public utilities or uses by any organization that receives funding either all or in part from any agency or department of the city, county, state or federal government. This shall also include buildings and premises used in the operation of the public use. Public parks and schools shall also be included as public uses.

RECREATIONAL VEHICLE. Any vehicle or vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreation or other vacation use.

RECREATIONAL VEHICLE CAMPGROUND. Any area, whether privately or publicly owned, used on a daily, nightly, weekly or longer basis for the accommodation of five or more tents or recreational vehicles, either free of charge or for compensation.

RESIDENTIAL OCCUPANCY. Those activities customarily conducted in living quarters in an urban setting, and excludes such activities as the keeping of livestock or fowl, activities resulting in noise which constitutes a nuisance in a residential area and activities which involve the storage, visible from off the lot, of motor vehicle parts, machinery or parts, junk or scrap materials and excludes the keeping on any lot of more than four household pets per family, but this shall not be construed to prevent the keeping of the litter of a household pet until able to be separated from their mother.

RESTAURANT. Premises at which food or beverages are cooked or prepared and offered for sale, and where consumption is permitted on the premises, whether or not entertainment is offered, including establishments commonly known as: bars, grills, cafes, taverns, nightclubs, drive-ins and fast-food establishments permitting on-site consumption.

SEMI-PUBLIC USE. The use of land by a private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. 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.

SEPTIC TANK. Any water tight, covered receptacle designed and constructed to receive the discharge of sewage from a building's sewer, to separate solids from liquids, digest organic matters, and store liquids for a period of detention, and allow the liquids to discharge to a soil treatment system.

SETBACK. 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. A system whereby septic tank effluent is treated and disposed of below the ground surface by filtration and percolation through the soil. This includes those systems commonly known as: seepage bed; disposal field; and mounds.

SEWER SYSTEM. Pipelines, conduits, pumping stations, force main and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial or other wastes to a point of ultimate disposal.

SIGNIFICANT HISTORIC SITE. Any archeological 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 Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

STACKS OR CHIMNEYS. Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially, the part of such a structure extending above a roof.

STEEP SLOPES. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the soil characteristics of the site, 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 Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve percent, as measured over horizontal distances of fifty feet or more, that are not bluffs.

STREET. A public way which affords the principal means of access to abutting property.

STRUCTURE. Any building or appurtenance, including decks, but not including aerial or underground utility lines such as; sewer, electric, telephone, telegraph, gas lines, towers, poles, or other supporting facilities.

SUB-DIVIDER. Any person who undertakes the subdivision of land as defined herein. The subdivider may be the owner or the authorized agent of the owner of the land to be subdivided.

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

TEMPORARY STRUCTURE. Any structure which has been erected or moved onto a lot in order to be utilized for any purpose for a period not to exceed six (6) months. Any structure which is not a temporary structure is considered a permanent structure and must comply with all provisions of this Ordinance.

TOWNHOUSE. A single-family dwelling unit attached to one or more other units by a common wall or walls but having its own private entrance. Townhouses may be located so that all dwelling units are on the same lot or so that each dwelling unit has its own lot. The term “end” when used in connection with a townhouse refers to the end unit which has only one abutting wall with another unit. The term “interior” when used in connection with a townhouse refers to a unit located and abutting two other units.

TWINHOME. Two single-family dwelling units each occupying its own lot, but attached to one another or abutting one another at the lot line.

VARIANCE. Relief from certain provisions of this Ordinance when, due to the particular physical surroundings, shape or topographical condition of the property, compliance would result in a hardship upon the property owner. A hardship is distinguished from a mere inconvenience or a desire to increase the value of the property. A variance shall not be used to permit a use in a district where it is not allowed under the terms of the Ordinance. Variances shall only be granted in compliance with M.S. 462.

WATER SUPPLY PURPOSE. Any use of water for domestic, commercial, industrial or agricultural purposes.

WETLAND. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition).

YARD. The area between any lot line and the setback required therefrom.

YARD, FRONT. (See also lot line front.) A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.

YARD, REAR. A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. Rear yard depth shall be measured at right angles to the rear line of the lot.

YARD, SIDE. A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side-yard width shall be measured at right angles to side lines of the lot.

ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ZONING ADMINISTRATOR. The Zoning Administrator of the City of Fertile is the City Administrator, or an authorized agent or representative including the Public Works Director and Deputy Administrator.

SECTION II. ESTABLISHMENT OF ZONING DISTRICTS

Subdivision 1. Establishment of Zoning Districts.

The development of the City of Fertile shall be controlled by means of zoning districts. The following zoning districts are created in order to promote the orderly development of land within the City of Fertile. The City of Fertile is hereby divided into the following districts which shall be known by the following respective symbols or names:

- A. (R-1) Single Family Residential District
- B. (R-2) Multiple Family Residential District
- C. (P) Public Use District
- D. (C) Central Business District
- E. (C-1) Commercial-Industrial District
- F. (I) General Industrial District
- G. (A) Agricultural District

Subdivision 2. Zoning Map.

The official City of Fertile Zoning Map is located at City Hall, Fertile, Minnesota. This map is hereby adopted by reference. A copy of this map, showing the location of all zoning districts within the City of Fertile, is provided on the following page.

Subdivision 3. Interpretation of Zoning Map.

Where there is uncertainty, contradiction or conflict as to the location of any zoning district boundary line, whether due to scale, illegibility or lack of detail of the zoning map, the Zoning Administrator shall make such interpretation and determination. Any person aggrieved by such interpretation may appeal such interpretation to the City Council who shall make the final determination, subject to appeal to the District Court. The Zoning Administrator and the City Council, in interpreting the official zoning map, and in deciding appeals of such determinations, shall apply the following standards:

- A. Zoning district boundary lines are intended to follow lot lines, or to be parallel or perpendicular thereto, or along the centerline of streets, alleys, rights-of-way, or along the ordinary high water level of public waters, unless such boundary lines are clearly designated otherwise on the Zoning Map;
- B. Where zoning district boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines; and
- C. Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by use of the map scale on the Official Zoning Map.

Subdivision 4. Reserved.

SECTION III. ZONING DISTRICT REQUIREMENTS

Subdivision 1. Averaging Setbacks.

In the (R-1) Single Family and (R-2) Multiple Family Residential Districts, where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one (1) adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of the adjacent structure. The front setback required by this section shall not be less than twenty (20) feet. All setback distances shall be measured from the appropriate lot line.

Subdivision 2. Distance between buildings.

No more than one principal building may be located on one lot in a residential district. In other districts, each principal building shall be a minimum of five (5) from any other principal building on the lot.

Subdivision 3. (R-1) Single Family Residential District.

A. *Statement of Intent.* The R-1 District is intended for low density residential development in those areas where such development fits the Comprehensive Plan and policies, and where municipal utilities are available. Front yards shall be landscaped and no off-street parking shall be permitted except as would be characteristic and in harmony with the purposes of an R-1 District.

B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.

1. Single family dwellings.
2. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons.
3. Licensed day care facility serving 12 or fewer persons.
4. Group family day care facility licensed under MN Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children.
5. Accessory uses to permitted principal uses. (*see D in this Subdivision*)

C. *Conditional uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.

1. Two family dwellings.
2. Parks and recreational areas owned or operated by governmental agencies.

3. Educational institutions limited to elementary, middle and senior high schools; and religious institutions such as churches, chapels, temples and synagogues provided that no building shall be located within 50 feet of an abutting lot in any residential district.
4. Grain or vegetable farming or gardening on unplatted land assessed as agricultural land but not involving a sales structure.
5. Home occupations and offices – *(see Section IV, Subdivision 9 for regulations and exemptions.)*
6. Public golf courses public swimming pools, private recreational clubs, and tennis courts except those operated for commercial purposes.
7. Governmental and public administrative and utility buildings and structures necessary for the health, safety and general welfare of the community.
8. Golf clubhouse, commercial country club, commercial swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within 50 feet of any lot in a residential district.
9. State licensed residential facility or a housing with services establishment registered under Chapter 144D serving 7-16 persons.
10. Licensed daycare facility serving 13-16 persons.
11. Bed and breakfast facilities.
12. Outdoor furnaces that meet the requirements of Section IV, Subdivision 8.
13. Accessory uses and structures to the above permitted uses and per D. below.

D. *Accessory Uses.* The following are requirements for accessory uses in residential districts:

1. The total maximum square footage allowed for all accessory buildings on a lot shall be one (1) square foot of building for every ten (10) square feet of lot area.
2. No accessory building or structure shall be constructed on any lot in the residential districts prior to the construction of the principal building to which it is accessory. *(An exception to this may be made when both the accessory and principal structure are built with the same land use permit and within the permitted one year time period.)*
3. The following accessory uses shall be permitted in any residential district, if the uses do not alter the character of the premises in respect to their use for the purposes permitted in the district:
 - a) Private garage or carport, with a maximum height of eighteen (18) feet.
 - b) Private swimming pools when completely enclosed within a chain link or similar fence five or more feet high.
 - c) Boarding or rental of rooms to not more than two people on a premises.

- d) Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations and other applicable ordinances of the City.
- e) Off-street parking as regulated by Section IV, Subdivision 20.
- f) Parking of one commercial motor vehicle of not over 26 foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent.

E. Yard & Structure Requirements for Single Family (R-1) Residential District		
		All Uses
1.	Lot area minimum sq. ft	7,000 sq. ft.***
2.	Lot width minimum ft	75' (50' curvilinear streets/75' at building line)
3.	Lot depth minimum ft.	120'
4.	Maximum lot coverage	30%
5.	Front yard minimum	25'
6.	Side yard minimum	10'
7.	Street side yard minimum	15'
8.	Rear yard min/alley	25% of lot depth
9.	Maximum height	35'*
10.	Minimum width of structures	20'**

Church spires, belfries, domes which do not contain usable space, chimneys and similar structures not intended for human occupancy, may be of any height which does not conflict with airport requirements.

*** Manufactured homes located in a manufactured home park are excluded.*

****All lots platted after June 30, 2010 shall have a minimum of 9,000 square feet.*

Subdivision 4. (R-2) Multiple Family Residential Use District.

- A. *Statement of Intent.* The R-2 District is intended for apartments, townhouses, dormitories and other buildings for two or more dwelling units in those areas where such development fits the Comprehensive Plan, where properly related to other land uses and thoroughfares, and where adequate municipal utilities are available. Front yards shall be landscaped and no off-street parking shall be permitted except as would be characteristic and in harmony with the purposes of an R-2 District.
- B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.
- 1. All permitted uses allowed in the R-1 District.
 - 2. Two-family dwelling units.
 - 3. Multiple dwellings, apartment buildings, twinhomes, townhouses, condominiums and group houses.
 - 4. Accessory uses to permitted principal uses. *(see D in this Subsection)*

C. *Conditional uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.

1. All Conditional Uses as allowed in the R-1 District.
2. Boarding or lodging houses.
3. Hospitals, convalescent and nursing homes, elderly housing projects including assisted care facilities, clinics and professional offices.
4. Institutions of a religious, educational, charitable or philanthropic nature.
5. Manufactured home parks (see Section IV, Subdivision 19 for performance standards).
6. Accessory uses or buildings customarily incidental to the uses permitted in this section and per D. below.

D. *Accessory Uses.* The following are requirements for accessory uses in residential districts:

1. The total maximum square footage allowed for all accessory buildings on a lot shall be one (1) square foot of building for every ten (10) square feet of lot area.
2. No accessory building or structure shall be constructed on any lot in the residential districts prior to the construction of the principal building to which it is accessory. *(An exception to this may be made when both the accessory and principal structure are built with the same land use permit. The accessory structure may be built first, within the one year permitted time period.)*
3. The following uses shall be permitted in any residential district, if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the district:
 - a) Private garage or carport, with a maximum height of eighteen (18) feet.
 - b) Private swimming pools when completely enclosed within a chain link or similar fence five or more feet high.
 - c) Boarding or rental of rooms to not more than two people on a premises.
 - d) Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations and other applicable ordinances of the City.
 - e) Off-street parking as regulated by Section IV, Subdivision 20.

E. Yard & Structure Requirements for Multiple Family Residential (R-2) District			
		One & two family	Multi-family
1.	Lot area minimum sq. ft	7,000 sq. ft.*	10,000 sq. ft. plus 2,000 sq. ft. for each unit over 2
2.	Lot width minimum ft	75' (50' curvilinear streets/75' at building line)	85'
3.	Lot depth minimum ft.	120'	125'
4.	Maximum lot coverage%	30%	35%
5.	Front yard minimum	25'	25' ¹
6.	Side yard minimum	10'	15' ²
7.	Street side yard minimum	15'	25' ¹
8.	Rear yard min/alley	25% of lot depth	25% of lot depth
9.	Maximum height	35' ³	45' ³
10.	Minimum width of structures	20' ⁴	20' ⁴

¹for buildings exceeding 30 feet in height, a minimum of 25' plus one (1) foot for each one (1) foot of building height over thirty feet

²for buildings exceeding 30' in height, a minimum of 15' plus one (1) foot for each one (1) foot of building height over thirty feet

³church spires, belfries, domes which do not contain usable space, chimneys and similar structures not intended for human occupancy, may be of any height which does not conflict with airport requirements.

⁴Manufactured homes located in a manufactured home park are excluded.

* All lots platted after June 30, 2010 shall have a minimum of 9,000 square feet.

Subdivision 5. (P) Public Use District.

- A. *Statement of Intent.* The Public Use District includes land which is currently in the public domain and which is the location of actual or planned facilities intended to serve the public; to permit orderly and economic development of public service utilities and schools within such a "Public Use" district.
- B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.
1. Parks: Recreational, Neighborhood, and Natural Preserves.
 2. School: Public or Private and accessory facilities
 3. Utilities: Public and Private Utilities in compliance with all local, state, and federal regulations.
 4. Offices of local, county, state or federal agencies serving the public.
 5. Public libraries or museums.
 6. Public sports centers, civic centers.
 7. Public golf courses.
 8. Cemeteries.
 9. Other public works and public works buildings.

- 10. Fire and Police Stations.
- 11. Accessory uses to the above permitted uses.

C. *Conditional uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.

- 1. Airport: public and/or private.
- 2. Campground: public or private.
- 3. Treatment Plants: Sewage or water.
- 4. Public geriatric centers & institutes/housing for the care of the aged.
- 5. Public animal shelters.
- 6. Accessory uses to the above uses.

D. *Accessory Uses:* Uses incidental to and in the same zoning district as the principal use are allowed.

E. *Yard and Structure Requirements for (P) Public Use District*

The following requirements shall be observed:

- 1. *Minimum Lot Size:* Front yards, Side yards, Rear yards, Setbacks, and Maximum Height - all proposed developments, whether new or expansions of existing uses, shall be reviewed and approved by the Planning Commission on matters related to lot sizes, setbacks, side yards, etc.
- 2. *Maximum Lot Coverage:* 65%
- 3. *Buffer Required:* Where a Public Zone District is located adjacent to another district in which the principal permitted use is clearly in conflict with or may be negatively affected by a permitted use in the Public Zone District, the Planning Commission may require buffer strips or other landscaping and related measures as may be necessary to protect the public interest and/or to comply with the spirit and intent of this ordinance. (*See Section IV, Subdivision 26.*)

Subdivision 6. (C) Central Business District.

A. *Statement of Intent.* This district is intended for retail stores, professional offices, financial institutions, and general offices which are mutually compatible and can benefit from and contribute to a compact shopping area serving the City and the surrounding area. It is also intended to be a setting conducive to and safe for a high level of pedestrian traffic.

Fertile - Land Usage

- B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.
1. Retail businesses including drug stores, hardware stores, carpet and furniture stores, gift stores, jewelry stores, book stores, floral shops, pet stores, antique stores, music and dance studios, apparel shops, showrooms for articles to be sold at retail.
 2. Personal services including dry cleaning and laundry establishments, laundromats, barber and beauty shops, and shoe repair shops.
 3. Equipment services including radio and televisions shops, and electrical appliance shops.
 4. Food services including meat markets, fruit and vegetable markets, candy shops and bakeries whose products are sold at retail on the premises.
 5. Professional services including but not limited to postal stations, attorneys, accountants, and similar offices.
 6. Offices of local, county, state, or federal agencies serving the public.
 7. Public works buildings and fire and police stations.
 8. Accessory uses to permitted principal uses.
- C. *Conditional Uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.
1. Any professional service or retail establishment not specifically allowed as a permitted use in this district, e.g. plumbing and heating shops.
 2. Churches.
 3. Grocery stores, supermarkets and restaurants.
 4. Banks.
 5. Medical clinics.
 6. Multi-family housing provided that such dwelling units are located above or behind commercial or office establishments; subject to the following conditions:
 - a. Any apartment shall be provided with private access, other than through a business.
 7. Entertainment businesses, such as, bowling alleys, bars, theatres, and health clubs.
 8. Offices of veterinary and animal clinics, kennels.
 9. Drive-in Restaurants.
 10. Liquor stores.
 11. Gas stations and auto repair shops.
 12. Accessory uses and structures incidental to the permitted Conditional Use.
- D. *Additional Regulations*
1. Lighting (glare) shall be directed away from the public right of way and residential districts.
 2. Awning, canopies or marquees suspended from a building may extend over the

public right of way a maximum of ten (10) feet but no closer than within two (2) feet of the curb line. Such structures shall be not less than eight (8) feet from the sidewalk or ground grade line. The owner of such structure assumes liability for the maintenance of said structures and must maintain them in a manner that will not jeopardize the health, safety and welfare of the public. This includes the removal of snow and ice build up that may occur during winter months.

E. Yard and Structure Requirements for Central Business (C) District		
1.	Lot area minimum	None required except to provide off-street parking and loading where applicable (see Section IV, Subdivision 20- Parking Regulations)
2.	Lot width minimum ft.	None required
3.	Maximum lot coverage	None required
4.	Front yard minimum	0' ¹
5.	Side yard minimum	0' ²
6.	Rear yard min./alley	0' ³
7.	Maximum height	45'

¹In the C district, awnings, marquees, canopies, balconies, decks and roof extensions shall be allowed to extend beyond the 0' front setback, over the sidewalk (public right-of-way) upon meeting the requirements of this section (see D Additional Regulations above)
²where the commercial district abuts a residential district, there shall be a side yard setback of 20'.
³where a commercial district abuts a residential district, there shall be a rear yard setback of 20'.

Subdivision 7. (C-I) Commercial – Industrial District

A. *Statement of Intent.* This district is established to provide suitable locations for commercial retail and wholesaling uses, administrative, light manufacturing, and related activities which can maintain high standards in appearance and limit external nuisance effects such as noise, odors, smoke and vibration.

B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.

1. Animal hospitals, kennels, and training runs.
2. Armories, convention halls, or exhibition halls.
3. Bakeries (where wholesale is over 75% of total sales).
4. Bottling establishments.
5. Bowling alleys, billiard or pool halls.
6. Building materials sales and storage establishments.
7. Bus stations with service and/or garage facilities.
8. Cabinet, carpenter, upholstery or furniture repair shops.
9. Dry cleaning, dyeing and laundry establishments.
10. Electrical and electronic manufacturing establishments, electrical service shops.
11. Engraving, printing, publishing, cartographic and bookbinding establishments.

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12. Frozen food lockers for family or commercial storage purposes.
13. Grocery, fruit, vegetable and meat wholesale and retail establishments.
14. Greenhouses, nurseries and garden supply stores.
15. Laboratories, medical dental and optical.
16. Lumber sales and yards.
17. Miniature golf courses, par three golf courses or archer or golf driving ranges operated for commercial purposes.
18. Monuments, processing and sales.
19. Mortuaries, vault and casket establishments.
20. Motels and hotels.
21. Municipal and government buildings.
22. Newspaper distribution agencies and printing shops.
23. Public utility structures.
24. Plumbing, heating and air-conditioning shops, service and showrooms.
25. Radio and television service and repair shops.
26. General retail sales establishments.
27. Restaurants.
28. Sports centers, skating rinks.
29. Theaters.
30. Light assembly and light manufacturing operations.
31. Railroad rights of way.
32. Churches, temples, chapels, synagogues, cathedrals and shrines.
33. Trade or business schools.
34. Group daycares.
35. Accessory uses and structures to the above permitted uses.

C. Conditional Uses. The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.

1. Any business or manufacturing activity of the same general nature as those listed in this Section under Permitted Uses.
2. Multiple dwelling units and complexes.
3. New or used automobile sales or storage lots, new or used implement sales or storage lots, car washes, automobile gas and service stations or repair shops (including auto body) and marine and boat sales display and servicing establishments.
4. Campgrounds (see Section IV, Subdivision 28)
5. Drive-in restaurants, drive-in theaters, or similar uses that provide goods and services to patrons in automobiles.
6. All of the above uses must comply with the requirements below:
 - a. The parking lot shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, screening of exterior storage lots, and parking stalls shall accompany the request for a conditional use permit (see Section IV, Subdivision 24 - Traffic Control).
 - b. Artificial lighting and glare shall be directed away from any public right-of-way and any residential district.

- c. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.
- 7. Accessory uses to the permitted conditional uses.

D. Additional Regulations

- 1. Lighting (glare) shall be directed away from the public right of way and residential districts.
- 2. Awning, canopies or marquees suspended from a building may extend over the public right of way a maximum of ten (10) feet but no closer than within two (2) feet of the curb line. Such structures shall be not less than eight (8) feet from the sidewalk or ground grade line. The owner of such structure assumes liability for the maintenance of said structures and must maintain them in a manner that will not jeopardize the health, safety and welfare of the public. This includes the removal of snow and ice build up that may occur during winter months.

E. Yard and Structure Requirements for Commercial – Industrial (C-I) District		
		All Uses
1.	Lot area minimum	15,000 sq. ft.
2.	Lot width minimum ft.	25'
3.	Maximum lot coverage	50%
4.	Front yard minimum	30' ¹
5.	Side yard minimum	15' ²
6.	Rear yard min.	30' ³
7.	Building height maximum	45' ⁴

¹ Where the district abuts a residential district, there shall be a front yard of not less than 50 feet.
² Where the district abuts a residential district, the side yard setback shall be not less than 50 feet and shall contain a solid fence or vegetative screening.
³ Where the district abuts a residential district, the rear yard setback shall be not less than 50 feet and shall contain a solid fence or vegetative screening
⁴ Cooling towers, elevator penthouses, domes which do not contain usable space, water towers, and smoke stacks or other similar structures not intended for human occupancy may be of any height which does not conflict with airport regulations.

Subdivision 8. (I) General Industrial District

A. *Statement of Intent.* This district is intended for general industrial uses which, due to their size and nature would not be appropriate in the Commercial-Industrial District. Open storage of materials or open loading areas shall be located or screened so as not to be visible from any residential district.

B. *Permitted Uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.

- 1. Appliance assembly and warehousing.

2. Building materials production, paper mills to include storage facilities.
3. Canning factories and creameries, food processing plants including smoking and curing operations.
4. Contractor's offices, shops, yard, and storage facilities for plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, air-conditioning, lumber, masonry, electrical and refrigeration industries.
5. Freight terminals and classification yards.
6. Fuel and ice sale and storage facilities.
7. Garages for storage, repair, and servicing of motor vehicles and farm implements,
8. Gasoline and oil bulk stations and distributing plants.
9. Grain elevators.
10. Highway maintenance shops and garages.
11. Monument works.
12. Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks, and water works.
13. Accessory uses to the above permitted uses.

C. *Conditional Uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Section V, Subdivision 5 of this Ordinance.

1. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, good, or products similar to those listed in *B. Permitted Uses*, which comply with the performance standards of this District.
2. Offices, if it occupies less than 50 percent of the gross floor area of the development.
3. Showrooms and retail sales incidental to the manufacturing and limited to a maximum of 25 percent of the gross floor area of the development.
4. Day care facilities as an accessory use to a primary permitted use.
5. Accessory uses to the above permitted uses.
6. Adult Uses, subject to the following restrictions: (*see Section IV, Subdivision 27*)
 - a) Adult use/principal activities must be located at least 1,000 radial feet as measured in a straight line from the building upon which the adult use/principal is located to the property line if the following:
 - 1) Residential zoned property.
 - 2) Agricultural lands located in the neighboring township or in the city that is designated in the comprehensive plan for residential use.
 - 3) A licensed daycare center including those used as an accessory use.
 - 4) A public or private educational facility classified as elementary, middle, junior high, or senior high.
 - 5) A public library.
 - 6) A public park.
 - 7) A church.
 - 8) Amusement places such as roller rinks, dance halls, or bowling alleys.

- b) Adult use/principal activities are a separate use and no two adult use/principal activities shall be located in the same building or upon the same property and each use shall be subject to the above.
- c) Adult use/principal activities shall adhere to the following signing regulations:
 - 1) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.
 - 2) Sign messages shall not contain material classified as advertising.
 - 3) Sign messages shall comply with the requirements of size and number for the district in which they are located.
- d) Adult use/principal activities are prohibited in establishments where liquor is served.
- e) Adult use/principal activities are prohibited at any place or event where minors are permitted

D. *Special Provisions for Industrial Uses.* The following provisions apply to all wholesale businesses, commercial laundries, dry cleaning plants, manufacturing facilities, public utility buildings and yards, electrical transformer stations, substations and gas regulator yards.

- 1. All such uses *not located in an industrial park* shall be conducted wholly within a building with a landscaped front yard and with all loading, unloading and employee parking provided in the side or rear yards. Visitor parking may be provided in the front yard.

E. Yard and Structure Requirements for General Industrial (I) District		
ALL USES		
1.	Lot area minimum	None required
2.	Lot width minimum ft.	None required
3.	Maximum lot coverage	None required
4.	Front yard minimum ¹	35'
5.	Side yard minimum ¹	20'
6.	Rear yard min./alley ¹	35'
7.	Building height maximum	75'

¹No building shall be located within fifty (50) feet of any residential district and no parking or loading space (except for railroad loading areas) shall be located within twenty-five (25) feet of any residential district.

Subdivision 9. (A)Agricultural District

A. *Statement of Intent.* This district is intended to preserve areas for low intensity use such as forestry, pasture and cropland, low density residential development and outdoor recreation, and to serve as a holding zone for future higher intensity uses when infrastructure is made available.

B. *Permitted uses.* The following uses are allowed with a duly authorized permit from the Zoning Administrator.

1. Pasture, cropland and forestry;
2. Nurseries, with a duly authorized permit;
3. Single family housing with a duly authorized permit;
4. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons;
5. Licensed day care facility serving 12 or fewer persons;
6. Group family day care facility licensed under MN Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
7. Accessory structures and uses, with a duly authorized permit.

C. *Conditional Uses.* The following uses may be permitted with the approval of a Conditional Use Permit by the City Council following the procedures outlined in Article XIII of this Ordinance.

1. Offices of veterinary and animal clinics, kennels;
2. Public utility buildings such as substations, transformers and regulator stations without service or storage yards;
3. Home occupations and offices – (*see Section IV, Subdivision 9 for regulations and exemptions.*)
4. Parks, campgrounds, golf courses, golf driving ranges, race tracks, historical sites, museums, and related commercial facilities;
5. Cemeteries, including animal cemeteries.

D. *Accessory Uses.* The following are requirements for accessory uses in agricultural districts:

1. The total maximum square footage allowed for all accessory buildings on a lot shall be one (1) square foot of building for every ten (10) square feet of lot area.
2. When the principal use of the property is residential, no accessory building or structure shall be constructed on any lot in the agricultural district prior to the construction of the principal building to which it is accessory. (*An exception to this may be made when both the accessory and principal structure are built with the same land use permit and within the permitted one year time period.*)

3. The following accessory uses shall be permitted in the agricultural district, if the uses do not alter the character of the premises in respect to their use for the purposes permitted in the district:
 - a) Private garage or carport, with a maximum height of eighteen (18) feet.
 - b) Private swimming pools when completely enclosed within a chain link or similar fence five or more feet high.
 - c) Boarding or rental of rooms to not more than two people on a premises.
 - d) Maintenance of dogs and cats or other household pets, subject to licensing requirements, health regulations and other applicable ordinances of the City.
 - e) Off-street parking as regulated by Section IV, Subdivision 20.
 - f) Parking of one commercial motor vehicle of not over 26 foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent.
 - g) Agricultural structures.

E. Yard and Structure Requirements for Agricultural (A) District			
		One-family	Other Uses
1.	Lot area minimum	2 acres	5 acres
2.	Lot width minimum ft.	150''	500''
3.	Maximum lot coverage	10%	5%
4.	Front yard minimum	50'	50'
5.	Side yard minimum	30'	30'
6.	Rear yard min	30'	30'
7.	Building height maximum	30'	30'

SECTION IV. PERFORMANCE STANDARDS

The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to prevent and eliminate those conditions that cause blight.

In order to insure compliance, the City Council may require the property owner to conduct tests if a violation is suspected for such standards as noise, lighting, etc. The costs of such test or investigations shall be shared equally by the owner and the City, unless the property owner is found to be in non-compliance, in which case the property owner shall pay the full cost.

Subdivision 1. Determination of conformity.

Before any building permit is issued, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards prescribed in this Section. The applicant shall supply information necessary to demonstrate such conformance. Such information may include description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, or other reasonable information as requested by the Zoning Administrator.

Subdivision 2. Noise.

It is unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the preservation of life, health, safety, or property. Sound in excess of the residential district limitation as measured in a residential district are violations of this Section whether the sound originates in a residential district or any other district.

Duration of Sound	6:00am-6:00pm	6:00pm-6:00am
Less than 10 minutes	75 dB (decibels)	70 dB
Between 10 minutes and 2 hours	70 Db	60 dB
In excess of 2 hours	60 dB	50 dB

Subdivision 3. Exterior Lighting.

- A. Existing Fixtures.** All outdoor lighting fixtures existing and legally installed prior to the effective date hereof shall comply with the ordinance requirements for glare as follows: Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky reflected glare, where from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Any light or combination of lights which casts light on a public street shall not exceed one foot-candle (meter reading) as measured from the right-of-way line of said street. Any light or combination of lights which casts lights on residential property shall not

exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.

- B. New Fixtures.** Whenever a light fixture that was existing on the effective date hereof is replaced by a new outdoor light fixture, the provisions of this section shall be complied with.

Subdivision 4. Odor. No odor shall be detectable beyond the limits of the property.

Subdivision 5. Vibration. No vibration shall be discernable at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour.

Subdivision 6. Fumes or Gases. No fumes or gases shall be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.

Subdivision 7. Sewer and Water. The design and construction of water supply facilities and treatment of all industrial sewage and waste shall comply with City and State health standards and requirements.

Subdivision 8. Outdoor Furnaces (solid fuel fired external heating devices)

The City of Fertile requires any person to obtain a zoning permit for any external solid fuel-fired heating device or external solid fuel storage unit that is installed after the date this ordinance becomes effective. These units must meet the following requirements:

- A. Units must be located in the rear yard area and a minimum of 10 feet from any property line.
- B. All external solid fuel-fired heating devices, used, installed, or purchased within the city limits of Fertile, Minnesota, are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.
- C. All outdoor external solid fuel-fired heating devices are subject to Subdivision 6, *Fumes or Gases*, in this Section.
- D. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device is designed, is declared a public nuisance.
- E. All stacks or chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of 2 feet above the highest roof line of any neighboring property structure that is within 100 feet of the

device. All stacks or chimneys must be of masonry or insulated metal with a minimum 6 inch flue.

- F. Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage may be burned in an external solid fuel-fired heating device.
- G. External storage units allowed includes, exterior storage that is kept in an orderly manner and kept more than 10 feet from any property line, or interior storage within the residence or garage, or a free-standing storage shed. Any storage method must take steps to ensure the storage area is kept vermin free.

Subdivision 9. Home Occupations.

In any zoning district where home occupations are allowed, such uses must comply with the following provisions:

- A. Such home occupation shall not occupy an area in excess of one third of the total ground floor area of the principal structure.
- B. Substantial interior or exterior alteration of a dwelling unit to accommodate a home occupation shall not be permitted.
- C. Home occupations which will create odor, noise, electrical glare, dust or vibrations noticeable from outside of the dwelling shall not be permitted.
- D. No sign shall be allowed with the exception of one nonilluminated nameplate measuring not more than four square feet in size.
- E. Home occupations shall be conducted by the permanent occupants of the dwelling in which the use is located.
- F. Home occupations shall be carried on wholly within the principal structure, there shall be no exterior storage of materials, and no exterior indication of the home occupation or variation from the residential character of the structure.
- G. A Conditional Use Permit issued by the City Council for a home occupation shall not transfer with the change of ownership of such dwelling.
- H. The following occupations are not required to receive a Conditional Use Permit if all of the above requirements are met:
 - 1) Artists, illustrators, writers, photographers, editors, drafters, and publishers;
 - 2) Consultants, private investigators, field representatives and other similar activities where the work of the business consists of activities such as research, word processing, and recordkeeping;

- 3) Music and educational instructors that instruct one student at a time; and
- 4) Bookkeeping and other similar computer activities.

Subdivision 10. Standards for single family dwellings.

The following standards apply to all single family dwelling units, unless specifically exempted:

- A. All single family dwellings shall have a minimum floor area of eight hundred (800) square feet.
- B. All single family dwelling units, except manufactured homes in manufactured home parks, shall be attached to a permanent foundation with frost protection as per state building code.
- C. All single family dwelling units, except manufactured homes in manufactured home parks, shall have a minimum width of twenty (20) feet and meet current codes.
- D. In order to prevent habitation by animals and to provide protection from the weather, masonry skirting including, but not limited to, concrete block, rock-faced block, brick, stone, or simulated stone shall fully enclose the perimeter of any residential dwelling (except manufactured homes in manufactured home parks) that is not supported by a perimeter foundation.
- E. Foundations for additions to existing dwelling units shall be constructed to conform to the foundation of the existing structure.

Subdivision 11. Exceptions to yard requirements.

Yard Encroachments: Every part of a yard shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

- A. Awnings, balconies, overhangs, fire escapes and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.
- B. Walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved areas.
- C. Uncovered porches, and steps to building entrances may not extend more than five (5) feet into any required front yard or required rear yard and not more than three (3) feet into any required side yard.
- D. Chimneys and fireplaces may extend not more than four (4) feet into a required yard or court.

Subdivision 12. Temporary dwellings.

No temporary dwelling may be erected or occupied on any parcel of land with the following exceptions:

- A. Travel and motor home coaches may be occupied for a period of not more than two (2) weeks in a six-month period.
- B. Temporary residence in a basement or foundation structure while awaiting the completion of the total structure may be allowed for a period not to exceed twelve (12) months.
- C. The City of Fertile opts out of the requirements of Minn. Stat. 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Subdivision 13. Exterior storage.

- A. **Residential Districts:** All materials and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining properties, except for the following:

- 1. Laundry (clothes lines) and recreational equipment;
- 2. Construction and landscaping materials currently being used on the premises;
- 3. Agricultural equipment and materials if these are used or are intended for use on the premises;
- 4. Off-street parking of passenger automobiles and pick-up trucks if currently licensed, insured and operational;
- 5. Boats and trailers, less than 20 feet in length, are permissible if stored in rear yard more than 10 feet distance from property line; and
- 6. Parking of one commercial motor vehicle of not over 26 feet in length used by the occupants.

- B. **Commercial Districts:** *Displays.* Merchandise not on display for direct sale, rental, or lease shall be stored within a completely enclosed building in all districts. Merchandise which is offered for sale, rental, or lease as described above may be displayed beyond the confines of a building in any commercial district. No displays shall be permitted on public right-of-way.

Outside storage of trash, recycling, damaged merchandise, materials, supplies, recreational vehicles, junk and equipment shall not be permitted. Outside Storage is permitted only when within the confines of a completely enclosed 100% opaque fence subject to the following conditions:

- 1. The fence shall be a minimum of five feet and a maximum of eight feet in height. The fence shall be high enough to completely screen all materials being stored outside (i.e. the height of the fence must be at least as high as the tallest item or stack of material being screened).

2. The fence shall be located in the rear or side yard of the property whichever does not face a public street or residential property. There shall be no outside storage allowed in the front yard of a commercial property.
3. The fence shall be in keeping with the architectural style and materials of the primary structure and surrounding buildings.
4. The finished side of the fence shall be facing outward.

C. Public Use District: Outdoor storage in this district shall take into consideration the surrounding uses and their designated zoning districts. Outdoor storage shall be screened from view from front and side lot lines and residential districts.

D. Commercial-Industrial (C-I) District:

1. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building or within the confines of a one hundred (100) percent opaque wall or fence not less than five feet high.
2. Such merchandise may occupy an area no greater than ten percent of the ground floor area of the building housing the principal use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies.
3. No storage of any type shall be permitted within one-half of the required front or side street setback nearest the street or within any required interior side or rear setback.

E. General Industrial (I) District: The outside storage of all waste, debris, recyclables, and excess materials, supplies, non-usable products, equipment, or other materials used by the industry shall be completely enclosed within a structure or fence, not less than 8 feet in height and of a 100% opaque material. (An exception is made for a recycling facility where recyclables are stored in containers in an orderly fashion.)

Subdivision 14. Reserved.

Subdivision 15. Screening and Fencing.

A. Screening or fencing of not less than 90 percent opacity and not less than five (5) or more than seven (7) feet in height above the level of the residential district property at the district boundary shall be required where:

1. Any off-street parking area contains more than six (6) parking spaces and is within thirty (30) feet of an adjoining residential zone.
2. Where the driveway to a parking area of more than six (6) parking spaces is within fifteen feet of an adjoining residential zone.
3. The commercial or industrial primary or accessory use is within fifty (50) feet of a residential district.

B. Fencing shall meet the following requirements:

1. Fences in residential zoning districts shall be limited to four feet in height in front yards. On corner lots in residential districts, no fence or accessory structure or planting shall be more than two and a half (2.5) feet in height above the level of the public sidewalk within twenty (20) feet of any corner, so as to maintain traffic visibility across the corner. Fences in side and rear yards shall be limited to seven feet in height.
2. Fences around dog kennels shall be limited to eight feet in height.
3. Fences in commercial and industrial zoning districts shall be limited to four feet in the front yard and to eight feet in side, corner-side and rear yards.
4. The finished side of a fence shall face the adjacent property.
5. All fences shall comply with the sight view clearance requirements of Section IV, Subdivision 23.
6. All fences, including footings, shall be located entirely upon the property whose owner or occupant constructs the fence. It is the property owner's or occupant's responsibility to locate property lines prior to installing a fence.
7. With the exception of "invisible fences" (underground electric fences) to control movement of domestic animals, electrical fences, barbed wire fences, and chicken wire fences are prohibited.
8. All fences shall be maintained in good repair. Any fence that is potentially dangerous or in disrepair shall be removed or repaired.
9. Fences shall consist of usual fencing materials with posts and fence of metal, wood, composite wood, concrete, brick or smooth wire.
10. No fencing within 10 feet of alley right-of-way.

Subdivision 16. Maintenance.

All structures and property shall be properly maintained in a clean and acceptable manner so as not to constitute a menace to the public health, safety, convenience, general welfare, property values, and aesthetics.

Subdivision 17. Landscaping

All landscaping shall be properly maintained so as to preserve planting in a live state and free of noxious weeds. The property owner shall be responsible for keeping the grass or other growth cut and the area free from refuse.

All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, parking areas or lots, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees or other ornamental landscape materials.

No landscaped areas shall be used for the parking of vehicles or in commercial or industrial districts, the storage or display of materials, supplies or merchandise.

Subdivision 18. Stormwater Management Standards.

- A. No land shall be developed and no use shall be permitted that results in additional water run-off, causing flooding, or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, water course, ponding areas, or other public facility.
- B. 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.
- C. 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.
- D. 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 manmade materials and facilities.
- E. 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 Polk Soil and Water Conservation District.
- F. Newly constructed stormwater outfalls to public water must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

- G. Where development disturbs more than one acre, the developer must obtain the proper permits from the Minnesota Pollution Control Agency (MPCA).
- H. In addition to meeting the requirements for stormwater management in this Section, it is the responsibility of the developer to obtain all required permits from the proper agencies according to federal, state and local regulations.

Subdivision 19. Manufactured Home Park Standards.

In order that a manufactured home park may be harmonious within itself and with the surrounding area, the following performance standards are required:

- A. Inspection of Manufactured Home Parks: The Zoning Administrator, law enforcement, or their duly authorized representative, shall have the power to inspect the register containing a record of all residents of the manufactured home park.
- B. Open Space and Area Requirements.
 1. *Area*: The minimum total manufactured home park shall be ten acres.
 2. *Open Space*: A minimum of 500 square feet per manufactured home shall be provided in a definable play area and/or open space. Lot setbacks shall not be included in this space nor shall any areas of less than twenty feet in length or width. All areas not used for access, parking, circulation, buildings and service shall be completely landscaped and the entire area maintained in good condition, consistent with the provisions of Section IV, Subdivisions 16 and 17.
 3. *Setbacks*:

a) Setback from park property boundary lines:	30'
b) Setback from public road/highway right-of-way:	35'
c) Setback from front/park street right-of-way:	20'
d) Side setback:	10'
e) Rear setback:	15'
 4. *Lot size*:

a) Minimum lot area:	7,200 sq. ft.
b) Minimum lot width:	60'
c) Maximum ground coverage:	30%
- C. Streets - streets must follow subdivision requirements concerning grading and must be a minimum of 24' in width and be paved. The right-of-way width will be a minimum of 40'. On-street parking will not be allowed.

- D. Parking - a minimum and maximum of two off-street parking spaces will be provided on each lot. These spaces will be clearly defined with a border and gravel or cement surface. A parking compound must be provided by the developer to accommodate one parking space for every two manufactured homes. All boats, campers and trailers must be parked in this designated parking compound.

- E. Screening - all manufactured home parks located adjacent to residential, recreational, commercial or industrial land uses shall provide screening such as fences, shrubs, or trees along the property boundary line separating the park and other uses and shall be maintained in a neat and orderly manner. Screening shall be a minimum of 5' in height. Landscaping shall be provided between the screen and the property boundary. A landscape plan is required as part of the platting process for a manufactured home park.

- F. Accessory buildings - one storage building of not more than 10' x 12' is allowed per lot. A carport may also be allowed on manufactured home lots. All accessory buildings must meet setbacks. Storage and accessory buildings must be maintained and designed to enhance the general appearance of the lot.

- G. Manufactured Home Requirements: all manufactured homes shall be skirted and shall be in accordance with the decor of the manufactured home and in good repair. Each home shall be parked upon a jack or block approved by the City. Each manufactured home shall be anchored to resist damaging movement by wind or storm. Each manufactured home base shall have a suitable hardstand of durable material capable of supporting the vehicle wheels, stands or jacks. A minimum of eight hundred (800) square feet shall be required for all single family residential dwellings, including manufactured homes.

- H. Miscellaneous requirements:
 - 1. Responsibilities of the Park Management:
 - a) Park Management shall notify park occupants of all applicable provisions of this Section and inform them of their duties and responsibilities under this Section.

 - b) The Park Operator shall maintain a record of all manufactured home owners and occupants located within the park. The register shall contain the following information: The name and address of each manufactured home occupant, the name and address of the owner of each manufactured home and motor vehicle by which it is towed; the make model, year and license number of each manufactured home and motor vehicle, the state, territory or country issuing such license; and the date of arrival and departure of each manufactured home. The operator shall make this available to law enforcement officers, public health officers, and other officials whose duty necessitates acquisition of the information in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years of the registrant moving from the park.

2. Use Requirements: No part of any park shall be used for non-residential purposes, except such uses that are required for the direct serving and well being of park residents and for the management and maintenance of the park.
3. All manufactured home parks shall comply with the State of Minnesota Board of Health requirements for manufactured home licensing. The platting requirements of manufactured home parks shall meet the subdivision standards as listed in Chapter 701.11 – Subdivision Ordinance, unless otherwise stated in this Section.

Subdivision 20. Parking Standards.

A. Off-Street Parking

In all zoning districts, *with the exception of some uses in the Central Business (C) district* (see requirements for the C district), off-street parking facilities for residents, employees and patrons of the buildings or structures erected after the effective date of this Ordinance shall be provided as herein prescribed.

Parking of automobiles and other motor vehicles is permitted in the front and side yards in *District C-I and I* provided a greenbelt eight (8) feet in width is provided.

Residential Uses

1. Bed and Breakfast. Two parking spaces minimum, plus one for each room to be rented out.
2. Group Day Care, Nursery School. Five parking spaces minimum, plus one for each five program participants based on facility's licensed capacity.
3. Group Home, State Licensed Residential Facility. Two parking spaces for each five beds offered for residence purposes.
4. Manufactured Home. Two parking spaces per manufactured home unit, however, the spaces may be in tandem.
5. Multiple dwelling. Two parking spaces per dwelling unit. One parking space for efficiency unit.
6. Nursing Home. Five parking spaces minimum plus one for each five beds offered for residence purposes.
7. Senior Citizen Housing. One parking space per dwelling unit.
8. Single Family Dwelling. Two parking spaces for each dwelling unit.
9. Two-Family Dwelling. Two parking spaces per dwelling unit.

Institutional Uses

10. Archery or Golf Driving Range. One parking space for each target or driving tee.
11. Community Centers. Parking shall be based on the uses within the building.
12. Golf Courses. At least two parking spaces for each golf hole plus one space for each 200 square feet of locker rooms and clubrooms. If the clubhouse contains dining or bar facilities, the parking requirements shall be the same as for a restaurant.

13. Hospital. One space per three patients beds, plus one space per staff doctor and per employee on the largest shift.)
14. Libraries, Museums, Art Gallery. At least one for each 350 square feet of floor area in the principal structure.
15. Miniature Golf. 1.5 parking spaces per golf hole.
16. Playgrounds and Play Fields. At least two parking spaces per acre for playground and 40 parking spaces for each play field. When a public recreation site has more than one use designation, the required parking spaces must be determined for each separately. The sum of those use requirements shall be the total number of spaces required.
17. Post Offices, Parcel Delivery Services. Ten parking spaces plus one parking space for each 500 square feet of floor area devoted to office, processing, or service plus one space for each vehicle customarily kept on the premises.
18. Public Administration buildings. One parking space for each five hundred (500) sq. ft. of floor area in the principal structure.
19. Religious Institutions. One parking space for each three seats based on the design capacity of the main assembly hall. Up to 50 percent of the required parking can be provided through a nonexclusive written agreement with the owner of another property located within 200 feet of an entrance to the religious institution which authorizes parking during times of worship or events conducted at the religious facility at times other than usual business hours on property which is an off-street parking lot which meet the design requirements of this ordinance and satisfies the parking requirements for the use of the other property during ordinary business hours during the usual work week.
20. School-Elementary and Junior High. At least two parking spaces for each classroom.
21. School- High School through College. One space per teacher and staff member on the largest shift, plus one space per five students.

Commercial Uses

22. Beauty and Barber Shops. Two spaces per operator, plus one space per employee on the largest shift.
23. Bowling Alley. Five parking spaces for each alley/lane. Other uses which are commonly associated with bowling alleys such as restaurants and game room space will require additional parking and loading space, the number of which shall be determined by the parking requirements for those other uses specified in this section.
24. Business/Trade Schools. One parking space per student calculated by reference to the design of the school structure plus one space for each classroom.
25. Clubs and Lodges. One parking space for each three seats calculated by reference to the design of the meeting hall plus one parking space for every 50 square feet of customer space in the dining area and bar areas.
26. Convention/Exhibition Hall. One parking space for each three seats calculated by reference to the design of the meeting hall.
27. Fast Food Establishments.
 (a.) With Seating- One space per three patron seats, plus one space per employee on the largest shift.

Fertile - Land Usage

- (b.) Without Seating. One space per 200 square feet of gross floor area, plus one space per employee on the largest shift.
28. Food Service/Bakeries. One parking space for each 25 square feet of customer floor area.
 29. Funeral Home. One parking space for each five seats plus one parking space for each 250 square feet of floor area not used for seating, If fixed seats are not provided, the requirements shall be one space for every 35 square feet of seating area.
 30. Furniture and Home Furnishing Stores. One space per 500 square feet of customer sales, plus one space for every 1,000 square feet of storage area.
 31. Hotel/Motel. 1.5 spaces for each dwelling unit, guestroom, or hotel room. Any other use such as restaurant and conference space requires additional parking and loading spaces determined by the parking requirements for those other uses specified in this section.
 32. Medical and Dental Offices and Clinics. One parking space for each 200 square feet of floor area but not less than five spaces.
 33. Motor Vehicle Service Station. One parking space per employee working on the largest shift plus three additional parking spaces for each service stall. Convenience store, grocery store or any other use require additional parking determined by the parking requirements for those other uses specified in this section.
 34. Offices. One parking space for every 250 square feet of floor area.
 35. Open Sales or Rental Lots. One parking space for each 2,500 square feet of land which is to be used for sales and display area.
 36. Restaurants. One space per four patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest shift.
 37. Retail Store and Service Establishment. One parking space for each 200 square feet of gross floor area.
 38. Self-Serve Laundry. One space per three machines.
 39. Skating Rink, Ice or Roller. One space per 300 square feet of gross floor area.
 40. Sports/Health Clubs, Swimming Pool. One parking space for every 200 square feet of non-court area plus two parking spaces per tennis or racquet ball court and one parking space for each 50 square feet of deck area for a swimming pool.
 41. Taverns, Dance Halls, Bars, and Lounges. One space per 50 square feet of gross floor area.
 42. Theater, Auditorium, Assembly Hall, Meeting Hall. One parking space for each three seats of design capacity.
 43. Veterinary Office/Clinic. Three spaces per doctor, plus one space per employee on the largest shift.

Industrial Uses

44. Manufacturing, Fabricating or Processing of a Product or Material. Ten parking spaces shall be provided plus one additional space for each 500 square feet of structure, exclusive of office and warehouse space which shall be calculated separately according to the parking requirements for those other uses specified in this section.

- 45. Nursery Uses. One space per employee on the largest shift, plus one space per 500 square feet gross floor area of inside sales or display.
- 46. Outdoor Storage. One parking space shall be provided for each 3,000 square feet of land devoted to outside storage.
- 47. Warehouse, Storage, Handling of Bulk Goods. One space for each 1,500 square feet of floor area.

Parking Lot Dimensions for Full Sized Cars

Angle (in degrees)	Stall Width	Stall Length	Aisle	Width Utilization and Double loading Single Aisle
45	12.0'	18.0'	13.5'*	49.0'
60	10.0'	18.0'	18.5'*	55.0'
75	9.0'	19.0'	23.0'*	60.0'
90	8.5'	19.0'	26.0'	62.0'
Parallel	23.0'	8.5'	22.0'	38.0'

* One Way Aisles Only.

B. Design Standards

- 1. In all residential districts, required parking spaces shall be located on the same premises as the use they serve. In other districts, they shall be located on the premises or within 100 feet distance.
- 2. Parking areas for one or two family dwellings shall be in the garage, in the rear or side yards, or on the driveway leading to the garage only.
- 3. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
- 4. All uses, excluding one and two family residences, where parking or access facilities are located within 20 feet of a one or two family property line shall be required to effectively screen their parking facility from the residential use. Screening may include a sight obscuring fence at least 5 feet in height or plantings of sufficient type, density, and height so as to provide year-round screening. Before a building permit shall be issued, the building official shall approve the screening proposal.
- 5. Off-street parking areas shall be improved with a durable surface and afford adequate drainage.
- 6. All sources of parking area lighting shall be fixed, directed and designed so as to not create a nuisance to any abutting residential properties.
- 7. Bicycle Parking. The total parking requirement is one space for each 50 off-street parking spaces required. The bicycle parking spaces shall be equipped with bicycle racks.

Subdivision 21. Off-Street Loading Requirements.**A. Minimum Standards.**

1. No loading facility, including docks, berths, maneuvering areas, or similar facilities, shall be located on a street frontage.
2. All loading facilities shall be located within the perimeter of the structure housing the principal or accessory use and shall be completely enclosed.
3. Loading facilities, parking bays and access drives shall be surfaced with a durable all-weather surface material and shall be so graded to dispose of surface water.
4. All loading facilities shall be screened from view of the property's street frontage by plant materials, walls, earth berms, or fences.

Subdivision 22. Driveways.

Lots of 75 feet or less in width shall be required to maintain at least a one foot side yard at driveways. Driveways constructed in R-1 and R-2 districts shall conform to the side yard structure setback requirements of Section II. All dwellings shall be so located as to permit an 8-foot wide driveway to be placed from either a public street or a public alleyway to the rear house line.

Subdivision 23. Site View Clearance

No structure, vehicle, sign, fence, building or foliage shall obstruct the vision clearance of street corners, curb cuts or railroad crossings or constitute a traffic hazard in any zone.

Subdivision 24. Traffic control.

The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on the public streets, traffic hazards and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing onto streets.

Developers proposing new development will provide a site plan to the City of all proposed accesses and if located along MN State Highway #32, a permit will be required from the Minnesota Department of Transportation (MnDOT). Existing developments will also be required to submit a site plan to the City and receive a permit from MnDOT if they plan to change their accesses unto Highway #32. MnDOT's Access Management Policy along trunk highways will be used and adhered to when possible.

Subdivision 25. Sign Regulations.**A. Purpose and Intent.**

The purpose of this provision is to protect the general welfare and safety of the City by providing a policy of aesthetic development to prevent signs from intruding on the residential character of the City; to provide adequate signs for direction and property identification purposes; and to provide adequate signs for commercial use. It is further the intent of this ordinance to encourage quality and aesthetics in the size, design and the materials used for sign construction and to enhance the overall appearance and image of the City.

B. Scope.

This Ordinance shall not regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, governmental organization; gravestones; barber poles; religious symbols; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign.

Thus, the primary intent of this Ordinance shall be to regulate signs of a commercial nature intended to be viewed from any vehicular or pedestrian public right-of-way.

C. Nature.

All signs are considered structures and require a Zoning Permit except as provided in this Ordinance.

D. Definitions.

Abandoned Sign - a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Administrator - the zoning administrator or designated representative.

Area - (see "Sign, Area Of")

Awning - a shelter projecting from and supported by the exterior wall of a building constructed of non rigid materials on a supporting framework. (*compare "Marquee"*)

Awning Sign - a sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign - a sign made of fabric or any non-rigid material with no enclosing framework.

Billboard - a sign erected and used for the purpose of advertising a product, event, place, person, or subject not related to the premises on which the sign is located. (*See off-premises sign*)

Building - as defined in Section I, Subdivision 14 of this Zoning Ordinance.

Building Face - the exposed face of a building, including windows and doors, from ground level to the roof line. Where a building has a facade, mansard, or awning, the zoning administrator shall work with the applicant to determine what constitutes the aggregate building face for purposes of signage.

Canopy - a rigid multi-sided structure covered with fabric, metal or other material and supported by a building at one or more points or extremities and by columns or posts embedded in the ground at other points or extremities. May be illuminated by means of internal or external sources. (*compare "Marquee"*)

Canopy Sign - a sign affixed or applied to the exterior facing surface or surfaces of a building or freestanding canopy.

Clearance - (*of a sign*) the smallest vertical distance between the grade of the adjacent street, highway, or street curb and the lowest point of any sign, includes framework and embellishments, extending over that grade.

Clearview Zone - the area of a corner lot closest to the intersection which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. Typically, such an area is established by marking a point at which the two curb lines intersect, measuring back twenty (20) feet on each street front, and drawing a line across the two back points to form a triangulated area. No sign in excess of three (3) feet above curb grade nor support pole larger than twelve (12) inches in diameter may be installed in this area. Freestanding signs must have at least ten (10) feet clearance to grade.

Construction Sign - a temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

Copy - the graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

Directional sign, off-premise - an off-premise sign which provides directional assistance to access an establishment conveniently and safely. Such signs shall be limited by the Administrator in size, height, and placement as justified.

Directional sign, on premise - an on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs. May contain logo provided that the logo may not comprise more than 20% of the total sign area.

Double-Faced sign - a sign with two faces, essentially back-to-back or v-construction.

Electrical sign - a sign or sign structure in which electrical wiring, connections, or fixtures are used.

Facade - the entire building front including the parapet.

Face of sign - the area of a sign on which the copy is placed.

Freestanding sign – any sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

Frontage - the length of the property line of any one premise along a public right-of-way on which it borders.

Government sign - any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility.

Height (of a sign) - the vertical distance measured from the highest point of the sign, excluding decorative embellishments, to the grade of the adjacent street or the surface grade beneath the sign, whichever is less. (*compare "Clearance"*)

Identification signs - a sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal sign - a sign which does not meet the requirements of this code and which has not received legal nonconforming status.

Incidental sign - a small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business. Maximum size is four square feet.

Maintenance - for the purposes of this ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Mansard - a roof having two slopes on all sides with the lower slope steeper than the upper one.

Marquee - a permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building. (*compare "Awning"*)

Marquee sign - any sign attached to or supported by a marquee structure.

Monument sign – a sign where the extent of the sign surface is attached to the ground or a foundation in the ground; and where there are no poles, braces, or other visible means of support other than attachment to the ground.

Multiple-faced sign - a sign containing three (3) or more faces, not necessarily in back-to-back configuration.

Nameplate - a non-electric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Nonconforming sign:

- A. A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
- B. A sign which does not conform to the sign code requirements, but for which a special permit has been issued.

Off-premise sign - a sign structure advertising an establishment, merchandise, service or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., "billboards" or "outdoor advertising."

On-Premise sign - a sign which pertains to the use of the premises and/or property on which it is located.

Owner - a person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Administrator, e.g., a sign leased from a sign company.

Painted Wall sign - any sign which is applied with paint or similar substance on the surface of a wall.

Person - any individual, corporation, association, firm, partnership, or similarly defined interest.

Point of Purchase Display - advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser, tire display, etc.

Political sign - a temporary sign used in connection with a local, state, or national election or referendum.

Portable sign - any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Premise - a parcel of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Projecting sign - a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

Real Estate sign - a temporary sign advertising the real estate upon which the sign is located being for rent, lease, or sale.

Roof sign - any sign erected over or on the roof of a building. (*compare "Mansard," "Wall sign"*)

Sandwich Sign – two sign faces that are back to back and are connected together at the top and apart from each other at the bottom.

Sign - any device, structure, fixture, or placard using graphic, symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods, or services.

Sign, Area of - includes the space inside a continuous line drawn around and enclosing all letters, designs, and background materials exclusive of border, trim and structural supports. For the purpose of calculating the sign area of multiple-faced or back-to-back signs the stipulated maximum sign area shall refer to a single face.

Snipe sign - a temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification signs - a freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.

Temporary sign - a sign not constructed or intended for long-term use. Such sign is intended for special events, prior to a permanent sign, etc.

Under-canopy sign - a sign suspended beneath a canopy, ceiling, roof, or marquee.

Wall sign - a sign attached essentially parallel to and extending not more than twenty-four (24) inches from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

Window sign - lettering placed directly on a window surface.

E. General – All Signs

1. Projecting signs, awnings and canopies that overhang a sidewalk or other pedestrian way shall provide a minimum clearance above the said pedestrian way of eight (8) feet.
2. Un-maintained signs or signs for discontinued business must be removed 30 days after notification by the Zoning Administrator or after discontinuance of the business. The Zoning Administrator shall be authorized to remove said sign 60 days after notification if the owner fails to so do.
3. Temporary signs pertaining only to the sale or rental of the premises are allowable, provided they do not exceed 9 square feet in size. Temporary signs for the sale of a platted subdivision placed at the entrance to the subdivision are allowable provided they do not exceed 32 square feet. Signs must be removed within one year unless extended by the Zoning Administrator.
4. A legal, non-conforming sign may be refaced, removed and replaced for maintenance purposes, however, it shall not be increased in size, the support system shall not be replaced and the sign shall be removed in its entirety upon the determination by the Zoning Administrator that the sign is in disrepair or the support system is failing. Removal shall be within 30 days of notice by the Zoning Administrator. Also if the sign suffers more than fifty (50) percent damage or deterioration, as based on appraisal, it must be brought into conformance with this ordinance or be removed.

F. Prohibited Signs

The following signs are prohibited in all districts:

1. Signs, other than governmental signs, are prohibited within public rights-of-ways, easements and on public property, without written permission of the City Council.
2. Vacant or abandoned building signs - owner has 60 days to remove after notification by Zoning Administrator.
3. All flashing, revolving and intermittently lighted signs are prohibited. Externally lighted signs shall be shielded to prevent glare to adjoining roadway.
4. Signs imitating or resembling official traffic or government signs or signals in shape, size or color.
5. Snipe signs or signs attached to trees, telephone or utility poles, public benches, streetlights, or placed on any public property or public right-of-way.
6. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign (this does not apply to allowed portable signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
7. Inflatable or flying devices that would interfere with the Airport Zoning Ordinance.
8. Signs that obscure official traffic control devices.
9. Search lights except with approval from the City Council.
10. Signs that emit sound.
11. Signs anchored by guy wires, chains, cables or similar devices that project down to the ground or in any way, creating an unsafe condition for pedestrians or motorists.

G. Signs Not Requiring Permits

The following types of signs are exempt from permit requirements but must be in conformance with all other requirements of this Ordinance:

1. No trespassing, no hunting, and similar signs are allowed without permit.
2. Political signs may be allowed without permit, provided they: are non-illuminated; do not exceed sixteen (16) square feet per sign; and the property owner gives written permission. Said signs may be permitted for a period of not more than thirty (30) days before and ten (10) days after an election.
3. Construction signs of thirty-two (32) square feet or less.
4. Holiday or special events decorations.
5. Nameplates of two (2) square feet or less. May be illuminated.
6. Public signs or notices, or any sign relating to an emergency.
7. Real estate signs, not exceeding 16 sq. ft. per frontage, and removed within 7 days after sale. In the Commercial and Industrial districts, signs not exceeding 32 sq. ft. per face are allowed.
8. Window signs.
9. Incidental signs.
10. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
11. Works of art that do not include a commercial message.
12. Ad signs on vehicles - traveling or lawfully parked on operating and insured vehicles.

13. Freestanding or portable signs for garage sales not more than 4 sq. ft. on private property, maximum of 3 days and property owner is responsible for removal of signs.
14. Temporary or permanent signs by public utilities to warn the public.
15. Directional signs, not illuminated and not exceeding 2 sq. ft. for uses such as: churches, schools, hospitals, nursing homes, clubs, and libraries or similar - only one per avenue or street directly leading to the establishment. Also allowed in parking areas.
16. Banners on buildings for point of purchase displays or special events not to exceed five (5) banners per lot.
17. Temporary signs with approval from the Zoning Administrator.
18. Portable signs for special events that are displayed seven (7) days or less.
19. Easel and sandwich signs not to exceed 24"x 48" - one per lot, two if a corner lot.

H. Signs Permitted in Residential Districts.

1. All signs as permitted in *G. Signs Not Requiring Permits*.
2. A sign pertaining to the sale or lease of the building or property, provided such sign does not exceed four (4) sq. feet in surface area. Such signs shall not be illuminated.
3. One subdivision identification sign per street frontage, neighborhood, subdivision or development, not to exceed forty-eight (48) sq. ft. in sign area in each location.
4. One identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) sq. ft. in sign area.
5. Permitted nonresidential uses, including churches, schools, clinics, etc., one freestanding sign not to exceed twenty-four (24) sq. ft. in sign area, one of this size per street frontage and it may be illuminated. One wall sign of twenty-four (24) square feet is also allowed per street frontage. This also applies to legal, nonconforming uses in residential districts.
6. Home occupations - four (4) sq. ft. in lieu of other identification (nameplate) sign and may be illuminated in accordance with the ordinance. The sign must be located in the front yard.
7. All allowed freestanding signs shall have a maximum height limit of six (6) feet and shall have a setback of fifteen (15) feet from any public right-of-way.

I. Signs Permitted in the Public Use (P) District:

Sign permits for signs in the Public Use District shall be submitted to the Planning Commission for approval and shall be consistent with the type of use and take into consideration the surrounding land uses and zoning districts.

J. Signs Permitted in Commercial (C and C-I) Districts:

The total surface area of all signs on a lot shall not exceed two sq. ft. per lineal foot of lot frontage or ten percent of the building frontage area, or seventy-five (75) feet in area, whichever is greater. Signs may be illuminated. Maximum size for any one sign shall not exceed 100 sq. ft. (For corner lots, the "frontage" used to determine allowable sign area shall be the least dimensions along a street, but an equivalent sign area shall be allowed facing the intersecting street.)

The following signs are allowed with a sign permit in the Commercial districts:

1. All signs as permitted in *G. Signs Not Requiring Permits*.
2. On-premise signs:
 - a) Free standing
 - 1) One per street front, size is included in total square footage allowed. May not be located in or over right-of-way.
 - 2) Maximum height is thirty-two (32) feet above grade.
 - 3) Side setback of ten feet from property lines. On corner lots, the clear view zone must be established and adhered to.
 - 4) Front yard setbacks are ten feet for low profile signs, or monument signs and free standing signs with setback measured at ten feet to the support. The sign may project from the support into the setback area five feet and free standing signs must be a minimum of eight feet above grade.
 - 5) Maximum height – six feet for monument or low profile signs and thirty-two (32) feet for freestanding signs.
 - b) Banners - two banners per building face with a maximum of 5 allowed.
 - c) Roof signs - shall be constructed to conceal supports so that the structure appears as a blade or a ground sign, the height shall not exceed twenty (20) percent of the total height of the building to which it is attached and is included in total square footage allowed per building face.
 - d) Projecting signs - not more than ten (10) feet from the wall of the building and not within two feet of the curb line and must be a minimum of 8' above grade. Counts in total square footage allowed.
 - e) Under-canopy signs - not to exceed 8 sq. ft. and must have minimum clearance of 8' to grade. Counts in total square footage allowed.
 - f) Wall signs – included in total square footage as allowed per lot. Signs painted on a building shall be maintained in good condition and shall be repainted, removed or painted out when, they are not maintained or the business is no longer located in said building.
 - g) Illuminated signs – the source of light shall not be visible from the public right-of-way and such light shall be directed away from any Residential district.
 - h) One sandwich type, portable sign of 24" x 48" is allowed per building. Must be displayed only during business hours and removed when closed. Square footage is not included in building total square footage. Must not interfere with pedestrian traffic and must maintain a 6 foot path on the sidewalk. No permit required.
 - i) Window signs are exempt from permit requirements.
3. Off-premise signs are not allowed.
4. Portable signs:
 - a) Shall maintain clearview zone on corner lots.
 - b) Shall not obstruct pedestrian ways.
 - c) Maximum size not to exceed 32 sq. ft.
 - d) One per lot, not included in aggregate sign area.

K. Signs Permitted in the Industrial Districts.

Signs may be erected in the Industrial districts subject to the following provisions:

The total surface area of all business signs on a lot shall not exceed three square feet per lineal foot of lot frontage or twenty (20) percent of the building frontage area or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.

L. Signs Permitted in the Agricultural District.

1. All signs as permitted in Section IV, Subdivision 25, G.
2. One freestanding, on-premise sign not to exceed thirty-two (32) square feet in sign area per 300 feet of street frontage.
3. One wall sign per building, not to exceed fifteen (15) feet in sign area.

Subdivision 26. General Development Plan and Site Plan.

All proposed developments shall conform to the provisions of this section with respect to site plan, parking and landscaping. General Development Plans shall be reviewed and approved by the Planning Commission. The Development Plan shall include as follows:

- A. Complete details of the proposed site development including but not limited to:
 1. Identification signs
 2. Location of buildings, streets, driveways and parking spaces
 3. Dimensions of the lot, lot area and yard dimensions.
- B. Complete landscaping plans reflecting all information showing planting size and type.
- C. Complete plans for proposed sidewalks or walkways and access driveways to parking showing distance from street intersection and service areas.
- D. Complete plans for storm water drainage systems sufficient to handle all surface water accumulations within the area of the site.
- E. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings. Elevation drawings shall show proposed rooftop equipment and any proposed screening.
- F. Complete plans for screening of storage areas for waste and garbage.

Subdivision 28. Campground Requirements.

A. Findings. Development of this type is recreational in nature but generally is not compatible with single-family residential development in the City due to the density at peak usage. Campgrounds shall be limited to Public Use zoning districts.

B. Minimum Standards:

1. Minimum parcel size - 5 acres
2. Minimum parcel width - 400'
3. Minimum campsite or lot size - 3,000 square feet
4. Minimum width - 40'
5. Maximum density - 6 units/acre
6. Minimum road width - 40' corridor/ 24' surface two way, 30' corridor/18' surface one way
7. Minimum on-lot parking - 1 vehicle with trailer
8. Additional off-road parking - 1 space/10 campsites
9. Setback, side exterior - 50', side interior - 10', road exterior - 75', rear exterior - 50'
10. Maximum building height - 25'
11. Campsites and buildings (height above highest known water table) - 3 feet

C. Performance Standards:

1. Recreational facilities will be provided as determined by the Conditional Use Permit.
2. Water system capable of providing 100 gallons per site per day; at a rate of 1,000 gallons per day at 20 psi residual pressure at the most remote fixture.
3. Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.
4. Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals and screened.
5. Fire pit for each campsite.
6. Campsites for recreational vehicles shall have sewer connection, water connection, and electrical connection, or recreational vehicles shall be self-contained and a wastewater disposal station for each 100 such vehicles at least 50' from the nearest campsite shall be provided.
7. Drinking water and restroom facilities with showers shall be provided, all within 400' of every site not served with full facilities.
8. The exterior setback area shall be screened to obstruct 50% vision from the boundary line, assuming leaf-off conditions.
9. Grass or other complete ground cover shall be maintained except in parking areas and roads.

10. Recreation vehicles shall be moved off site or into a designated storage area for at least 4 months of every year.
11. Evidence shall be provided prior to final approval that the license and approval process of Minnesota Department of Health has been adhered to.
12. The submission requirements for a campground shall be the same as for a Conditional Use Permit except as determined not applicable by the Zoning Administrator.

Subdivision 29. Reserved.

SECTION V. ADMINISTRATION

Subdivision 2. Permits.

- A. Permits Required. Permits shall be required for the following *permitted* activities:
1. Building construction or alteration (including moving buildings into and out of the city limits)
 2. Demolition
 3. Signs
- B. Land Use/Building Permit: Application for a building or land use permit shall be made for a permit to construct, alter, move or demolish a building shall be accompanied by a plan, drawn to scale, showing: the dimensions of the lot where such activity will occur; and the size and location of the buildings and accessory buildings. Applications shall contain other such information as may be deemed necessary for the proper enforcement of this Ordinance.
- C. Demolition Permit: Application for demolition of a building within the City limits of Fertile shall be made to the Zoning Administrator on forms provided by the City.
- D. Sign Permits: Application for a sign permit shall be made to the Zoning Administrator on forms to be provided by the City. Permits for the construction or placement of signs must be obtained from the Zoning Administrator before such construction or placement shall be allowed.
- E. Expiration of Permits
- All building, sign, sanitary, excavation, and related permits shall expire one year from the date of approval if construction has not started. A request for an extension may be considered by the Board of Adjustment pursuant to M.S. 462.
- F. Fees
- In order to defray the administrative costs associated with the processing of applications for building and related permits, conditional use permits, variance requests, amendments and subdivision plat approval, a schedule of fees has been adopted by the Fertile City Council. The schedule of fees shall be posted at the Fertile City Hall and may be altered or amended only by resolution of the Fertile City Council.
- G. Conditional Use Permits and Other Zoning Applications: The City Council shall approve or deny a zoning application within sixty (60) days of the receipt of a completed application for conditional use permits, zoning ordinance amendments, variance requests, and other zoning actions required by the aforementioned bodies. For purposes of this section, a completed application shall include all necessary documentation as required by ordinance, a completed

application form and the payment of the appropriate fees. (If the application is not complete, the City has 15 days to notify the applicant of an incomplete application.) The sixty (60) day timeframe may be extended if:

1. A state or federal law or court order requires a process to occur prior to the city review of the application or if the federal or state law or court order make it impossible to act within sixty (60) days; or
2. The City provides written notice within sixty (60) days to the applicant that states the reasons for the extension and the anticipated length of the extension, not to exceed an additional sixty (60) days; or
3. The applicant consents in writing to a longer period of time.

Failure to act on the completed application within the prescribed time frame shall constitute approval of the request. (MN Statute 15.99)

Subdivision 5. Conditional Use Permits.

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application to the Zoning Administrator, public hearing review and approval and issuance of a Conditional Use Permit by the Fertile City Council.

A. Procedure for a Conditional Use Permit.

1. An applicant desiring a conditional use permit shall fill out and submit to the Fertile Zoning Administrator an Application for a Conditional Use Permit, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission and City Council. A thorough site evaluation shall be conducted by the Zoning Administrator and the Planning Commission prior to consideration of the permit.
2. Upon receipt of a complete application (including fee), the Zoning Administrator schedules the public hearing for the request.
3. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission who shall conduct the public hearing in accordance with M.S. 462 and the provisions of this Ordinance.

B. In considering the granting of any conditional use permit throughout the city, the Planning Commission and City Council shall evaluate the effect of the proposed use upon:

1. The maintenance of the public health, safety and welfare;
2. The location of the site with respect to existing and proposed access roads;

3. Its compatibility with adjacent land uses;
 4. Its compatibility with the intent of the zoning district in which such use is proposed.
 5. In considering the granting of any conditional use permit in shoreland areas, the Planning Commission and City Council shall evaluate the effect of the proposed use upon:
 - a. The prevention and control of water pollution, including sedimentation and nutrient loading;
 - b. Existing topography and drainage features and vegetative cover on the site;
 - c. The location of the site with respect to floodplains and floodways of river or tributaries;
 - d. The erosion potential of the site based upon the degree and direction of slope, soil type and existing vegetative cover;
 - e. The amount of liquid waste to be generated and the adequacy of the proposed sewage treatment system;
 - f. Adequacy of the site for water supply and on-site sewage treatment systems;
- C. Upon consideration of the factors listed above, the Fertile City Council may attach such conditions, in addition to those required elsewhere in this Ordinance that it deems necessary for the furtherance of the purposes set forth in this Ordinance. Such conditions attached to conditional use permits may include, but shall not be limited to:
1. Increased yards and setbacks;
 2. Periods and/or hours of operation;
 3. Minimum number of off-street parking spaces;
 4. Type of construction;
 5. Deed restrictions;
 6. Landscaping and vegetative screening;
 7. Specified sewage treatment and water supply facilities;
 8. Location of signs and parking areas;

9. Any other reasonable requirements necessary to fulfill the purposes and intent of this Ordinance.
- D. An applicant for a Conditional Use Permit may be required to furnish the Fertile City Council, in addition to the information required for the building or other permit, the following:
1. A plan of the proposed project area showing contours, soil types, ordinary high water level, ground water conditions, bedrock, slope, and vegetative cover;
 2. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and vegetative cover;
 3. Plans of buildings, sewage treatment facilities, water supply systems, and arrangements of operations;
 4. Specifications for areas of proposed grading, filling, lagooning, dredging, or other topographic alterations;
 5. Other pertinent information necessary to determine if the proposal meets the requirements and intent of this ordinance.
- E. The City Council, in evaluating each conditional use application may request the Polk Soil and Water Conservation District to make available expert assistance to assist in the evaluation and consideration of such application.

Subdivision 6. Variances and Appeals.

- A. The Fertile Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official controls including restrictions placed on nonconformities. All such variances shall be granted in accordance with M.S. 462. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the comprehensive plan. The Board of Adjustment has authorized the Planning Commission to hold the public hearing on variance requests. The Planning Commission shall consider the criteria set forth below when making a recommendation to the Board of Adjustments upon a variance request:
1. Has the applicant demonstrated a hardship? Hardship means that the property cannot be put to a reasonable use under conditions allowed by the Zoning Ordinance. Economic considerations alone do not constitute a hardship.
 2. Are there exceptional circumstances unique to this property which were not created by the land owner?

3. Can the variance be granted without upsetting the purpose and intent of the Zoning Ordinance?
 4. Can the variance be granted without altering the essential character of the surrounding area?
- B. The Planning Commission in its recommendation to the Board of Adjustment must make an affirmative finding on all of the four criteria listed above in order for the Board to grant a variance. The applicant for a variance has the burden of proof to show that all of the criteria listed above have been satisfied. A variance shall not be granted for a use that is not permitted under this ordinance.
- C. The Board may impose conditions upon a variance that relate to the purposes and objectives of this ordinance. If conditions are imposed, the variance shall not be effective until the conditions are fully complied with. A variance with conditions shall be in effect only as long as the condition is complied with. If a condition is not complied with, the variance may be revoked and the City may pursue the enforcement remedies set forth in Section V, Subdivision 10 herein.
- D. Variance Application Process:
1. An applicant desiring a variance shall fill out and submit to the Fertile Zoning Administrator a Variance Request form, copies of which are available from the Zoning Administrator. The appropriate fee shall be paid in order for the application to receive consideration by the Planning Commission and Board of Adjustment.
 2. The Zoning Administrator shall make a recommendation, in writing, to the Planning Commission who shall conduct the public hearing in accordance with M.S. 462 and the provisions of this Ordinance.
 3. The Planning Commission forwards their recommendation to the Board of Adjustment for a final decision.
 4. The Board may not permit as a variance any use that is not permitted under the ordinance for property in the zoning district where the affected person's land is located.
- E. Appeal of an Administrative Decision. An appeal of any administrative decision of the Zoning Administrator made in the enforcement of this Ordinance shall be made by filling out and submitting to the Zoning Administrator an Application for Appeal, which is available from the Zoning Administrator. Such appeal shall be heard by the Board of Adjustment within sixty (60) days of the date that such application is submitted to the Zoning Administrator.

Subdivision 7. Amendments.

The procedure for amendments to this Ordinance shall be as follows:

- A. An amendment may be initiated by a property owner, the Planning Commission or the City Council. Property owners wishing to initiate an amendment shall fill out an Application for Amendment form, available from the Zoning Administrator. Such application shall be filled out and submitted to the Zoning Administrator together with the appropriate fee;
- B. The applicant shall appear before the Planning Commission to answer any questions that Commission members may have concerning the amendment request.
- C. A public hearing on the amendment request shall be conducted by the Planning Commission within sixty (60) days following such initial meeting. The Public hearing shall be conducted in accordance with M.S. 462;
- D. The Planning Commission shall make its recommendation to the City Council after the proceedings of this public hearing. The applicant shall be notified in writing of the recommendation that shall be forwarded to the City Council;
- E. The City Council shall consider the recommendation of the Planning Commission within thirty (30) days after the public hearing is conducted.
- F. To pass an amendment to the zoning ordinance, a two-thirds majority vote of all City Council members is necessary.

Subdivision 8. Public Notice and Hearing Requirements.

- A. In addition to the procedures described in preceding sections of this Ordinance, all conditional use permit requests, variance requests, requests for amendments, and preliminary plat approval shall be reviewed at a public hearing conducted at least ten (10) days following official public notification including publication in the Official newspaper of the City of Fertile and notification of all property owners within the following distances from affected property when such notice is applicable: In the case of variances and conditional uses, all property owners within 350 feet must be notified. In the case of amendments to official controls which involve changes in district boundaries of five acres or less, all owners of property within 350 feet must be notified.
- B. 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 Zoning Administrator and shall be made a part of the records of the proceedings.
- C. Failure to give mailed notice to individual property owners, or defects in the public notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Subdivision 9. Access to private property.

The Zoning Administrator or his or her agent shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings and other actions necessary for the enforcement of this Ordinance.

Subdivision 10. Enforcement and Penalties.

- A. In the event of violation or threatened violation of this Ordinance, the City Council, in addition to other remedies including prosecution under Section 6, Subdivision 10.B (below) of this Ordinance, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations.
- B. Any person, firm or corporation who shall violate any of the provisions herein, or who shall fail to comply with any of the provisions herein, or who shall make any false statement in any document required to be submitted under such provisions, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by such penalties and fines provided by law. Each day that the violation continues shall constitute a separate offense and it shall be the duty of the Fertile City Attorney to institute such action.