



# CITY OF OAKDALE, MN

Zoning Code – DRAFT 5/16/25

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# Chapter 25 Zoning

## ARTICLE 25-01. INTRODUCTORY PROVISIONS

### Division 25-01-100. Purpose

#### Sec. 25-01-101. Intent and Purpose

(a) The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations governing development and use. This Ordinance shall divide the City into use districts and establish regulations in regard to location, erection, construction, reconstruction, alteration and use of structures and land. Such regulations are established to protect such areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards and density of population; to provide for compatibility of different land uses; to increase the taxable value of the City, to enhance the visual appearance of property within the City, to provide for administration of this Ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City Staff, Planning Commission and the City Council in relation to the Zoning Ordinance.

### Division 25-01-200. Authority

#### Sec. 25-01-201. Title

(a) This Ordinance shall be known as the "Oakdale Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance."

#### Sec. 25-01-202. Applicability and Effect of Chapter

- (a) In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.
- (b) No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.
- (c) Except as allowed by the Oakdale City Council, no building permit shall be granted that does not conform to the requirements of this Ordinance.

#### Sec. 25-01-203. Effective Date

- (a) The effective date of this Ordinance is \_\_\_\_\_, 2025. This Ordinance hereby supersedes and replaces in its entirety, Chapter 25: Zoning of the Oakdale, Minnesota Code of Ordinances, on the effective date hereof.
- (b) The provisions of this Ordinance shall apply to all development plans (general, revised, or final) filed on or after \_\_\_\_\_, 2025. Plans on file before \_\_\_\_\_, 2025 shall be reviewed for compliance with the zoning ordinance effective at the time of filing.

(c) The provisions of this Ordinance shall apply to all permits filed on or after \_\_\_\_\_, 2025. Permit applications on file before \_\_\_\_\_, 2025 shall be reviewed for compliance with the zoning ordinance effective at the time of filing.

**Sec. 25-01-204. Authority to Adopt**

(a) This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, sections 462.351-462.365.

**Sec. 25-01-205. Incorporate**

(a) City staff is authorized and directed to update the formatting and to make sure other changes are necessary to incorporate the amendments adopted by this Ordinance into the Oakdale city code.

**Division 25-01-300. Administration**

**Sec. 25-01-301. Power Given to the City Council**

The Council may on its own motion, or on request of the Planning Commission, or on petition of the affected property owners:

- (a) Change the zoning of a parcel of land from one classification to another.
- (b) Change any of the regulations of this Ordinance as to the use or platting of land in any district, or as to the restrictions upon buildings or structures therein, by amendment to this Ordinance.
- (c) Hear and decide appeals by any person affected by any alleged error in any order, requirement, decision, or determination made by any administrative officer in the enforcement of this Zoning Ordinance according to Section 25-03-106 Appeal of Decision.
- (d) Hear requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties, and to grant such variances only when it is demonstrated that such actions will be in keeping with the purposes and intent of this Ordinance and with the Comprehensive Plan.
- (e) Establish or amend by ordinance a schedule of fees.

**Sec. 25-01-302. Administrative Officer**

- (a) The Community Development Director shall be responsible for the administration and enforcement of this Ordinance.
  - (1) The Community Development Director shall create and maintain such systems of records and files and establish such administrative procedures as are necessary to promote the efficient administration of this Ordinance.
  - (2) The Community Development Director may designate such additional persons as may be necessary or convenient to administer and enforce this Ordinance.
- (b) Any person aggrieved by any procedure or decision of the Community Development Director may appeal to the Board of Appeals and Adjustments in accordance with the procedures outlined in Section 25-03-106 Appeal of Decision. The decision of the Board of Appeals and Adjustments regarding any decision first made by the Community

Development Director may be appealed to the City Council in accordance with the procedures outlined in Section 25-03-106 Appeal of Decision of this Ordinance.

## **Division 25-01-400. Interpretation**

### **Sec. 25-01-401. Relationship to Comprehensive Plan**

- (a) It is the policy of the City of Oakdale that the enforcement, amendment, and administration of this Ordinance be consistent with the Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council.

### **Sec. 25-01-402. Conflicting Regulations or Provisions**

- (a) Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by another ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail. Notwithstanding the foregoing, if such conflict exists between this Ordinance and the Comprehensive plan, the Comprehensive Plan shall control.
- (b) In interpreting and applying the provision of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not the intention of this Ordinance to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or premises or upon height or building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provision of this Ordinance shall govern.

### **Sec. 25-01-403. Use of Graphics, Illustrations, Figures, and Cross-References**

- (a) Graphics, illustrations, figures, and photos are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, figure, or photo, the text shall control.
- (b) In some instances, cross-references between chapters, divisions, sections, and subsections are provided that include the chapter, division, section, or subsection number of along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

## **ARTICLE 25-02. DEFINITIONS**

### **Division 25-02-100. Introductory Provisions**

- (a) For the purpose of this Ordinance, certain words and terms are defined as follows.
- (b) Words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall also mean the word "structure"; the word "shall" is mandatory and not directory; and the word "may" is discretionary.

## Division 25-02-200. General Definitions

**APPLICANT:** The owner, the owner's agent, or any other person having legal control, ownership, and/or interest in the land proposed to be subdivided or for a land use application.

**BASEMENT:** A portion of a building located partly underground but having more than half its floor-to-ceiling height below the average grade of the adjoining ground.

**BOARD OF ADJUSTMENT APPEALS:** The City Council shall sit as board of adjustment and appeals as defined in Minnesota Statutes, Section 462.354, subd. 2.

**BUFFER:** The use of land, space, fences, or plantings to screen a property from another property and thus reduce undesirable visual or auditory effects.

**BUILDING:** Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind. When separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.

**BUILDING HEIGHT:** A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof to the uppermost point on other roof types (see Figure 02-1).

Figure 02-1. Building Height



**CALIPER:** The American Nursery Stock Standard for trunk diameter measurement.

**COMPREHENSIVE PLAN:** The most recent compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the City and its environs, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the City's recommendations for the future development of the community.

**COVERED PASSAGEWAY:** A roofed structure at least five feet wide which attaches a principal and accessory structure (see Figure 02-2).

Figure 02-2. Covered Passageway



**DEVELOPMENT:** Any man-made change to improved or unimproved real estate including, but not limited to, the placement, construction or modification of buildings, manufactured homes, and other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

**DRIVEWAY:** A hard-surfaced area, usually leading from a garage, used for access to an individual dwelling and not used for general circulation.

**EXCAVATION:** The extraction of sand, gravel, or other material from the land in the amount of four hundred (400) cubic yards or more and removal thereof from the site without processing.

**(GROSS) FLOOR AREA:** The sum of the gross horizontal area of the several floors of the building, measured from the exterior faces of the exterior walls.

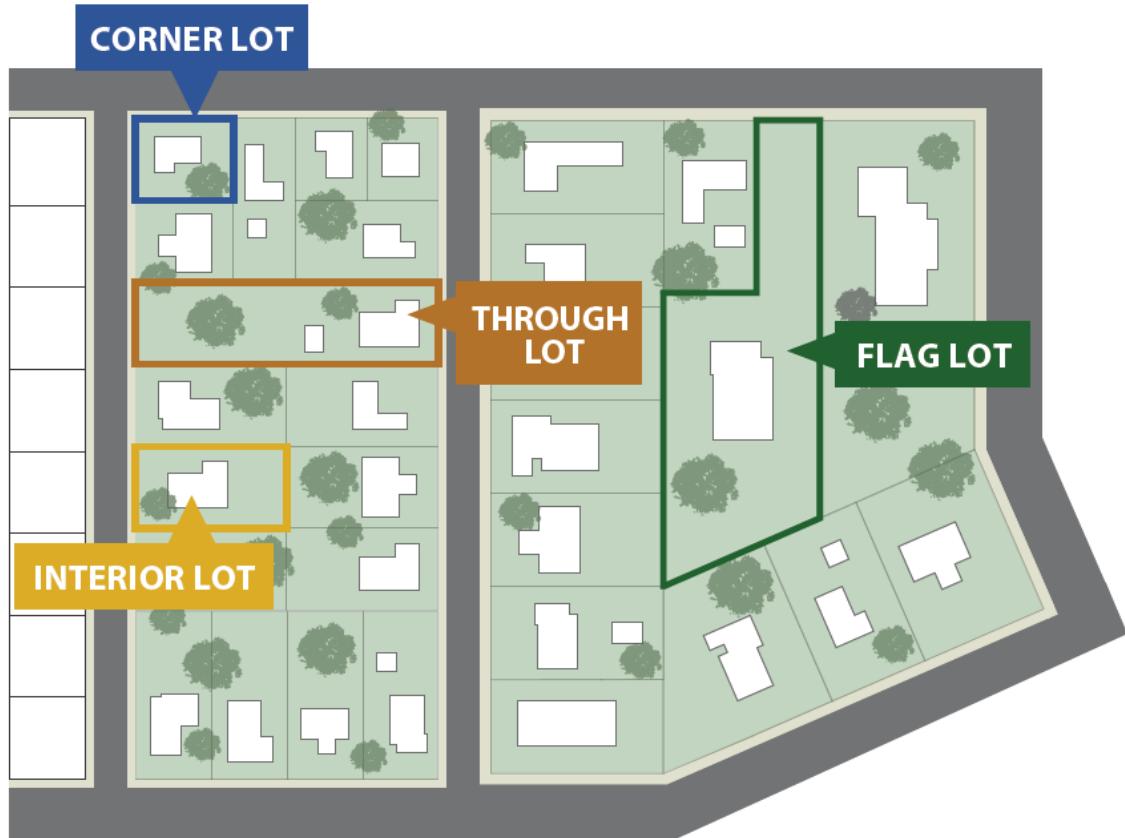
**FOOT CANDLE.** A measurement of light intensity. The illuminance on a one (1) foot square surface from a uniform source of light. One (1) footcandle is equal to one lumen per square foot.

**IMPERVIOUS SURFACE:** A constructed hard surface or natural surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

**LAND RECLAMATION:** The reclaiming of land by depositing of material so as to elevate the grade and the process of depositing more than one thousand (1,000) cubic yards on any lot or parcel of land shall be land reclamation.

LOT: A parcel of land having fixed boundaries and identified by number or letter designation on a survey or subdivision plat (see Figure 02-3).

Figure 02-3. Lot Types



LOT, CORNER: A lot situated at the junction of and fronting on two or more streets.

LOT, DOUBLE FRONTAGE (THROUGH): A lot with opposite lot lines on two non-intersecting streets. Both street frontages shall be considered as front yard areas

LOT, FLAG: A lot with access provided to the bulk of the lot by means of a narrow corridor which does not meet the minimum lot width requirements at the minimum setback distance from the public street.

LOT, INTERIOR: A lot having frontage on one (1) street.

LOT, NONCONFORMING: A lot which lawfully existed prior to the adoption, revision, or amendment of this Ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the new district regulation in which it is located.

LOT, SUBSTANDARD: A lot which does not conform to the minimum standards of this Ordinance.

LOT OF RECORD: Any validly recorded lot which at the time of its recording complied with all applicable laws, ordinances, or regulations.

LOT AREA: The lot area is the land area within the lot lines.

LOT LINE: A property boundary line of any lot held in single or separate ownership, except that, where a portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley.

LOT LINE, FRONT: That boundary of a lot which is along an existing or dedicated street. In the case of a corner lot, the front lot line shall be the shortest dimension along a public street or as designated by the Community Development Director based on the practical front yard of the property as determined by such factors as the existing or proposed building configuration of the property and taking into consideration the characteristics of surrounding properties.

LOT LINE, INTERIOR: A lot line which does not abut a public right-of-way. Does not include internal divisions of a unified residential, commercial, or industrial site.

LOT LINE, REAR: That boundary of a lot which is the most distant from and is or is approximately parallel to 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 deemed to be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

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

LOT WIDTH: The horizontal distance between the side lot lines of a lot measured at the minimum required front setback line.

NET ACREAGE: The total area of a site excluding land covered by wetlands, water bodies, public parks and trails, public open space, arterial road rights-of-way, and other undevelopable acres identified in or protected by local ordinances.

NET DENSITY: The number of planned housing units divided by the net acreage.

OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OUTLOT: A lot remnant or parcel of land left over after platting which is intended as open space or other use and for which no building permit shall be issued without a conditional use permit.

OPEN SPACE: That portion of a site, outside of a required front or corner side yard, as extended to the rear lot line, that is available for outdoor use.

PARKING SPACE: A suitably surfaced and permanently maintained area on privately owned property, either within or outside of a building, of sufficient size to store one (1) standard automobile.

PLANNED UNIT DEVELOPMENT: A type of development characterized by a unified design, site-specific regulations, and flexibility from zoning standards.

**PROPERTY OWNER:** Person with a legal interest in real property to which the application or decision applies.

**PREMISES:** The structures and land that make up a parcel of property.

**RECREATION EQUIPMENT:** Play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures.

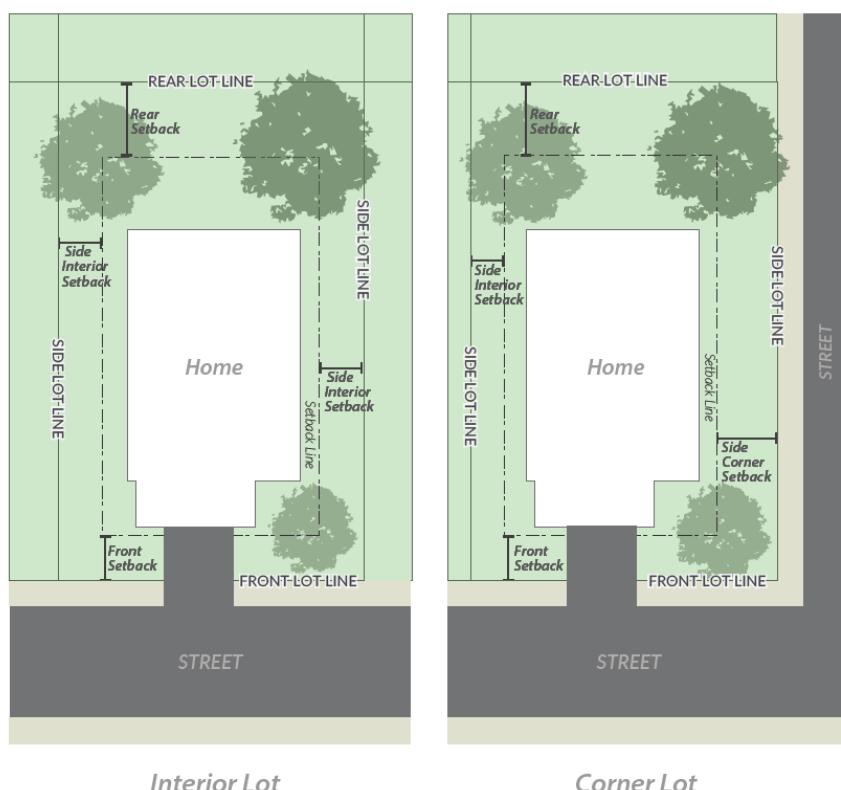
**REGIONAL FLOOD:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base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

**RIGHT-OF-WAY:** Land covered by a public road or land dedicated for public use or for certain private use such as land over which a power line passes.

**ROOF LINE:** The edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**SETBACK:** The required minimum horizontal distance between a structure and a lot line, ordinary high-water mark, paved street, curb, pedestrian way, or right-of-way easement, whichever is less (see Figure 02-4).

Figure 02-4. Setbacks



**SOIL PROCESSING:** The processing of sand, gravel, sod, or other material mined from the land shall be considered soil processing for purposes of this Ordinance.

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

**STREET:** A public or private thoroughfare with a right-of-way which is used, or intended to be used, for passage or travel by motor vehicles.

**ALLEY:** A public thoroughfare twenty (20) feet or less in width for use of motorized vehicles.

**STREET, ARTERIAL:** A street primarily designated to carry large volumes of traffic and provide for vehicular movement between and among large areas. Arterial streets in Oakdale are designated by the City Transportation Plan.

**STREET, COLLECTOR:** A street which carries traffic from local streets to arterial streets or from arterial to arterial. It includes the principal entrance streets of a residential development and those principal streets used for circulation within such development. Collector streets in Oakdale are designated by the City Transportation Plan.

**STREET, LOCAL:** A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood. Local streets in Oakdale are designated by the City Transportation Plan.

**STRUCTURE:** That which is built, constructed, or erected on the ground or attached to the ground, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, including but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.

**STRUCTURE, NONCONFORMING:** Any structure legally existing at the present time or at the time of a subsequent amendment to this Ordinance which does not comply with the regulations as set forth.

**TREE, CONIFEROUS:** A woody plant which, at maturity, is at least twelve (12) feet or more in height, having foliage on the outermost portion of the branches year-round.

**TREE, DECIDUOUS:** A woody plant which, at maturity, is at least fifteen (15) feet or more in height, having a defined crown, and which loses leaves annually.

**TREE, OVERSTORY:** A woody plant, which, at maturity, is at least twelve (12) feet or more in height.

**TREE, SIGNIFICANT:** A healthy deciduous hardwood tree measuring a minimum of eight (8) caliper inches in diameter, a healthy softwood deciduous tree measuring a minimum

of twelve (12) caliper inches, or a healthy coniferous tree measuring a minimum of twelve (12) feet in height.

**USE:** The purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

**USE, ACCESSORY:** A use subordinate, incidental, and related to the principal use of a lot or structure located on the same lot.

**USE, CONDITIONAL:** A land use, which because of its unique characteristics, cannot be properly classified as a permitted use in a particular district (example: Business in a Residential zone).

**USE, INTERIM:** A temporary use of property until a particular date, or until the occurrence of a particular event, as determined by the City Council.

**USE, NONCONFORMING:** Use of land, buildings, or structures legally existing at the present time or at the time of a subsequent amendment to this Ordinance which does not comply with the regulations as set forth.

**USE, PRINCIPAL:** The primary purpose for which land is used.

**VARIANCE:** A modification or variation of the provisions of this Ordinance as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

**WETLAND:** A location periodically or permanently inundated by surface water and designated on the City of Oakdale Surface Water Management Plan. **YARD:** An open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance.

**YARD, FRONT:** A yard extending along the full width of the lot between side lot lines and measured from the front lot line to the front building line of the principal structure.

**YARD, REAR:** A yard extending along the full width of the lot between side lot lines and measured from the rear lot line to the rear building line of the principal structure.

**YARD, SIDE:** The yard extending from the front yard to the rear yard and measured between the side lot lines and the side building line of the principal structure.

**ZONING DISTRICT:** An area or areas within the limits of the City of Oakdale for which the regulations and requirements governing the use are uniform.

**ZONING MAP:** The map or maps incorporated into this Ordinance that delineate the boundaries of all mapped zoning districts within the physical boundary of the City.

## **Division 25-02-300. Use Definitions**

**ACCESSORY ADULT ESTABLISHMENT.** A business which meets any of the following criteria, is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- (a) Any business that devotes less than ten percent of the sales floor area, up to a maximum of one hundred (100) square feet, of an otherwise permitted business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to materials or persons depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas, and is available for barter, rental, or sale for off the premise use only.
- (b) Accessory Adult Establishment sales do not include the sale of instruments, devices or paraphernalia, which are used or designed for use in connection with Specified Sexual Activities.
- (c) In order to qualify, Accessory Adult Establishment sales of materials depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas shall at all times be out of view by any persons under the age of eighteen (18), and hereunder, they shall be restricted from and prohibit access to persons under age eighteen (18) by physical separation, except for sales of print media, which shall be displayed with a completely opaque cover excluding the media's title, and shall be kept a minimum of five (5) feet off the floor.
- (d) Any business with accessory adult establishment sales not meeting the requirements of this definition shall be considered a Principal Adult Establishment, subject to all requirements for such businesses.

**ACCESSORY AGRICULTURAL BUILDING:** An accessory structure meeting the definition in Minnesota Statutes, Section 326B.103, Subd. 3.

**ACCESSORY APARTMENT:** A self-contained dwelling unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is located within, attached to, or on the same lot as an existing single-unit residential dwelling.

**ACCESSORY BUILDING:** A building, with or without a roof and/or walls, located on the same lot as the principal building and customarily incidental and subordinate to the principal building.

**ACCESSORY OFFICE:** A portion of a larger structure used for office activities in support of the principal use.

**ACCESSORY RETAIL OR SERVICE:** The sale of goods or services located within the same building or on the same lot as the principal use. This use may include daycares, restaurants, recreation, convenience goods, personal services, cafeterias, and similar uses.

**ACCESSORY WAREHOUSING:** A portion of a larger structure used for the storage of goods or materials in support of the principal use.

**AGRICULTURE:** The use of land for agricultural purposes including farming, dairying, pasturing, agriculture, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory structures and uses. The operation of any accessory uses shall be secondary to that of normal agricultural activities. This use does not include feedlots.

**ANIMAL HOSPITAL:** A building where animals are treated for injury or disease, including premises for boarding of animals being treated.

**ANIMAL KEEPING:** The long-term care and maintenance of animal(s) on private property.

**ANTENNA AND/OR TELECOMMUNICATION SUPPORT STRUCTURE:** Any satellite dish, radio tower, or ground-mounted satellite vertical antenna that is used in whole or in part for the collection, communication, transmission, or receiving of telecommunications signals.

**ART STUDIO:** An establishment engaged in the creation of art including music, photography, and other visual media. Limited sales of art created on-site is allowed.

**ASSISTED LIVING FACILITY:** A residential facility, as defined in Minnesota Statutes, Section 144G.08, subd. 7, licensed by the state.

**AUTOMOTIVE FUEL STATION:** A building, land area, or other premises used or intended to be used for the retail dispensing or sale of vehicular fuels. Additional services provided may include, but are not limited to, the sale of automobile accessories, groceries, and household products.

**AUTOMOTIVE SALES OR RENTAL:** Any land or buildings, other than a street, used for the display, sale, or rental of new or used motor vehicles or trailers in operable condition. Leasing of vehicles is also included in this use.

**AUTOMOTIVE SERVICE AND REPAIR:** A place where light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted (does not include fuel sales). Includes the sale of automobile accessories and convenience food goods.

**AUTOMOTIVE TOWING SERVICE:** An establishment that provides for the removal and temporary storage of vehicles but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles.

**BODY ART:** Physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, micropigmentation, cosmetic tattooing, branding, scarification, suspension, subdermal implantation, microdermal, tongue bifurcation, and tissue removal. Body art does not include practices and procedures that are performed by a licensed medical or dental professional if the procedure is within the professional's scope of practice.

**BREW PUB:** A brewer who holds one (1) or more retail on-sale licenses and who manufactures fewer than three thousand five hundred (3,500) barrels of malt liquor in a year, at any one licensed premises, the entire production of which is solely for consumption on tap on any licensed premises owned by the brewer, or for off-sale from those licensed premises as permitted by state statute.

**BREWERY:** A facility that produces more than twenty thousand (20,000) barrels of malt liquor in a calendar year as regulated by Minnesota Statutes, and may or may not include a taproom.

**BREWERY, SMALL:** A facility that produces not more than twenty thousand (20,000) barrels of malt liquor in a calendar year as regulated by Minnesota Statutes, and may or may not include a taproom.

**CANNABIS DELIVERY/TRANSPORTER BUSINESS:** A business with one of the following issued by the State of Minnesota Office of Cannabis Management: a cannabis delivery service license, or a cannabis transporter license.

**CANNABIS COMBINATION BUSINESS:** The cultivation or manufacturing activities of a business with one of the following issued by the State of Minnesota Office of Cannabis Management: a cannabis mezzobusiness license or a cannabis microbusiness.

**CANNABIS LOUNGE:** A portion of the premises of a licensed cannabis microbusiness with an on-site consumption endorsement by the State of Minnesota Office of Cannabis Management, used for on-site consumption of edible cannabis products and lower-potency hemp edibles.

**CANNABIS OR HEMP INDUSTRIAL BUSINESS:** A business with one of the following issued by the State of Minnesota Office of Cannabis Management: a cannabis manufacturer license, a cannabis wholesaler license, a cannabis testing facility license, a cannabis cultivator license, a medical cannabis manufacturer, the non-retail activities of a medical cannabis combination business license, a medical cannabis cultivator license, a lower-potency hemp edible manufacturing license, a lower-potency hemp cultivator license or any license, including a cannabis mezzobusiness license and a cannabis microbusiness license, with a manufacturing or testing endorsement.

**CANNABIS OR HEMP RETAILER:** A business with one of the following issued by the State of Minnesota Office of Cannabis Management: a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, the retail activities of a mezzobusiness with a retail endorsement, or the retail activities of a microbusiness with a retail endorsement.

**CAR WASH:** A building designed, intended, and used for the washing of automobiles of the public.

**CATERING ESTABLISHMENT:** An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.

**CEMETERY:** A parcel of land which is intended for the burial of human dead. A marker or memorial is erected at each gravesite for permanent remembrance of the deceased. Cemeteries may include columbariums, crematories, mausoleums, mortuaries, and chapels when operated in conjunction with and within the boundary of such cemetery.

**CLINIC:** A facility used primarily for the provision of outpatient medical, dental, chiropractic, therapeutic, optometric, or mental health care and treatment.

**CLUB OR LODGE:** A non-profit association of persons who are bonafide members paying annual dues which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.

**COMMERCIAL CENTER:** A group of unified commercial establishments located on a single land parcel and consisting of not less than two distinct business entities which share or jointly use parking facilities.

**COMMERCIAL EVENT CENTER:** A structure or designated area used for celebration, weddings, ceremonies, receptions, corporate functions, or similar activities for the benefit for someone other than the property owner that takes place on an occasional basis. This does not include uses accessory to single-unit residential uses, such as private parties, gatherings, and similar activities.

**COMMERCIAL RECREATION FACILITY, INDOOR:** Indoor facilities operated as a business and which are open to the public for a fee that shall include, but are not limited to, bowling alleys, skating rinks, indoor swimming pools, game rooms, movie theaters, arcades, and other similar businesses. Such businesses may also provide a snack bar, restaurant, retail sales of related items, and other support facilities.

**COMMERCIAL RECREATION FACILITY, OUTDOOR:** Outdoor facilities operated as a business and which are open to the public for a fee that shall include, but are not limited to, golf courses, outdoor swimming pools, amusement parks, and other similar businesses. Such facility may also provide a snack bar, restaurant, retail sales of related items, and other support facilities.

**CONTINUUM OF CARE SENIOR FACILITY:** A residential facility or complex which provides a variety of senior living choices, from independent living to long-term care, with a goal of helping residents to age in place.

**CONSTRUCTION-RELATED TEMPORARY USE:** A temporary use or structure related to construction activities on the same site. This use may consist of construction-related trailers, mobile structures used for construction offices and storage, batch plans, and temporary offices to replace permanent facilities being reconstructed.

**DATA CENTER:** A facility used primarily for the storage, management, processing, and transmission of digital data which houses computer or network equipment, systems, services, appliances, and other associated components related to digital data storage and operations.

**DAYCARE FACILITY:** A state-licensed facility other than a private residence that provides for the care of children or adults during only part of a twenty-four (24) hour day. This term includes nursery schools, preschools, day care centers, and other similar uses but excludes public and private schools or any facility offering care of individuals for a full twenty-four (24) hour period.

**DAYCARE, GROUP FAMILY:** A dwelling unit where a resident of the dwelling is licensed by the state to provide care under Minnesota Rules 9502 for less than twenty-four (24) hours at a time for up to fourteen (14) children, of which no more than ten (10) may be school age.

**DISTILLERY:** A facility that produces distilled spirits as regulated by Minnesota Statutes.

**DRIVE-THROUGH ESTABLISHMENT:** An accessory use, structure, or portion of a principal structure where patrons may purchase products or receive service without having to leave their motor vehicle and enter a building. Pick-up windows are included in this use.

**DRY CLEANING SERVICE:** An establishment which launders or dry cleans articles dropped off on the premises directly by the customer or where articles are dropped off, sorted, and picked up but where laundering or cleaning is done elsewhere.

**DWELLING, APARTMENT MIXED USE:** A building designed for one or more dwelling units as well as non-residential uses that are permitted in the zoning district, with all dwelling units sharing a joint entrance from the outside.

**DWELLING, ATTACHED TOWNHOUSE OR ROWHOUSE:** A single residential structure consisting of three (3) or more dwelling units. Each unit shall have a separate entrance and shall be separated from adjoining unit(s) by at least one (1) common side wall.

**DWELLING, COURTYARD COTTAGE:** A cluster of single-unit dwellings in the form of smaller houses, arranged around a shared courtyard or open space that is typically perpendicular to the street. The shared courtyard takes the place of individual rear yards and becomes an important community-enhancing element of this housing type.

**DWELLING, LARGE APARTMENT:** A residential structure consisting of at least nine (9) independent dwelling units sharing hallways and main entrances and exits.

**DWELLING, SINGLE-UNIT DETACHED:** A site-built or factory-built residential structure designed exclusively for occupancy by one (1) household. This definition includes manufactured homes located outside of a manufactured home park.

**DWELLING, SMALL APARTMENT:** A residential structure consisting of three (3) to eight (8) independent dwelling units sharing hallways and main entrances and exits.

**DWELLING, TWO-UNIT:** A residential structure designed for or occupied by two (2) households only, including twinhomes and duplexes.

**ELECTRIC VEHICLE CHARGING STATION:** A public or private parking space that is served by electric vehicle supply equipment.

**EXTERNAL SOLID FUEL-FIRED HEATING DEVICE:** External solid fuel-fired heating device also known as "outdoor furnaces" means any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space. It is the City's intent to regulate exterior freestanding solid fuel-fired devices that are contained within a structure primarily designed or used to house the solid fuel device.

**FINANCIAL INSTITUTION:** An establishment where the principal business is the receipt, disbursement, investment, or exchange of funds and currencies, such as banks, savings and loans, credit unions, and investment companies.

**FUNERAL HOME:** A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, urns, and other related funeral supplies; d) the storage of funeral vehicles; e) facilities for cremation; f) a funeral chapel or other area used for the performance of funeral ceremonies, mourning, and viewing of the deceased; and g) associated rituals such as ceremonial processions and activities.

**GARAGE, PRIVATE:** A detached accessory building or portion of the principal building, including a carport, which is situated on the same lot as the principal building used primarily for storing motor vehicles with no facilities for mechanical service or repair of a commercial nature.

**GOVERNMENT USE:** A structure or use in which municipal, school district, county, state, or federal administrative offices are located or services are provided, including but not limited to city hall, public works buildings, or post offices.

**HEALTH AND ATHLETIC CLUB FACILITY:** An establishment which provides physical fitness facilities and services to the public for a fee, including but not limited to; game courts, exercise equipment, exercise areas, running tracks, swimming pools, spa areas, physical

fitness maintenance and weight control services and instructors, locker rooms, saunas, and associated retail shops intended for members of the club only.

**HOME OCCUPATION:** Any occupation, profession, or activity engaged in by the occupants of the residential dwelling, or accessory building, which is clearly incidental and secondary to the residential use of the premises and does not change the character of the premises. A family child care provider or a group family child care provider shall not be considered a home occupation.

**HOSPITAL:** An establishment providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care of the sick or injured.

**HOTEL:** A building containing guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests. Ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

**KENNEL, COMMERCIAL:** A place where boarding and/or training is offered to any number of dogs not owned by the owner or occupant of the premises. Such boarding and/or training may also include but is not limited to related uses such as selling, breeding, showing, treating or grooming. Pet shops, veterinary clinics, and pet grooming facilities are considered commercial uses but shall not be defined as commercial kennels.

**KENNEL, PRIVATE:** A place where a dog owner keeps four (4) or more dogs over six (6) months of age on property occupied by the dog owner for residential purposes and where the keeping of such dogs is incidental to the occupancy of the premises, and may include breeding and selling of dogs as a hobby.

**LABORATORY, RESEARCH, AND/OR DEVELOPMENT FACILITY:** A facility involved in scientific research, investigation, testing, or experimentation, but not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**LIQUOR STORE, OFF-SALE:** An establishment which sells alcoholic beverages, including distilled spirits or hard liquor, for consumption off-site.

**LIVE-WORK UNIT:** A dwelling unit in combination with a shop, office, studio, or related work space within the same unit, where the resident occupant both lives and works.

**LONG-TERM OR TRANSITIONAL CARE FACILITY:** A facility that provides meals, lodging, and nursing care to two (2) or more individuals due to illness, age, or infirmity. Long-term care facilities include skilled nursing facilities such as nursing homes, rest homes, boarding care homes, convalescent care, memory care, hospice, and other transitional care facilities.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily filed a certification required by the Secretary of the United States Department of Housing and Urban Development and which complies with the standards established under Minnesota Statutes, Chapter 327.

**MANUFACTURED HOME PARK:** An approved manufactured home park which has underground utility service to each site and only permits independent manufactured homes. This use includes all related accessory structures such as shelters, community buildings, laundry facilities, and administrative offices.

**MANUFACTURING, HEAVY:** Any operation which assembles, improves, treats, processes, compounds, and/or packages goods or materials in a manner which creates odor, noise, vibration, illumination, or particulates that may impact surrounding properties. Examples include, but are not limited to, the following: large-scale food and bottling operations; lumber, milling and planing facilities; grain milling; gas manufacture, aggregate, concrete, and asphalt plants; foundries, forge shops, and other intensive metal fabrication; and chemical manufacturing.

**MANUFACTURING, LIGHT:** Any operation which assembles, improves, treats, processes, compounds, and/or packages goods or materials in a manner which does not create a noticeable amount of noise, dust, odor, smoke, glare, or vibration outside of the building in which the activity takes place, which does not require outside storage of goods or materials. Examples include but are not limited to, the following: food; pharmaceuticals; clothes; furniture (where wood is milled off-site); hardware; toys; light sheet metal products; mechanical components; printing; small vehicle assembly; and computer software.

**MEADERY:** A winery where mead is produced and sold commercially.

**MICROBREWERY:** A facility that produces not more than three thousand five hundred (3,500) barrels of malt liquor in a calendar year as regulated by Minnesota statutes, and may or may not include a brewer taproom.

**MICRODISTILLERY:** A distillery operated within the state producing premium, distilled spirits in total quantity not to exceed forty thousand (40,000) proof gallons in a calendar year.

**MOBILE FOOD UNIT:** A food and beverage service establishment that is a vehicle mounted unit, either:

Motorized or trailered, operating no more than twenty-one (21) days annually at any one place, or operating more than twenty-one (21) days annually at any one place with the approval of the regulatory authority; or

Operated in conjunction with a permanent business licensed under Minnesota Statutes, Ch. 157 or Ch. 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

**MOTEL:** A building containing guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests. Separate exterior entrances are provided for each guest room.

**NURSERY, TREE FARM, OR GREENHOUSE:** An establishment for the growth, display, and sales of trees, shrubs, flowers, and other plants conducted within or without an enclosed building.

**OFFICE:** An establishment used primarily for conducting the predominantly administrative or clerical service affairs of a business, profession, service, industry or government, or like activity and where goods are not produced, sold, or repaired.

**OFF-SITE SERVICE BUSINESS:** Any establishment including but not limited to plumbing, installation, electrical, or IT services where services are rendered off of the premises of the primary business location.

**OUTDOOR DINING:** A specified outdoor area for dining which is accessory to a principal restaurant or food service establishment use and is not located within a parking area or sidewalk.

**OUTDOOR DISPLAY:** The arrangement of the merchandise sold by a business outside of the building the business occupies.

**OUTDOOR SALES:** Retail sales in conjunction with a principal commercial use, but located outside of the principal structure.

**OUTDOOR STORAGE:** The storage of personal or business property for a period greater than twenty-four (24) hours outside of an enclosed building.

**PARK OR PLAYGROUND:** An area of land open to the public which is developed and maintained for active and/or passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play fields, and special purpose areas.

**PARKING AND/OR LOADING FACILITY:** A land surface or facility with off-street vehicular parking or loading spaces with drives and maneuvering lanes so as to provide access for entrance and exit.

**PAWN SHOP:** A commercial business that loans money on the security of pledges of personal property, or deposits and conditional sales of personal property, or the purchase or sale of personal property.

**PET STORE:** A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

**PLACE OF WORSHIP:** A building whose principal use, together with its accessory buildings and uses, is for persons to regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**PRECIOUS METAL DEALER:** A business that buys, exchanges, collects, receives, stores, or sells precious metal.

**PRINCIPAL ADULT ESTABLISHMENT.** A business which meets any of the following criteria, is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

(a) A business that is conducted exclusively for the patronage of adults that is distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity and to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business;

(b) Any business that:

a. Devotes more than ten (10) percent of the floor area of the business, or at least one hundred (100) square feet, whichever is smaller, to items, merchandise or other materials, distinguished or characterized by an emphasis on material depicting,

exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas, such floor area not to include storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public, or

- b. Has at least ten (10) percent of its inventory, stock and trade, or publicly displayed merchandise comprised of such items, merchandise, or materials, or
- c. Derives at least one-third of any month's gross sales from the sale or rental of such items, merchandise or other materials.

**PUBLIC PARKING FACILITY:** A land surface or facility owned or managed by a public entity with off-street vehicular parking or loading spaces with drives and maneuvering lanes so as to provide access for entrance and exit. Public parking facilities may include public garages, parking ramps, surface parking lots, and other similar uses.

**PUBLIC RECREATIONAL FACILITY:** An indoor or outdoor public complex or destination designed and equipped for the conduct of sports and leisure-time activities. This facility may include athletic fields, golf courses, or other similar uses associated with a designated recreation area. This use includes related accessory buildings and structures.

**PUBLIC UTILITY SERVICES:** Underground or overhead transmission facilities of electric power, gas, steam, water, telecommunications, and railroad companies. These include: Electric power transmission lines and gas pipe lines; substations; telephone facilities; cable TV lines but not studios nor antennae; water pumping, reservoir, and distribution facilities; railroad trackage, but not storage and switching yards; sewers, pipes, poles, conduits, cables, traffic signals, hydrants, and similar equipment but not buildings.

**RECREATIONAL AMENITY, PRIVATE:** A private area or facility intended to serve the recreational needs of a specific population. Private recreational amenities include but are not limited to: tennis courts, pickleball courts, walking trails, basketball courts, or playground equipment.

**RECREATIONAL VEHICLE:** Any vehicle which meets the criteria for "recreation" class registration and license plate, DNR registration, or trailer registration used for conveyance of recreation vehicles as established by the Minnesota Department of Public Safety, Minnesota Department of Natural Resources, or this Ordinance, including, but not limited to: travel trailers, stock car trailers, campers, motor homes, tent trailers, vehicles converted to motor homes, boat trailers, snowmobiles, snowmobile trailers, boats, personal watercraft, all-terrain vehicles, and all-terrain vehicle trailers.

**RELIGIOUS INSTITUTION:** A church, synagogue, mosque, or other religious organization organized under Minnesota Statutes, Chapter 315.

**RESIDENTIAL CARE FACILITY:** An in-home residential facility licensed by the state which provides primarily nonmedical care to individuals who are in need of personal assistance to manage the activities of daily life or for the protection of the individual.

**RESTAURANT.** An establishment where food and beverages are prepared, served, and consumed on the premises.

**SACRED COMMUNITY:** A residential settlement established on or contiguous to the grounds of a religious institution's primary worship location primarily for the purpose of

providing permanent housing for chronically homeless persons, extremely low-income persons, and designated volunteers that meets the requirements of MN Statutes 327.30.

**SCHOOL, ELEMENTARY, MIDDLE, OR SECONDARY:** A public or private institution, together with its accessory buildings and uses, for the purpose of elementary, middle, or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota.

**SCHOOL, POST-SECONDARY:** A building(s) or area of land used for the purpose of public or private post-secondary education, including but not limited to colleges and universities.

**SCHOOL, VOCATIONAL:** A building or area of land used for the purpose of teaching artistic, business, or industrial skills, including but not limited to trade or business schools.

**SELF-SERVICE LAUNDRY:** A facility where patrons wash or dry clothing or other fabrics in machines operated by the patron.

**SELF-SERVICE STORAGE FACILITY:** Real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access for the purpose of storing and removing personal property. The term does not include:

- (a) Property of a financial institution that contains vaults, safe deposit boxes, or other receptacles for the uses, purposes, and benefits of the financial institution's customers;
- (b) Warehousing as defined by this Article; or
- (c) A commercial parking garage or parking lot that provides short-term motor vehicle parking.

**SHOWROOM:** A building, structure, or part thereof used for the display of merchandise or equipment and its sale to a customer where delivery of purchased merchandise is made directly to the ultimate consumer from a warehouse.

**SMALL-SCALE SOLAR ENERGY GENERATION SYSTEM:** A solar collector or other device mounted on the ground or on a building, pole, or rack whose primary purpose is to harvest energy by transferring solar energy into another form of energy.

**SOBER HOME:** A dwelling unit occupied by more than six (6) persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988, that provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting.

**SOCIAL OR CULTURAL FACILITY.** Any area of land, water, or any building, in which social and cultural events are provided for public and semi-public use, including but not limited to, libraries, museums, theaters, and art galleries.

**SPECIALTY FOOD OR BEVERAGE SHOP:** An establishment whose primary business is the sale of a single specialty type of food or beverage that is not considered a complete meal (e.g. candy, coffee, ice cream, pastries) for consumption on or off premises. The sale

of other food, beverages, or merchandise is incidental to the sale of the specialty food or beverage.

**STANDALONE RETAIL OR SERVICE BUSINESS.** A detached structure where goods or services are sold.

**SWIMMING POOL:** A constructed or pre-fabricated in-ground or above-ground structure over twenty-four (24) inches deep and containing more than 5,000 gallons of water designed or used for recreational purposes including swimming, diving, and bathing.

**TAPROOM:** An area on the premises of a brewery or on premises adjacent to a brewery owned by the brewer in which the brewer sells or otherwise provides malt liquor produced by the brewer for consumption within the brewery taproom.

**TATTOO PARLOR, TATTOOING:** Establishment engaged in the business of "tattooing". Tattooing means any method of placing indelible ink or other pigment into or under the skin or mucosa with needles or any other instruments used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

**TAVERN:** Establishment serving "on-sale" liquor with or without food service.

**TOWER OR WIRELESS FACILITY:** Any tower or wireless facility designed and constructed primarily for the purpose of wireless communication, transmission, and distribution.

**ANTENNA:** That portion of any communication equipment located on the exterior or outside of any structure used for continuous or standby transmission or reception of radio or television waves.

**TOWER:** A structure upon which communication equipment is mounted or attached and including support devices such as cables, braces, etc.

**ACCESSORY STRUCTURE:** A structure located on the tower or antenna site, necessary to the receiving or transmitting of radio or television programs.

**TRUCK TERMINAL:** A building or area devoted principally to the transfer, assembly, and/or storage of goods brought by truck.

**WAREHOUSING:** The storage of materials, goods, or equipment within an enclosed building and their distribution.

**WHOLESALE TRADE ESTABLISHMENT:** An establishment primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, individuals or companies.

**WIND ENERGY CONVERSION SYSTEM (WECS):** Any device such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy.

**WESC Height:** The height of the tower/pole plus the rotor radius.

**WINERY:** A facility involved in the fermenting and processing of fruit juice into wine; or the refermenting of still wine into sparkling wine.

## **Division 25-02-400. Floodplain Definitions**

**BOATHOUSE.** A facility as defined by Minnesota Statutes, Section 103G.245.

**BUFFER.** A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

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

**CONTROLLED ACCESS LOT.** A lot used to access public waters or as a recreation area for owners of non-riparian lots within the same subdivision containing the controlled access lot.

**COMMISSIONER.** The commissioner of the Department of Natural Resources.

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

**EXPANSION.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.

**IMPERVIOUS SURFACE.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

**IMPROVEMENT.** Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

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

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

**PUBLIC WATERS.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.

**RESORT.** "Resort" has the meaning in Minnesota Statute, Section 103F.227.

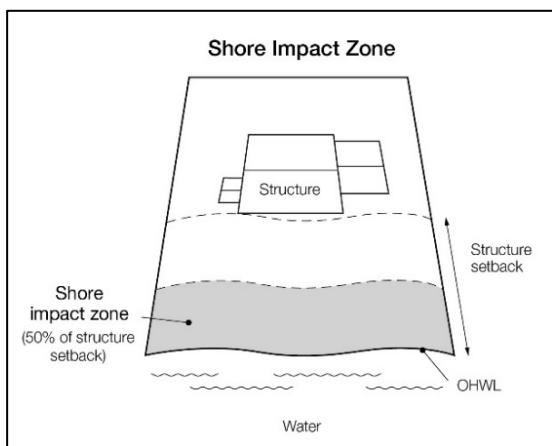
**SETBACK.** The minimum horizontal distance between a building, structure, fence, parking lot, to an ordinary high-water level or property line.

**SEWAGE TREATMENT SYSTEM.** "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, Subp. 82.

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

**SHORE IMPACT ZONE.** Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback (see Figure 02-5).

Figure 02-5. Shore Impact Zone



**SHORELAND.** Land located within 1,000 feet from the ordinary high-water level of a lake, pond, or flowage.

**SHORE RECREATION FACILITIES.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

**SIGNIFICANT HISTORIC SITE.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplattem cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplattem cemeteries are automatically considered to be significant historic sites.

**STEEP SLOPE.** Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more.

**WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.

**WATER-DEPENDENT USE.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal

conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of uses typically found in shoreland areas.

## **Division 25-02-500. Signage Definitions**

**ACCESSORY SIGN:** A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises on which it is located.

**BANNERS AND PENNANTS:** Attention-getting devices which resemble flags and are of a non-permanent paper, cloth or plastic-like consistency.

**BENCH SIGNS:** A sign which is affixed to a bench or shelter at a bus stop.

**BILLBOARD:** A large outdoor advertising structure mounted on one or more legs and designed to display posters, composite graphics and electronic (Dynamic Displays) advertisements.

**BLADE SIGN:** A sign extending from the side of a building at a right angle which may or may not be double-sided.

**ELECTRONIC MESSAGE SIGNS:** Displays, devices or portions thereof with lighted messages that change at intermittent intervals by electronic process or remote control. Also known as an automatic changeable copy sign, dynamic display message sign, electronic variable message center, electronic dynamic business sign, or video display sign. Electronic message signs are not identified as flashing or motion signs.

**FREESTANDING SIGN:** A sign which is placed in the ground and not affixed to any part of any structure.

**ILLUMINATED SIGN:** Any sign which is illuminated by an artificial light source.

**MOTION SIGN:** Any sign which revolves, rotates, or has any moving parts. Included in this category are searchlights used for advertisement.

**NITS:** International System of Units, unit of luminance; to quote the brightness of computer displays.

**NONCONFORMING SIGN:** A sign which does not conform to the newly enacted requirements of this Ordinance.

**PORTABLE SIGN:** A sign which is not permanently attached to the ground or any structure and so designed as to be movable from one location to another.

**PROJECTING SIGN:** Any sign, all or any part of which extends over public property more than twelve (12) inches.

**PERMANENT SIGN:** Any sign which is not a temporary sign.

**PYLON SIGN:** A freestanding area identification sign greater than twenty (20) feet in height, intended for freeway advertising.

**ROOF SIGN:** Any sign erected upon or projecting above the roofline of a structure to which it is affixed.

**SANDWICH BOARD SIGN:** A self-supporting, typically A-shaped, freestanding temporary signs with two visible sides that are situated adjacent to a business and typically on a sidewalk.

**SIGN:** Any letter, word or symbol, device, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message or visual communication whether painted, posted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes.

**SIGN AREA:** That area within the marginal lines of the surface which bears the advertisement, or in the case of messages, figures, or symbols attached directly to any part of the building, that area which is included in the smallest rectangle which can be made to circumscribe the message, figure or symbol displayed thereon. The stipulated maximum sign area for a freestanding sign refers to a single facing.

**STREET FRONTAGE:** The edge of a street along a parcel. An interior lot has one (1) street frontage and a corner lot two (2) such frontages.

**TEMPORARY SIGN:** A sign which is erected or displayed for a limited period of time.

**WALL SIGN:** Any sign which is affixed to a wall of any building.

## **Division 25-02-600.      Adult Use Definitions**

**PRINCIPAL ADULT ESTABLISHMENT.** A business which meets any of the following criteria, is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- (a) A business that is conducted exclusively for the patronage of adults and to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business;
- (b) Any business that:
  - (1) Devotes more than ten (10) percent of the floor area of the business, or at least one hundred (100) square feet, whichever is smaller, to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas, such floor area not to include storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public, or
  - (2) Has at least ten percent of its inventory, stock and trade or publicly displayed merchandise comprised of such items, merchandise, or materials, or
  - (3) Derives at least one-third of any month's gross sales from the sale or rental of such items, merchandise or other materials.

**ACCESSORY ADULT ESTABLISHMENT.** A business which meets any of the following criteria, is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- (a) Any business that devotes less than ten (10) percent of the sales floor area, up to a maximum of one hundred (100) square feet, of an otherwise permitted business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to materials or persons depicting, exposing, describing,

discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas, and is available for barter, rental, or sale for off the premise use only. Accessory Adult Establishment sales do not include the sale of instruments, devices or paraphernalia, which are used or designed for use in connection with Specified Sexual Activities. In order to qualify, Accessory Adult Establishment sales shall at all times be out of view by any persons under the age of eighteen (18), and hereunder, they shall be restricted from and prohibit access to persons under age eighteen (18) by physical separation, except for sales of print media, which shall be displayed with a completely opaque cover excluding the media's title, and shall be kept a minimum of five (5) feet off the floor. Any business with accessory adult establishment sales not meeting the requirements of this definition shall be considered a Principal Adult Establishment, subject to all requirements for such businesses.

**ADULT USE.** An adult use is any of the activities, uses and businesses described below:

- (a) **Adult Body Painting Studio:** An establishment or business, which provides the service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such person is nude.
- (b) **Adult Bookstore:** An establishment or business used for the barter, rental or sale, or other means of distribution of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if such business:
  - (1) Devotes at least ten (10) percent of the floor area of the business, or at least one hundred (100) square feet, whichever is smaller, to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas, such floor area not to include storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public, or
  - (2) Has at least ten (10) percent of its inventory, stock and trade or publicly displayed merchandise comprised of such items, merchandise, or materials, or
  - (3) Derives at least one-third of any month's gross sales from the sale or rental of such items, merchandise or other materials.
- (b) **Adult Cabaret:** A business or establishment that provides dancing or other live entertainment to patrons if the dancing and live entertainment is distinguished and characterized by an emphasis on the presentation, display, depiction of matter that seeks to evoke, arouse or excite the patrons' sexual or erotic feelings or desire.
- (c) **Adult Companionship Establishment:** A business or establishment that excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (d) **Adult Conversation/Rap Parlor:** A business or establishment that excludes minors by reason of age, and which provides the services of engaging in or listening to

conversation, talk, or discussion, if such service is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- (e) Adult Health/Sport Club: A health/sport club which excludes minors by reason of age, if such club is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (f) Adult Hotel or Motel: A hotel or motel from which minors are specifically excluded from patronage and where material is presented which is distinguished and characterized by an emphasis on matter depicting, describing or relating, to "specified sexual activities" or "specified anatomical areas."
- (g) Adult Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (h) Adult Mini-Motion Picture Theater: A business or establishment with a capacity for less than fifty (50) persons used for presenting material if such material is distinguished and characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- (i) Adult Modeling Studio: A business or establishment that provides customers figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- (j) Adult Motion Picture Arcade: Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- (k) Adult Motion Picture Theater: A motion picture theater with a capacity of 50 or more persons used for presenting material if such theater as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons.
- (l) Adult Novelty Business: A business which has as a principal activity the sale of materials or devices which stimulate human genitals, which are designed for sexual stimulation, or which depict or relate to specified anatomical areas or specified sexual activities.
- (m) Adult Sauna: A sauna which excludes minors by reason of age, and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- (n) Adult Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing,

relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished and characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

**NUDE OR SPECIFIED ANATOMICAL AREAS.**

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

## **ARTICLE 25-03. ADMINISTRATION, PROCEDURES, ENFORCEMENT**

### **Division 25-03-100. Common Procedures**

#### **Sec. 25-03-101. Authority to File Applications**

- (a) Land use applications for an individual property may be initiated by:
  - (1) The owner of the property that is the subject of the application; or
  - (2) An agent authorized by the owner of the property that is the subject of the application, which may include a lessee of the property. Evidence of such authorization shall be the signature of the property owner.
  - (3) If the property subject to an application is under more than one ownership, all owners or their authorized agents shall join in filing the application.
- (b) Comprehensive plan and zoning ordinance text and map amendments may be initiated by:
  - (1) The City Council;
  - (2) The Planning Commission;
  - (3) A property owner.

#### **Sec. 25-03-102. Application Submittal**

- (a) Each complete land use application shall be filed with the Community Development Director and shall include the following:
  - (1) An application on the official application form provided by the City, including a non-refundable application fee as established by ordinance.
  - (2) All those application materials required that are specific to the application.
- (b) An application will not be accepted until it is complete and all required materials have been submitted.
- (c) The City Council must approve or deny a land use request within the time allotted under Minnesota Statutes, Section 15.99.

#### **Sec. 25-03-103. Application Review Procedure**

- (a) Technical Assistance

- (1) Upon receipt of an application, the Community Development Director shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with.
- (2) Also, when deemed necessary, the Community Development Director shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the application to the Planning Commission and City Council.

(b) Public Hearing

- (1) Public hearings, when required by this Ordinance, the Oakdale City Code, or state law, shall be conducted pursuant to the rules established for each of the bodies, the Oakdale City Code, and in compliance with state law.

- (2) All public hearings shall be open to the public.

(3) Notices

- (A) Notice of the public hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing.
- (B) Written notification of the hearing shall be mailed at least ten (10) days prior to the date of the hearing to the applicant and all owners of land within five hundred (500) feet of the boundary of the property in question.
- (C) Written notification of the application and hearing shall be filed with the Commissioner of the Minnesota Department of Natural Resources if the proposed application relates to land located in part or in total within the Shoreland Overlay District.
- (D) Written notification of the application and hearing shall be filed with the Commissioner of the State Department of Transportation or the County Engineer if an application for a proposed subdivision, plat, site plan, environmental document, traffic impact study, or comprehensive plan abuts or includes a state trunk highway or a county state aid road, respectively.

- (4) Failure of the City to send mailed notice to property owners as required by provision (3)(B) above, or defects in the notice, shall not invalidate any such proceedings as set forth within this Ordinance, provided a bona fide attempt has been made to comply with the notice requirements of this Article.
- (5) Upon receipt of a complete application, the Community Development Director shall set the date for the public hearing.
- (6) At the public hearing, the applicant or a representative thereof shall appear to answer questions concerning the application.

(c) Planning Commission Action

- (1) The application shall be referred to the Planning Commission for review and recommendation to the City Council. The Planning Commission shall hold the public hearing except as otherwise provided herein.

- (2) The Planning Commission and City Staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, if said information is declared necessary to establish performance conditions in relation to all pertinent sections of this article.
- (3) The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the application as they deem necessary to carry out the intent and purpose of this Ordinance. Such a recommendation shall be in writing and accompanied by any report and recommendation of the City Staff.
- (4) The written recommendation of the Planning Commission shall be referred to the City Council for final action.

(d) City Council Action

- (1) Upon receipt of the Planning Commission report and recommendation, or otherwise as permitted by state law the City Council shall review the application.
- (2) The City Council shall have the option to set and hold a public hearing if deemed necessary.
- (3) The City Council shall review and approve, approve with conditions, or deny the application by a majority vote of all its members.
- (4) The City Council shall state in writing its findings for approval or denial, as well as any conditions of approval.

(5) Recording

- (A) When all conditions of approval have been satisfied by the applicant, the City shall file a copy of all required documents, such as ordinances, resolutions, and agreements, with the Washington County Property Records office.

**Sec. 25-03-104.        Withdrawal of Application**

- (a) Any request for withdrawal of an application shall be submitted in writing to the Community Development Director.
- (b) In all cases where the applicant has requested withdrawal of an application, the associated fee paid and any costs incurred by the City in the processing of an application shall not be refunded.

**Sec. 25-03-105.        Successive Applications**

- (a) No permit request that has been denied wholly or in part shall be reconsidered for a period of one hundred eighty (180) days from the date of the order of denial, except on grounds of new evidence or proof of changed conditions.

**Sec. 25-03-106.        Appeal of Decision**

- (a) Purpose. The purpose of this section is to provide for an appeal process where it is alleged that there is an error in any order, requirement, decision, or determination by the City or in the enforcement of this Ordinance.
- (b) Appeals of Administrative Decisions

- (1) A person aggrieved by a decision of the Community Development Director that is made under the authority of this Ordinance may appeal such decision to the City Council.
- (2) An application must be made on the application form provided by the City. A complete application must be submitted to the Community Development Director no later than ten (10) days after the date of the decision.
- (3) When an appeal is received by the City, the applicant will be notified of the appeal and informed as to the date of the City Council meeting when it will be heard.
- (4) The appeal shall be referred to the City Council for review and action.

(c) Appeals of City Council Decisions

- (1) Any aggrieved person shall have the right to appeal any land use decision by the City Council to the District Court for Washington County. Any person seeking judicial review under this article must appeal within thirty (30) days after delivery of the decision to the appellant.
- (d) Any applicant who obtains a building permit, starts construction, begins a use in reliance upon a decision that is appealable to the District Court prior to the termination of the appeal period, assumes the risk that the decision may be reversed.

## **Division 25-03-200. Site Plan**

### **Sec. 25-03-201. Purpose**

- (a) The City Council declares it necessary and appropriate to require a site plan permit to preserve and promote attractive, well planned stable urban conditions.

### **Sec. 25-03-202. Applicability**

- (a) A site plan permit is required for multi-unit dwellings of three (3) or more units, mobile home developments, institutional, commercial, and industrial uses.
- (b) Public parks are exempt from site plan review but must meet design standards for public use in Article 25-10 Development Standards.

### **Sec. 25-03-203. Application**

- (a) The application for a site plan permit shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) The application for a site plan permit shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure, except that a public hearing is not required.
  - (1) Site plans must be prepared by an engineer licensed by the State of Minnesota.
- (c) Concept Site Plan Review. Before proceeding with site plan review by the Planning Commission, the Community Development Director may require concept site plan review by the City Council. The scope of the review shall be limited to land use, general circulation patterns, general building massing, and the general approach to special site conditions or problems.

(d) Criteria for Approving a Site Plan. The Planning Commission and City Council shall consider possible effects of the proposed permit request. Permit requests shall only be granted when it is demonstrated that:

- (1) The proposed site plan is in conformity with the Comprehensive Plan and with the purpose, intent, and applicable standards of this Ordinance; and
- (2) The proposed site plan can be accommodated with existing public services and will not overburden the City's service capacity.

**Sec. 25-03-204. Development Agreement**

- (a) Before issuing a building permit, the City Council may require the applicant to enter into a site plan agreement or development agreement with the City, which assures that specific elements of the site plan proposed by the applicant or imposed by the City Council shall be carried out within a specific time period.
- (b) An irrevocable letter of credit or cash deposit shall be provided by the developer to ensure completion of such improvements.
- (c) Such financial guarantee must equal one hundred twenty-five (125) percent of the estimate cost of specified improvements. At least forty (40) percent of the financial guarantee for landscaping improvements shall be retained for two (2) complete growing seasons.

**Sec. 25-03-205. Time Limit; Site Plan**

- (a) The applicant must apply for a building permit within five hundred forty-eight (548) days from the day the City Council approves the site plan.
- (b) Failure to apply for a building permit within this timespan shall void the initial approval and require the applicant to reapply for a site plan permit.
- (c) At any time within the five hundred forty-eight (548) days the applicant may, by written notice to the Community Development Director, request one (1) extension of up to one hundred eighty (180) days.

**Sec. 25-03-206. Site Plan Amendment**

- (a) Site plan amendments shall be reviewed by the Community Development Director to determine if they are major amendments or minor amendments.
- (b) When determining if an amendment is major or minor, the Community Development Director shall consider whether the amendment:
  - (1) Changes the amount of impervious surface by more than ten (10) percent.
  - (2) Changes the building footprint by more than ten (10) percent.
  - (3) Decreases the number of residential dwelling units by more than five (5) percent.
  - (4) Increases or decreases the number of stories of any building.
  - (5) Decreases the amount of open space by more than five (5) percent or alters it in such a way as to change its original design or intended use.
  - (6) Substantially alters the location of buildings, parking areas, or roads.

(c) Minor Amendment Review

- (1) A minor site plan amendment may be reviewed and approved by the Community Development Director.
- (2) The Community Development Director may, in the Director's sole discretion, refer any minor amendment to the Planning Commission and City Council for review and approval.

(d) Major Amendment Review. Major site plan amendments shall be referred to Planning Commission and City Council review per the process in Section 25-03-103 Application Review Procedure except that a site plan amendment review shall not require a public hearing.

**Division 25-03-300. Conditional Use Permit (CUP)**

**Sec. 25-03-301. Applicability**

(a) A conditional use is a permitted use that is allowed only when it is shown that the use meets certain general and specific standards related to the proposed conditional use.

**Sec. 25-03-302. Application**

- (a) The application for a CUP shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) Procedure. The application for a CUP shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure.
- (c) General Criteria for Approving a Conditional Use. The Planning Commission and City Council shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:
  - (1) The conditional use will be in conformity with the City's comprehensive plan and with the purpose, intent, and applicable standards of this Ordinance; and
  - (2) The conditional use shall be located, designated, maintained, and operated to be compatible with the existing or intended character of that zoning district in which it is located; and
  - (3) The conditional use shall not be hazardous, detrimental, or disturbing to present and potential surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, vibration, general unsightliness, or other nuisances; and
  - (4) The conditional use shall not create traffic congestion, unsafe access or parking needs that will cause inconveniences to the adjoining properties; and
  - (5) The conditional use shall be served adequately by essential public services, such as streets, police and fire protection and utilities; and
  - (6) The conditional use shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the City; and

- (7) The conditional use shall preserve and incorporate the site's natural and scenic features into the development design and cause minimal adverse environmental effects; and
- (8) Additional conditions related to the conditional use found in this Ordinance.

(d) Duration. A CUP shall remain in effect as long as the conditions are observed.

(e) Recording of a CUP. The Community Development Director shall record a certified copy of the permit with Washington County Property Records. The permit shall include the legal description of the property.

## **Division 25-03-400.      Interim Use Permit (IUP)**

### **Sec. 25-03-401.      Applicability**

- (a) An interim use is a temporary use of property until a particular date, until the occurrence of a particular event.
- (b) Any use identified as an allowable use in this Ordinance may be an interim use.

### **Sec. 25-03-402.      Application**

- (a) The application for an IUP shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) Procedure. The application for an IUP shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure.
- (c) Criteria for Approving an Interim Use. The Planning Commission and City Council shall consider possible effects of the proposed Interim Use. Its judgment shall be based upon, but not limited to, the following factors:
  - (1) The use conforms to the zoning regulations; and
  - (2) The date or event that will terminate the use can be identified with certainty; and
  - (3) Permission for the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
  - (4) The interim use will be in conformity with the City's comprehensive plan and with the purpose, intent and applicable standards of this Ordinance; and
  - (5) The interim use shall be located, designated, maintained and operated to be compatible with the existing or intended character of that zoning district in which it is located; and
  - (6) The interim use shall not be hazardous, detrimental or disturbing to present and potential surrounding land uses due to noise, glare, smoke, dust, odor, fumes, water pollution, vibration, general unsightliness or other nuisances; and
  - (7) The interim use shall not create traffic congestion, unsafe access or parking needs that will cause inconveniences to the adjoining properties; and
  - (8) The interim use shall be served adequately by essential public services, such as streets, police and fire protection and utilities; and

- (9) The interim use shall not create excessive additional requirements at public cost for public facilities and services and shall not be detrimental to the economic welfare of the City; and
- (10) The interim use shall preserve and incorporate the site's natural and scenic features into the development design and cause minimal adverse environmental effects; and
- (11) Additional conditions related to the interim use found in this Ordinance.

(d) Termination. An interim use permit shall terminate upon:

- (1) A change in zoning regulations occurs which prohibits the use; or
- (2) The termination date or event stated in the permit; or
- (3) Violations of the conditions under which the permit was issued.

## **Division 25-03-500. Variance**

### **Sec. 25-03-501. Applicability**

- (a) A variance is a request to depart from the literal provisions of this Ordinance.
- (b) No variance shall be granted for any use that is not allowed under this Ordinance for property in the zone where the affected person's land is located.

### **Sec. 25-03-502. Application**

- (a) The application for a variance shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) Review Procedure
  - (1) Variance; Administrative Approval. The Community Development Director may grant a setback variance, and impose reasonable conditions, for the placement of individual single- or two-unit dwellings or their accessory structures when the following conditions are met:
    - (A) The setback variance does not exceed the minimum requirements by more than five (5) feet; and
    - (B) The applicant submits a City of Oakdale Variance Request Form signed by all owners of affected property and property situated wholly or partly within one hundred (100) feet of the property to which the variance relates to each owner supporting the request.
  - (2) Variance; City Council Review.
    - (A) A variance request not eligible for Administrative Approval, or that is eligible for administrative approval but has been denied by the Community Development Director shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure.
- (c) Criteria for Approving a Variance. The Planning Commission and City Council shall consider possible effects of the proposed variance request. A variance shall only be granted when it is demonstrated by the applicant that:

- (1) The variance request is in harmony with the general purposes and intent of this Ordinance and the variance is consistent with the Comprehensive Plan.
- (2) There are practical difficulties in complying with the Ordinance. "Practical difficulties" as used in connection with the granting of a variance, means:
  - (A) That the property owner proposes to use the property in a reasonable manner not permitted by the Ordinance;
  - (B) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - (C) The variance, if granted, will not alter the essential character of the locality.
  - (D) Economic considerations alone do not constitute practical difficulties.
- (3) Conditions may be imposed in the granting of variances. Such conditions shall be directly related to and must bear a rough proportionality to the impact created by the variance.

## **Division 25-03-600. Planned Unit Development (PUD)**

### **Sec. 25-03-601. Pre-Application Procedures, Concept Plan Review**

- (a) Purpose
  - (1) The Concept Plan process shall provide information and guidance from the City to an applicant regarding a specific PUD concept before entering into binding agreements or incurring substantial expense.
  - (2) The Concept Plan should indicate proposed land uses, general circulation patterns, general building massing, and the general approach to special site conditions or problems.
- (b) Process
  - (1) Meeting with City Staff. The developer shall meet with the Community Development Director to discuss the development concept, the review and approval process, and the submittal requirements.
  - (2) Planning Commission review of the Concept Plan is optional. City Council review of the Concept Plan is mandatory.
  - (3) The City Council shall review the Concept Plan and comment as to whether it finds the Concept Plan is in conformance with the City Comprehensive Plan.
  - (4) It will also inform the developer of any defects or deficiencies in the Concept Plan, which features or design elements should be in the Detailed Development Plan, and which exceptions it may be willing to allow in exchange for certain publicly beneficial design or planning features.

### **Sec. 25-03-602. PUD Application Procedures**

- (a) Application for PUD Approval.
  - (1) After Concept Review by the City Council, the developer may submit an application for PUD approval based upon comments received regarding the Concept Plan.

(2) This application shall consist of the information and submissions required by Section 125-03-102 Application Submittal. Additional information required for this application shall include a detailed development plan, consisting of:

- (A) A Preliminary Plat if land subdivision is proposed; and
- (B) All materials listed as required for Site Plan review.

(b) Review by Planning Commission

- (1) The Detailed Development Plan shall be submitted to the Community Development Director at least thirty (30) working days prior to the scheduled Planning Commission review.
- (2) The Commission shall review the Detailed Development Plan in the manner described in Section 25-03-103 Application Review Procedure except that the public hearing shall be held by the City Council as described below.

(c) Review by the City Council

- (1) The City Council shall hold a public hearing for the PUD, including the Detailed Development Plan, according to the process in Subsection 25-03-103(b).
- (2) City Council shall approve by a majority of the Council as provided in Minnesota Statutes, Section 462.357, disapprove, or table the PUD application.
  - (A) The PUD application may not be tabled for more than two (2) meetings in succession.
  - (B) Conditions may be applied to the approval of the PUD and/or a periodic review of the approval may be required.

(d) PUD Denial or Approval

- (1) If an application for a Planned Unit Development is denied, no new application for a PUD by the same applicant for the same site may be filed for one hundred and eighty (180) days from date of denial.

(e) Extension of Approval

- (1) In the event that an application for a PUD is approved and construction has not commenced within twelve (12) months, the PUD approval will be null and void unless an extension is granted by the City Council.
- (2) Only one such extension shall be permitted.
- (3) The extension, if granted, shall be valid for a period of six (6) months.

(f) Developer's Agreement

- (1) Prior to issuing a Building Permit, the City Council shall require the developer to sign an agreement with the City which assures that particular elements of the Detailed Development Plan, either proposed by the developer or imposed by the City, will be carried out.

**Sec. 25-03-603.        Method of Amending a PUD**

(a) Minor Amendment

- (1) Minor changes in the location and placement of buildings may be authorized by the Community Development Director where unforeseen circumstances such as engineering requirements dictate such change.
- (b) Major Amendment
  - (1) Major amendments include changes in structural types, the shape and arrangement of lots and blocks, the allocation of open space, and all other changes which affect the overall design of the project.
  - (2) When determining if an amendment is major, the Community Development Director shall consider whether the amendment:
    - (A) Increases the building footprint by more than ten (10) percent.
    - (B) Decreases the number of residential dwelling units by more than five (5) percent.
    - (C) Increases or decreases the number of stories of any building.
    - (D) Decreases the amount of open space by more than five (5) percent or alters it in such a way as to change its original design or intended use.
    - (E) Creates noncompliance with any special condition attached to the approval of the master development plan.

(3) Process

- (A) Major amendments, and an appeal of denial of a minor amendment, shall be processed in the same manner as the PUD application specified in Section 25-03-602 PUD Application Procedures.
- (B) If such changes are authorized, the applicant shall submit a revised plan showing the authorized changes.

## **Division 25-03-700.      Comprehensive Plan Text or Map Amendment**

### **Sec. 25-03-701.      Applicability**

- (a) A comprehensive plan text amendment means a change in all or part of the text of the adopted comprehensive plan.
- (b) A comprehensive plan map amendment means a change in all or part of the existing future land use designation of a parcel in the adopted comprehensive plan.

### **Sec. 25-03-702.      Application**

- (a) The application for a Comprehensive Plan text or map amendment shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) The application for a Comprehensive Plan text or map amendment shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure.
- (c) City Council. Except for amendments to permit affordable housing development as defined in Minnesota Statutes, Section 462.355, Subd. 3, a resolution to amend the comprehensive plan must be approved by a two-thirds vote of the City Council's members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members of the City Council.

(d) Effective Date. Any amendment to the Comprehensive Plan adopted by the City Council shall be effective upon adoption.

## **Division 25-03-800. Zoning Ordinance Text or Map Amendment**

### **Sec. 25-03-801. Applicability**

- (a) A Zoning Ordinance text amendment means, but is not limited to, changes in uses, setbacks, heights, lot areas, definition, administration, or procedures.
- (b) A Zoning Ordinance map amendment means a change in all or part of the existing classification of a zoning district.

### **Sec. 25-03-802. Application**

- (a) The application for a Zoning Ordinance text or map amendment shall be made in accordance with Section 25-03-102 Application Submittal.
- (b) Review Procedure
  - (1) The application for a Zoning Ordinance text or map amendment shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure, except that amendments to this Ordinance that are initiated by the Planning Commission shall not be reviewed by the Planning Commission.
  - (2) When the Planning Commission initiates the amendment, the City Council shall hold a public hearing following the process in Subsection 25-03-103(b) and review of the application shall follow the procedure in Subsection 25-03-103(d).
  - (3) An amendment that changes all or part of the existing classification of a zoning district from residential to commercial or industrial requires a two-thirds majority vote of all City Council members.
- (c) Criteria for Approving a Text or Map Amendment. The Planning Commission and City Council shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:
  - (1) The proposed amendment has been reviewed and found to be consistent with official comprehensive plan policies; and
  - (2) The proposed amendment can be accommodated with existing public services and will not overburden the city's service capacity.
- (d) Procedure. The application for a CUP shall be processed using the procedure outlined in Section 25-03-103 Application Review Procedure.

## **ARTICLE 25-04. GENERAL ZONING PROVISIONS**

### **Division 25-04-100. Establishment of Districts**

#### **Sec. 25-04-101. Zoning Districts Established**

- (a) For the purpose of this Ordinance, the City shall be divided into the following Districts, and the uses of structures and land, the height of buildings, and the area of premises for buildings are to be uniform in each District:

- (1) Residential Districts
  - (A) R-1 Large Lot Detached Residential District
  - (B) R-2 Low Density Residential District
  - (C) R-3 Medium Density Residential District
  - (D) R-4 High Density Residential District
  - (E) R-5 Manufactured Home Park District
- (2) Non-Residential Districts
  - (A) MX Mixed Use District
  - (B) B-1 Commercial District
  - (C) B-2 Business Campus District
  - (D) B-3 Light Industrial District
  - (E) B-4 General Industrial District

**Sec. 25-04-102. Zoning Map Established**

- (a) The boundaries of said districts shall be shown on the City of Oakdale Official Zoning Map, also known as the "Zoning Map."
- (b) Said map and all notations, references and other information shown thereon, shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

**Sec. 25-04-103. District Boundaries**

- (a) The district boundaries shall be determined by measurement from and as shown on the zoning map, and in case of any questions as to the interpretation of such boundary lines, the City Council shall interpret the map according to the reasonable intent of this Ordinance.
- (b) Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
  - (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
  - (3) Boundaries indicated as approximately following city boundaries shall be construed as following municipal boundaries.
  - (4) Boundaries indicated as following shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

(5) Boundaries indicated as parallel to or extensions of features indicated in the preceding shall be so construed. Distances not specifically indicated on the Zoning Map shall be the scale of the map.

## **Division 25-04-200. General Provisions for Zoning Districts**

### **Sec. 25-04-201. General Requirements**

(a) No buildings shall be erected or premises used for any purpose unless in compliance with the restrictions prescribed for the district in which the building or premises is located.

### **Sec. 25-04-202. Calculation of Development Density or Lot Coverage**

(a) When calculating the number of dwelling units per acre for residential developments or the percentage of lot coverage for commercial or industrial developments, the following practices shall be observed:

- (1) The size of the site shall be calculated as the total land area within the perimeter of the privately owned property including the area of newly proposed public or private roads or road right-of-way and any area proposed to be dedicated as public park.
- (2) Delineated wetlands shall not be included in the calculation of the size of the site.
- (3) Slopes having an incline of greater than twenty-five (25) percent and a vertical elevation change of greater than twenty-five (25) feet shall not be included in the calculation of the size of the site.
- (4) A bonus of up to ten (10) percent in the development density or lot coverage of portions of a site not encumbered by provisions (1), (2), or (3) above may be allowed by the City Council if at least thirty (30) percent of the site is affected by provisions (1), (2), or (3) above. If such a density increase is proposed, the applicant must show that such excess will not have an undue and adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The City Council, in determining the reasonableness of the increase in the density or lot coverage, shall consider the following factors:
  - (A) The location, amount, and proposed use of open space;
  - (B) The location, design, and type of dwelling units;
  - (C) The physical characteristics of the site;
  - (D) The relationship of the proposed dwelling units to nearby developments; and
  - (E) The allowable density of the area as designated by the Comprehensive Plan.

### **Sec. 25-04-203. Steep Slopes**

- (a) Slopes having an incline of at least twenty-five (25) percent with a vertical elevation of at least twenty-five (25) feet shall not be used as building placement sites.
- (b) If development in an area of steep slopes requires the construction of retaining walls of more than five (5) feet in total height, the design and construction of such walls must be approved by the City Engineer.

**Sec. 25-04-204. Previously Platted Lots**

- (a) A substandard lot of record shall be considered as a building site for a single unit dwelling, provided there exists utility services (water and sanitary sewer) stubbed into the property.
- (b) Nonconforming lots of record in the Shoreland Overlay District shall adhere to the requirements in Minnesota Statutes, Section 462.357 subd. 1e (d) – (j).

**Sec. 25-04-205. Permitted Encroachments, Limitations, and Exceptions**

- (a) No encroachments shall be permitted into easements.
- (b) Where easements do not exist, the following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided:
  - (1) In Any Yards:
    - (A) Posts, flues, belt course, leaders, sills, pilasters, lintels, cornices, gutters, awnings, open terraces, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks, fences, retaining walls, and other similar features.
    - (B) Terraces, steps, exposed ramps (wheelchair), uncovered porches, stoops, or similar features provided they:
      - (i) Do not extend above the height of the ground floor level of the principal structure;
      - (ii) Are located at least three (3) feet from any lot line; and
      - (iii) Are located at least one (1) foot from any existing or proposed access drive
    - (C) Yard lights and nameplate signs in Residential Districts, trees, shrubs, plants, floodlights, or other sources of light illuminating parking areas, loading areas, or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
  - (2) In Side and Rear Yards:
    - (A) Balconies eight (8) feet above grade may extend into the yards to within five (5) feet of a lot line provided said balconies do not extend over non-residential driveways.
    - (B) Detached outdoor picnic shelters, open arbors, and trellises may extend to within five (5) feet of a side or rear lot line except that no such structure shall exceed five hundred (500) square feet in size.
    - (C) Recreational equipment and picnic tables.
  - (3) In Rear Yards:
    - (A) Laundry drying equipment.
    - (B) Breezeways and detached outdoor living rooms may extend twenty (20) feet into the rear yard but must be at least 10 feet from the rear lot line.
- (c) Height: Height limitations shall not apply to:
  - (1) Barns, silos, and other structures on farms;

- (2) Spires, belfries, cupolas and domes;
- (3) Monuments;
- (4) Chimneys and smokestacks;
- (5) Flag poles;
- (6) Public and private utility facilities;
- (7) Television reception antennae;
- (8) Parapet walls extending not more than four feet above the limiting height of the building except as hereinafter provided; and
- (9) Solar energy collectors and equipment used for the mounting or operation of such collectors.

(d) Front Setbacks:

- (1) Where a subject parcel is adjacent to a lot or lots with principal structures which have a different setback from that required, the average front setback shall be computed. Where the average is less than the required setback, the average shall be the required setback for the subject parcel.

(e) Side and Rear Setbacks:

- (1) Subject to regulations contained in the Building Code and other applicable regulations, buildings may be excluded from side and rear setback requirements provided party walls are used and if the adjacent buildings are constructed as an integral unit.
- (2) Such uses must have been allowed by this Zoning Code as Permitted, Permitted with Standards, or Conditional Uses.

(f) Additions to Single- and Two-Unit Dwellings: A building addition to a single- or two-unit principal structure on property that is lawfully being used for residential purposes may encroach into the rear yard setback provided that:

- (1) The portion of the addition that encroaches into the rear yard setback does not exceed three hundred fifty (350) square feet;
- (2) The addition is located at least twenty (20) feet from the rear property line; and
- (3) The exterior materials used for the addition are the same or substantially similar to those of the principal structure.

**Sec. 25-04-206. Refuse and Weeds**

- (a) In all areas, all waste material or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of all land shall be responsible for keeping such land free of refuse and weeds.

**Sec. 25-04-207. Outdoor Storage**

- (a) Except as specifically authorized by this Ordinance, all equipment, merchandise, materials, supplies, unlicensed vehicles, junk vehicles, trash and junk, and finished and unfinished products shall be stored within structures as defined herein. This provision does

not apply to clothesline poles, lawn furniture, picnic tables and playground equipment as associated with residential use.

- (b) Construction materials may be stored outdoors only during construction, and such materials must be for use in construction on the property on which they are stored or a nearby property with consent from the respective property owner.
- (c) Dumpsters, dumpster bags, roll-off containers, tubs, and temporary storage containers shall comply with the regulations set forth in Chapter 13, Article 6: Temporary Storage, and Chapter 6, Article 2: Residential and Commercial Solid Waste Requirements.
- (d) Passenger vehicles and trucks in an inoperative state shall not be parked outdoors in Residential Districts for a period of time exceeding seven days. Inoperative shall mean incapable of movement under their own power and shall include vehicles incapable of legal operation on a public street.

#### **Sec. 25-04-208.      Temporary Family Health Care Dwellings**

- (a) Pursuant to the authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Oakdale opts out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

#### **Division 25-04-300.      Nonconformities**

- (a) Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
  - (1) The nonconformity or occupancy is discontinued for a period of more than three hundred sixty-five (365) days; or
  - (2) The nonconforming use is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body.
- (b) Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The City Council may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety.
- (c) Notwithstanding provision (a) above, the City shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.
- (d) Replacement of existing structures or buildings where a portion of the existing structure already encroaches into a yard and the proposed replacement will decrease the existing

encroachment may be permitted subject to approval by the Community Development Director where all other provisions of this Ordinance are met or exceeded.

(e) Expansion of nonconforming uses and structures

- (1) No nonconforming use may be added to or enlarged in any manner unless such additions or enlargements are made so as to bring said use into conformance with the regulations of this Ordinance.
- (2) No nonconforming structure may be enlarged or expanded unless the addition or expansion adheres to all requirements of this Ordinance. Additions or enlargements to nonconforming structures which do not meet the requirements of this Ordinance may be permitted subject to the granting of a variance per Division 25-03-500 Variance.

## **ARTICLE 25-05. RESIDENTIAL BASE DISTRICTS**

### **Division 25-05-100. Application**

(a) The restrictions, regulations, standards and guidelines in this article for land use and development shall apply to the following zoning districts within the City:

R-1	Large Lot Detached Residential District
R-2	Low Density Residential District
R-3	Medium Density Residential District
R-4	High Density Residential District
R-5	Manufactured Home Park District

### **Division 25-05-200. District Intents**

The following statements specify the intents of the zoning districts established to regulate areas of the City considered appropriate for residential uses:

- (a) R-1 Large Lot Detached Residential District. The R-1 District is intended to provide for detached single-unit residences on larger lots. Directly related complementary uses, as well as public and institutional uses such as places of worship, schools, and parks, are also appropriate.
- (b) R-2 Low Density Residential District. The R-2 District is intended to provide for a variety of low density residential dwellings including single-unit dwellings and smaller multi-unit dwellings such as two-unit dwellings and townhomes within existing neighborhoods. Directly related complementary uses, as well as public and institutional uses such as places of worship, schools, and parks, are also appropriate.
- (c) R-3 Medium Density Residential District. The R-3 District is intended to provide for a mix of medium density residential uses including smaller lot single-unit dwellings, two-unit dwellings, townhomes, courtyard cottage developments, and small apartments. Directly related complementary uses, as well as public and institutional uses such as places of worship, schools, and parks, are also appropriate.

- (d) R-4 High Density Residential District. The R-4 District is intended to provide for a variety of higher density attached housing types including townhouses and apartments. Directly related complementary uses, as well as public and institutional uses such as places of worship, schools, and parks, are also appropriate.
- (e) R-5 Manufactured Home Park District. The R-5 District is intended to provide for manufactured home parks in an appropriate, safe, sanitary, and attractive environment.

## **Division 25-05-300.      Uses**

### **Sec. 25-05-301.      Use Tables**

- (a) Table 05-1 Principal Use Table – Residential Districts and Table 05-2 Accessory Use Table – Residential Districts list land uses and indicate whether they are permitted, permitted with standards, conditional, or prohibited in each zoning district. The following definitions shall be referenced when using Tables 05-1 and 05-2.
  - (1) Permitted Use – a “P” in a cell of the use tables indicates that the land use is allowed by right in the zoning district.
  - (2) Permitted with Standards Use – a “PS” in a cell of the use tables indicates that the land use is allowed in the zoning district provided it meets the certain use-specific standards as described in Article 25-09 Use-Specific Standards.
  - (3) Conditional Use – a “C” in a cell of the use tables indicates that the land use is allowed in the zoning district only upon approval of a conditional use permit as described in Article 25-03 Administration, Procedures, and Enforcement and compliance with any applicable use-specific standards identified in Article 25-09 Use-Specific Standards.
  - (4) Prohibited Use – a blank cell in the use tables indicates that the land use is prohibited in that zoning district.
- (b) In the event a proposed use is not listed in the use tables, the Community Development Director shall make a determination if the use is consistent by type, intensity, physical characteristics, style, size, and purpose with any use listed in Tables 05-1 and 05-2.
  - (1) If the proposed use is found to be consistent with another listed use, the proposed use shall be treated the same as the similar one identified by the Community Development Director.
  - (2) If the proposed use is not found to be consistent with any listed use, the Council, Planning Commission, or property owner may request an amendment to this Chapter to provide guidance for the proposed use.

Table 05-1. Principal Use Table – Residential Districts

Principal Use	Zoning Districts					Use Standards	
	R-1	R-2	R-3	R-4	R-5		
<b>Residential</b>							
<b><i>Household Living</i></b>							
Dwelling, single-unit detached	P	P	P				
Dwelling, two-unit		P	P				
Dwelling, attached townhouse or rowhouse		P	P	P			
Dwelling, small apartment (3-8 units)			P	P			
Dwelling, large apartment (9+ units)				P			
Courtyard cottage development		P	P				
Manufactured home park		C	C	C	P	See Section 25-05-501	
<b><i>Group Living</i></b>							
Assisted living facility				P			
Continuum of care senior facility				P			
Long-term or transitional care facility				P			
Residential care facility, 6 or fewer persons	P	P	P				
Residential care facility, 7 to 16 persons		P	P	P	P		
Sacred community	P	P	P	P	P		
Sober home		P	P				
<b>Commercial</b>							
Kennel, private	C	C	C			See Division 25-09-100	
<b>Public &amp; Institutional</b>							
Day care facility, 12 or fewer persons	P	P	P				
Day care facility, 13-16 persons		P	P	P	P		
Government use	C	C	C	C	C		
Place of worship	C	C	C	C	C		

Principal Use	Zoning Districts					Use Standards
	R-1	R-2	R-3	R-4	R-5	
School, elementary, middle, or secondary	C	C	C	C	C	
<b>Entertainment &amp; Recreation</b>						
Public recreational facility	C	C	C	C	C	
Public park or playground	C	C	C	C	C	
<b>Agriculture &amp; Forestry</b>						
Agriculture	P					
<b>Utilities &amp; Transportation</b>						
Essential service facility	PS	PS	PS	PS	PS	See Division 25-09-100

Table 05-2. Accessory Use Table – Residential Districts

Accessory Use	Zoning District					Use Standards
	R-1	R-2	R-3	R-4	R-5	
Accessory agricultural building	P					
Accessory building	PS	PS	PS	PS	PS	See Division 25-09-200
Accessory dwelling unit	C	C	C			See Division 25-09-200
Animal keeping	PS	PS	PS	PS	PS	See Chapter 4
Antenna and/or telecommunication support structure	C	C	C	C	C	
Cemetery	PS	PS	PS	PS	PS	See Division 25-09-200
Construction-related temporary use	P	P	P	P	P	
Day care facility, group family	P	P	P			
Electric vehicle charging station	PS	PS	PS	PS	PS	See Section 25-10-308
External solid fuel-fired heating device	PS	PS	PS	PS	PS	See Division 25-09-200
Firewood pile	PS	PS	PS	PS	PS	See Division 25-09-200

Accessory Use	Zoning District					Use Standards
	R-1	R-2	R-3	R-4	R-5	
Garage sale	PS	PS	PS	PS	PS	See Division 25-09-200
Home occupation	C	C	C	C		See Division 25-09-200
Parking and/or loading facility	P	P	P	P	P	
Recreational amenity, private	P	P	P	P	P	
Recreational vehicle storage	PS	PS	PS			See Division 25-09-200
Sacred community	PS	PS	PS	PS	PS	See Division 25-09-100
Solar energy system, small-scale	P	P	P	P	P	
Swimming pool, residential	PS	PS	PS	PS		See Division 25-09-200

## Division 25-05-400. Lot and Site Dimensions

### Sec. 25-05-401. Lot Dimensions

- (a) All uses in Table 05-1 Principal Use Table – Residential Districts and Table 05-2 Accessory Use Table – Residential Districts shall comply with the lot dimensional requirements set forth in Table 05-3 Lot Dimensions – Residential Districts and all other applicable regulations set forth in this Ordinance.
- (b) All lot dimension standards listed in this section are subject to the standards and exemptions listed in Article 25-04 General Zoning.
- (c) Table 05-3 establishes the minimum lot area and lot width requirements for the R-1, R-2, R-3, R-4, and R-5 zoning districts.

Table 05-3. Lot Dimensions – Residential Districts

District	Use	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
R-1	Dwelling, single-unit detached	15,000	100
	All other uses	N/A	N/A
R-2	Dwelling, single-unit detached	9,600	80
	Dwelling, two-unit	6,000 per unit	50 per unit
	Dwelling, attached townhouse or rowhouse	2,400 per unit	20 per unit

District	Use	Minimum Lot Area (sq. ft.)	Minimum Lot Width (ft.)
	Courtyard cottage development	14,400 per development	120 per development
	Manufactured home park	3,500 per unit (4,500 average) <sup>1</sup>	None
	All other uses	N/A	N/A
<b>R-3</b>	Dwelling, single-unit detached	6,000	50
	Dwelling, two-unit	4,200 per unit	35 per unit
	Dwelling, attached townhouse or rowhouse	2,400 per unit	20 per unit
	Dwelling, small apartment (3-8 units)	12,000 per lot	100 per lot
	Courtyard cottage development	14,400 per development	120 per development
	Manufactured home park	3,500 per unit (4,500 average) <sup>1</sup>	None
	All other uses	N/A	N/A
<b>R-4</b>	Dwelling, attached townhouse or rowhouse	2,400 per unit	20 per unit
	Dwelling, small apartment (3-8 units)	12,000 per lot	100 per lot
	Dwelling, large apartment (9+ units)	15,000 per lot or 1,250 per unit, whichever is greater	120 per lot
	Manufactured home park	3,500 per unit (4,500 average) <sup>1</sup>	None
	All other uses	N/A	N/A
<b>R-5</b>	Manufactured home park	3,500 per unit (4,500 average) <sup>1</sup>	None
	All other uses	N/A	N/A
<u>Table Notes</u>			
1 Minimum 30 ft. side-to-side separation required between two manufactured homes			

## Sec. 25-05-402. Site Dimensions

(a) All uses in Table 05-1 Principal Use Table – Residential Districts and Table 05-2 Accessory Use Table – Residential Districts shall comply with the site dimensional requirements set forth in Table 05-4 Site Setbacks – Residential Districts, Table 05-5 Site

Dimensions – Residential Districts, and all other applicable regulations set forth in this Ordinance.

- (b) All site dimension standards listed in this section are subject to the standards and exemptions listed in Article 25-04 General Zoning.
- (c) Tables 05-4 and 05-5 establish the minimum site standards for the R-1, R-2, R-3, R-4, and R-5 zoning districts. Setbacks for any use not listed shall be the most restrictive of the base district.

Table 05-4. Site Setbacks – Residential Districts

District	Use	Minimum Setbacks (ft.)					Minimum Building Separation (ft.)
		Front	Side Corner	Side Interior	Rear	Site Perimeter	
R-1	Dwelling, single-unit detached <sup>1</sup>	30	30	10	50		
	All other uses	30	30	10	50		
R-2	Dwelling, single-unit detached <sup>1</sup>	30	20	10	40		
	Dwelling, two-unit	30	20	10	40		
	Dwelling, attached townhouse or rowhouse	30	20	10	40		15
	Courtyard cottage development	30	20			30	10
	Manufactured home park	30	20	10	10	30	15
	All other uses	30	20	10	40		
R-3	Dwelling, single-unit detached <sup>1</sup>	30	20	5	30		
	Dwelling, two-unit	30	20	10	30		
	Dwelling, attached townhouse or rowhouse	30	20	10	30		15
	Dwelling, small apartment (3-8 units) <sup>2</sup>	30	20	10	30		15
	Courtyard cottage development	30	20			30	10
	Manufactured home park	30	20	10	10	30	15
	All other uses	30	20	10	40		

District	Use	Minimum Setbacks (ft.)					Minimum Building Separation (ft.)
		Front	Side Corner	Side Interior	Rear	Site Perimeter	
R-4	Dwelling, attached townhouse or rowhouse	30	20	10	30		15
	Dwelling, small apartment (3-8 units)	30	20	10	30		15
	Dwelling, large apartment (9+ units)	30	30	20	30		15
	Manufactured home park	30	20	10	10	30	15
	All other uses	30	20	10	30		
R-5	Manufactured home park	30	20	10	10	30	15
	All other uses	30	20	10	10	30	

Table Notes

<sup>1</sup> Minimum building width is 15 ft.

<sup>2</sup> Minimum building width is 40 ft.

Table 05-5. Site Dimensions – Residential Districts

District	Maximum Building Height (ft.)	Maximum Impervious Surface Coverage <sup>2</sup>
R-1	40	25%
R-2	40	45%
R-3	40	75%
R-4	40 <sup>1</sup>	75%
R-5	40	None

Table Notes

<sup>1</sup> Large apartment buildings may exceed the specified maximum height, up to a maximum of 60 ft., through approval of a CUP

<sup>2</sup> Swimming pools are considered impervious surfaces.

## **Division 25-05-500. District Standards**

### **Sec. 25-05-501. R-5 District Standards**

- (a) All manufactured homes shall be properly skirted using a material compatible with the body of the manufactured home.
- (b) The manufactured home park ground shall be lighted from sunset to sunrise. Streets shall be lit in a manner similar to that of other multiple-family residential areas of the City.
- (c) City-approved fire hydrants shall be located no more than three hundred (300) feet from any manufactured home.
- (d) All manufactured home parks must have an area set aside for storage of major recreational equipment. All boats, boat trailers, hauling trailers, and all other equipment not stored within the manufactured homes or the utility enclosure that may be provided, shall be stored in a separate place provided by the park owner and not upon the plots occupied by manufactured homes nor upon streets within the manufactured home park.
- (e) There shall be no commercial manufactured home sales conducted on park premises.
- (f) The City may add such other conditions and requirements as to ensure that all manufactured home parks shall be in compliance with applicable State and local building codes and State statutory requirements.
- (g) Landscaping Requirements
  - (1) Each lot shall be properly landscaped with grass, trees, and shrubs. Except for the areas used for the manufactured homes, patio, sidewalk, and off-street parking, the entire lot shall be sodded and maintained.
  - (2) At least one (1) shade tree (minimum caliper: two (2) inches) shall be planted and maintained with each unit.
- (h) A concrete or bituminous sidewalk not less than forty-eight (48) inches in width shall be constructed to serve all manufactured homes. This sidewalk shall be connected to the manufactured home patio by a concrete or bituminous walk not less than thirty-six (36) inches in width.
- (i) Roadway Requirements
  - (1) Local private streets shall be at least twenty-eight (28) feet in width (face of curb to face of curb). Collector- level private streets shall be at least twenty-eight (28) feet in width (Street widths are measured from between inside curb faces). No direct access from manufactured home lots shall be allowed onto collector streets. No parking shall be allowed on collector streets. Roadways shall be constructed according to the specifications of the City Engineer.
  - (2) Access drives to all parking spaces, and manufactured home sites and buildings shall be paved.
  - (3) All streets shall have a concrete (mountable, roll type) curb and gutter.
  - (4) All streets must be properly named, and signs must be installed with the name designation.

- (5) All streets and roadways shall be passable for emergency vehicles at all times.
- (6) Each manufactured home must have a house number placed on the unit so as to be visible from the street providing access to that unit.
- (j) Off-Street Parking Requirements
  - (1) Each lot shall have a paved off-street parking area for two automobiles. Each space shall be at least nine feet by 18 feet (not including any sidewalk). Parking spaces shall be set back at least five feet from the side lot line.
- (k) Community Recreation Requirements
  - (1) A private recreation area shall be established, constructed, and maintained within the manufactured home park site of not less than five percent of the total site. This requirement may substitute for a portion of the normal public park dedication requirements.
- (l) Emergency Preparedness Plan
  - (1) Each manufactured home park shall prepare for City Council approval, an Emergency Preparedness Plan according to the requirements of Minnesota Statutes, Section 327.20(1).
- (m) Planned Unit Development
  - (1) To provide for a more creative and flexible response to the site conditions and natural resources, a manufactured home community may be developed under the provisions of Article 25-07 Planned Unit Development (PUD) Districts.

## **ARTICLE 25-06. NON-RESIDENTIAL BASE DISTRICTS**

### **Division 25-06-100. Application**

- (a) The restrictions, regulations, standards, and guidelines in this article for land use and development shall apply to the following zoning districts within the City:

MX	Mixed Use District
B-1	Commercial District
B-2	Business Campus District
B-3	Light Industrial District
B-4	General Industrial District

### **Division 25-06-200. District Intents**

The following statements specify the intents of the zoning districts established to regulate areas of the City considered appropriate for residential uses:

- (a) MX Mixed Use District. The MX District is intended to provide for the flexible development and redevelopment of land which allows for a wide variety of compatible uses including retail, services, office, entertainment, civic, institutional, residential, and

small parks/plazas and which provides convenient access to neighborhood businesses and amenities.

- (b) B-1 Commercial District. The B-1 District is intended to provide for a broad range of commercial and retail uses and services which serve the community. This district is intended to be located at important neighborhood intersections or along arterial or collector roadways.
- (c) B-2 Business Campus District. The B-2 District is intended to provide for the integration of office, light industrial, and commercial uses in order to create high concentrations of employment centers on large sites, including offices, research and development, office-showroom, medical, government, lodging, and associated commercial uses with a focus on quality site design.
- (d) B-3 Light Industrial District. The B-3 District is intended to provide for light industrial uses including light manufacturing, office, research and development, office-warehousing, and limited retail and service outlets.
- (e) B-4 General Industrial District. The B-4 District is intended to provide for general industrial uses including light and heavy manufacturing, large scale warehousing, truck terminals, and businesses which may require outdoor storage in a functional, attractive manner which does not unduly affect the development or use of nearby properties.

## **Division 25-06-300.        Uses**

### **Sec. 25-06-301.        Use Tables**

- (a) Table 06-1 Principal Use Table – Non-Residential Districts and Table 06-2 Accessory Use Table – Non-Residential Districts list land uses and indicate whether they are permitted, permitted with standards, conditional, interim, or prohibited in each zoning district. The following definitions shall be referenced when using Tables 06-1 and 06-2.
  - (1) Permitted Use – a “P” in a cell of the use tables indicates that the land use is allowed by right in the zoning district.
  - (b) Permitted with Standards Use – a “PS” in a cell of the use tables indicates that the land use is allowed in the zoning district provided it meets the certain use-specific standards as described in Article 25-09 Use-Specific Standards.
    - (1) Conditional Use – a “C” in a cell of the use tables indicates that the land use is allowed in the zoning district only upon approval of a conditional use permit as described in Article 25-03 Administration, Procedures, and Enforcement and compliance with any applicable use-specific standards identified in Article 25-09 Use-Specific Standards.
    - (2) Prohibited Use – a blank cell in the use tables indicates that the land use is prohibited in that zoning district.
  - (c) In the event a proposed use is not listed in the use tables, the Community Development Director shall make a determination if the use is consistent by type, intensity, physical characteristics, style, size, and purpose with any use listed in Tables 06-1 and 06-2.

- (1) If the proposed use found to be consistent with another listed use, the proposed use shall be treated the same as the similar one identified by the Community Development Director.
- (2) If the proposed use is not found to be consistent with any listed use, the Council, Planning Commission, or property owner may request an amendment to this Chapter to provide guidance for the proposed use.

Table 06-1. Principal Use Table – Non-Residential Districts

Principal Use	Zoning Districts					Use Standards	
	MX	B-1	B-2	B-3	B-4		
<b>Residential</b>							
<b><i>Household Living</i></b>							
Dwelling, large apartment (9+ units)	C						
Dwelling, apartment mixed use	P						
Courtyard cottage development	P						
Live-work unit	C					See Division 25-09-100	
Manufactured home park	C					See Division 25-09-100	
<b><i>Group Living</i></b>							
Assisted living facility	P	C				See Division 25-09-100	
Continuum of care senior facility	P	C				See Division 25-09-100	
Long-term or transitional care facility	P	C				See Division 25-09-100	
Residential care facility, 7 to 16 persons	P						
Sacred community	P	P	P	P	P	See Division 25-09-100	
<b><i>Lodging</i></b>							
Hotel	P	P	P				
Motel		P	P				
<b>Commercial</b>							
<b><i>Food &amp; Beverage</i></b>							

Principal Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
Brew pub	PS	PS	PS	PS	PS	See Chapter 10
Catering establishment	P	P				
Liquor store, off-sale		PS				See Chapter 10
Restaurant	P	P	P	P		
Specialty food or beverage shop	P	P				
Brewery taproom	PS	PS	PS	PS	PS	See Chapter 10
Tavern	PS	PS		PS		See Chapter 10
<b><i>Retail Sales &amp; Personal Services</i></b>						
Animal hospital		P	P			See Division 25-09-100
Automotive fuel station	P	P				
Automotive sales or rental		C				See Division 25-09-100
Automotive service and repair		PS				See Division 25-09-100
Automotive towing service				C		See Division 25-09-100
Cannabis lounge		P		P		
Cannabis or hemp retailer		P				
Car wash		C				See Division 25-09-100
Commercial center	P	P				
Dry cleaning service		P				
Dwelling, apartment mixed use	P					
Kennel, commercial		C				See Division 25-09-100
Off-site service business		PS		PS		See Division 25-09-100

Principal Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
Pawnshop		PS				See Chapter 9, Article 1
Pet shop	P	P				
Precious metal dealer		PS				See Chapter 9, Article 1
Self service laundry		P				
Standalone retail or service business	P	P	PS			
Tattoo and body art establishment	P	P				
<b>Business &amp; Technical Services</b>						
Art studio	P	P		P		
Office	P	P	P	P	P	
Showroom			P	P	P	
Laboratory, research, and/or development facility				P	P	
<b>Industrial</b>						
Bulk storage of liquid					P	
Brewery, winery, distillery, meadery	P	P	P	P	P	
Cannabis combination business					P	
Cannabis or hemp industrial business					P	
Microbrewery or microdistillery	P	P	P	P	P	
Data center				C	C	
Manufacturing, heavy					P	
Manufacturing, light				P	P	
Self-service storage facility				PS		
Warehousing				P	P	
Wholesale trade establishment				P		

Principal Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
<b>Public &amp; Institutional</b>						
Clinic	P	P	P	P		
Club or lodge	P	P				
Day care facility, 13-16 persons	P					
Day care facility, 17+ persons	P	P	P	P		
Financial institution	P	P				
Funeral home, mortuary		P				
Government use	C	C	C	C	C	
Hospital			P			
Place of worship	C	C	C	C	C	
School, elementary, middle, or secondary	C	C	C	C	C	
School, post-secondary			C			
School, vocational		C	C			
<b>Entertainment &amp; Recreation</b>						
Adult establishment		PS	PS	PS	PS	See Division 25-09-100
Commercial event center		C	C	C		
Commercial recreation facility, indoor	P	P	P	P		
Commercial recreation facility, outdoor		P	P	P		
Health and athletic club facility	P	P	P	P		
Public recreational facility	C	C	C	C	C	
Public park or playground	P	P	P	P	P	
Social or cultural facility	C	C	C	C	C	
<b>Agriculture &amp; Forestry</b>						
Nursery, tree farm, or greenhouse		P		P		
<b>Utilities &amp; Transportation</b>						

Principal Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
Cannabis delivery/transporter business				P		
Essential service facility	PS	PS	PS	PS	PS	See Division 25-09-100
Public parking facility	C	C	C			
Tower or wireless facility				PS	PS	See Division 25-09-100
Truck terminal					P	
Wind energy conversion system		PS			PS	See Division 25-09-100

Table 06-2. Accessory Use Table – Non-Residential Districts

Accessory Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
Accessory office	PS	PS	PS	PS	PS	See Division 25-09-200
Accessory retail or service	PS	PS	PS	PS	PS	See Division 25-09-200
Accessory warehousing	P	P	P			
Accessory building	PS	PS	PS	PS	PS	See Division 25-09-200
Adult establishment, accessory		PS	PS	PS	PS	See Division 25-09-100
Antenna and/or telecommunication support structure	C	C	C	C	C	See Division 25-09-100
Car wash		C				See Division 25-09-100
Catering establishment	P	P				
Cemetery	PS	PS	PS	PS	PS	See Division 25-09-200
Construction-related temporary use	P	P	P	P	P	
Day care facility, group family						

Accessory Use	Zoning Districts					Use Standards
	MX	B-1	B-2	B-3	B-4	
Drive-through facility	PS	PS				See Division 25-09-200
Electric vehicle charging station	PS	PS	PS	PS	PS	See Section 25-10-308
Incidental repair or processing necessary to conduct a permitted principal use		P		P	P	
Laboratory			P	P	P	
Mobile food unit	PS	PS	PS	PS	PS	See Chapter 9, Article 15
Outdoor dining	PS	PS	PS	PS		See Division 25-09-200
Outdoor display		PS		PS		See Division 25-09-200
Outdoor sales		PS				See Division 25-09-200
Outdoor storage				PS	PS	See Division 25-09-200
Parking and/or loading facility	P	P	P	P	P	
Recreational amenity, private	P					
Sacred community	PS	PS	PS	PS	PS	See Division 25-09-100
Solar energy system, small-scale	P	P	P	P	P	

## Division 25-06-400. Lot and Site Dimensions

### Sec. 25-06-401. Lot Dimensions

- (a) All uses in Table 06-1 Principal Use Table – Non-Residential Districts and Table 06-2 Accessory Use Table – Non-Residential Districts shall comply with the lot dimensional requirements set forth in Table 06-3 Lot Dimensions – Non-Residential Districts and all other applicable regulations set forth in this Ordinance.
- (b) All lot dimension standards listed in this section are subject to the standards and exemptions listed in Article 25-04 General Zoning.
- (c) Table 06-3 establishes the minimum lot area and lot width requirements for the MX, B-1, B-2, B-3, and B-4 zoning districts.

Table 06-3. Lot Dimensions – Non-Residential Districts

District	Use	Minimum Lot Area (sq. ft.)	Minimum Lot Width (sq. ft.)
MX	Dwelling, large apartment (9+ units)	15,000 or 1,000 per unit, whichever is greater	120 per lot
	Dwelling, apartment mixed use	15,000 or 1,000 per unit, whichever is greater	120 per lot
	Courtyard cottage development	14,400 per development	120 per development
	All other uses	None	None
B-1	All uses	None	None
B-2	All uses	None	None
B-3	All uses	None	None
B-4	All uses	None	None

**Sec. 25-06-402. Site Dimensions**

- (a) All uses in Table 06-1 Principal Use Table – Non-Residential Districts and Table 06-2 Accessory Use Table – Non-Residential Districts shall comply with the site dimensional requirements set forth in Table 06-4 Site Setbacks – Non-Residential Districts, Table 06-5 Site Dimensions – Non-Residential Districts, and all other applicable regulations set forth in this Ordinance.
- (b) All site dimension standards listed in this section are subject to the standards and exemptions listed in Article 25-04 General Zoning.
- (c) Tables 06-4 and 06-5 establish the minimum site standards for the MX, B-1, B-2, B-3, and B-4 zoning districts.

Table 06-4. Site Setbacks – Non-Residential Districts

District	Use	Minimum Setbacks (ft.)					Minimum Building Separation (ft.)
		Front	Side Corner	Side Interior	Rear	Site Perimeter	
MX	Dwelling, large apartment (9+ units)	20	20	10	10		10
	Dwelling, apartment mixed use	20	20	10	10		10
	Courtyard cottage development	20	20			20	10

District	Use	Minimum Setbacks (ft.)					Minimum Building Separation (ft.)
		Front	Side Corner	Side Interior	Rear	Site Perimeter	
	All other uses	20	20	0	0		
B-1	All uses	30	30	0	0	50	
B-2	All uses	30	30	20	20	50	
B-3	All uses	30	30	20	20	50	
B-4	All uses	40	40	20	20	50	

Table 06-5. Site Dimensions – Non-Residential Districts

District	Use	Maximum Building Height (ft.)	Maximum Impervious Surface Coverage <sup>3</sup>
MX	Dwelling, large apartment (9+ units)	40 <sup>1</sup>	80%
	Dwelling, apartment mixed use	40 <sup>1</sup>	90%
	Courtyard cottage development	40	75%
	All other uses	40 <sup>1</sup>	90%
B-1	All uses	40	90%
B-2	All uses	40 <sup>2</sup>	90%
B-3	All uses	40 <sup>2</sup>	80%
B-4	All uses	40 <sup>2</sup>	90%

Table Notes

<sup>1</sup> Buildings may exceed specified maximum height, up to a maximum of 75 ft, through approval of a Conditional Use Permit.

<sup>2</sup> Buildings may exceed specified maximum height if their design conforms to Minnesota State Building Code, Section 1306.

<sup>3</sup> Swimming pools are considered impervious surfaces.

## Division 25-06-500. District Standards

### Sec. 25-06-501. Commercial Districts

(a) All uses permitted in the B-1 District shall be subject to special limitations and conditions with respect to each as follows:

(1) Businesses whose buildings are located within one hundred (100) feet of any Residential District shall restrict their hours of operation to 6:00 a.m. to 11:00 p.m.

(2) In addition to the screening requirements of Division 25-10-700 Screening, all outdoor storage must be set back according to the building setback requirements of this District and screened from view from the public right-of-way by an opaque fence or wall. This requirement does not apply to businesses selling or renting vehicles.

**Sec. 25-06-502. Access**

- (a) Access to permitted uses listed above shall be allowed only on arterial or collector streets, or a street specifically designed for such development.
- (b) Curb cuts within a single proposed site shall be spaced according to the following for each district:
  - (1) B-1: at least eighty (80) feet apart;
  - (2) B-2, B-3, and B-4: at least one hundred fifty (150) feet apart.
- (c) Commercial and industrial developments of a small scale shall be encouraged to develop a common access drive and parking facilities.
- (d) Incentives to promote development of shared parking facilities and access, such as reduction in setback and/or parking requirements, may be approved by the City Council.
- (e) A turning lane and its appropriate right-of-way must be provided if the City Council determines that one is needed.

**Sec. 25-06-503. Underground Utilities**

- (a) Underground utilities shall be provided for all new structures and for renovations where the costs exceed fifty (50) percent of the value of the structure.

## **ARTICLE 25-07. PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS**

**Division 25-07-100. General Provisions**

**Sec. 25-07-101. Intent and Purpose**

- (a) As an alternative to conventional zoning and development approaches and processes, the Planned Unit Development District (PUD) procedures and regulations are set forth:
  - (1) In order that the public health, safety, morals, and general welfare be furthered in an era of increasing urbanization;
  - (2) To encourage innovations in residential, commercial, and industrial development and renewal;
  - (3) To promote greater opportunities for better housing and recreation, shops and industrial plants conveniently located to each other may extend to all citizens and residents of Oakdale;
  - (4) To reflect changes in the technology of land development; and
  - (5) To encourage a more creative approach in the utilization of land in order to accomplish a more efficient, aesthetically pleasing, and desirable development which may be characterized by special features of the geography, topography, size or

shape of a particular property, and to provide a compatible and stable environment in harmony with that of the surrounding area.

## **Division 25-07-200. General Requirement Standards**

- (a) The Planned Unit Development District may include any developments having one or more principal uses or structures on a single parcel of ground or contiguous parcels provided that the total area is five acres or larger.
- (b) The PUD shall consist of a harmonious selection of uses and grouping of buildings, parking areas, circulation and open spaces, and shall be designed as an integrated unit, in such manner as to constitute a safe, efficient, and convenient urban area.
- (c) Rezoning to PUD is at the discretion of the City Council.
- (d) Ownership
  - (1) The tract shall be a development of land under unified control at the time of application, planned and scheduled to be developed as a whole. However, no authorizations or permits shall be granted for such development unless the applicant has acquired actual ownership of or executed a binding sales contract for all of the property comprising such tract. For purposes of this article, ownership shall include a lease of not less than 50 years' duration. The term "single ownership" shall include ownership of portions of such development by two or more wholly owned subsidiaries of a single owner, or by such single owner, or by such single owner and one or more of its wholly owned subsidiaries.
- (e) Conformance with Comprehensive Plan
  - (1) The proposed PUD shall be consistent with the Comprehensive Plan.
- (f) Lot Regulations. The minimum total lot area shall be no less than five acres. Lots of less than five acres may qualify only if the applicant can show that the minimum lot area requirements should be waived because PUD is in the public interest and that one or both of the following conditions exist:
  - (A) Unusual physical features of the property itself or of the surrounding neighborhood are such that development, under the standard provisions of the Residence Districts, would not be appropriate due to the desire to preserve a physical or terrain feature of importance to the neighborhood or community.
  - (B) The property is adjacent to or across the street from property which has been developed under the provisions of this article and will contribute to the amenities of the neighborhood.
- (g) A residential PUD may provide for a variety of housing types in any one of the basic residential zoning districts.
  - (1) The total number of dwelling units allowed in a PUD shall be determined by either:
    - (a) the area standards of the zoning district proposed to apply in the PUD, or (b) the density specified in the Comprehensive Plan. A PUD may allow a greater number of dwelling units per acre than would otherwise be permitted by the regulations applicable to the site, but if the density or intensity of land use exceeds by more than 10 percent that permitted by the regulations otherwise applicable to the site, the

applicant has the burden to show that such excess will not have an adverse impact on existing public facilities and on the reasonable enjoyment of neighboring property. The Planning Commission and Council, in determining the reasonableness of the increase in the density, shall consider the following factors: (1) the location, amount and proposed use of public open space, (2) the location, design and type of dwelling units, and (3) the physical characteristics of the site.

(h) Front, Rear and Side Yard Building Setback Regulations

(1) The setback regulations of the Zoning District applicable to the site shall be used in reviewing a PUD site plan.

(i) More than one building may be placed on one platted or recorded lot in any PUD.

(1) Lots shall comply with the City's Subdivision Ordinance in all respects except for deviations consistent with this Article.

(j) A PUD, which only involves one housing type, such as all detached or all attached units, shall not be considered as inconsistent with the stated purposes and objectives of this article and shall not be the sole basis for denial or approval.

(k) The design of buildings shall not solely be a basis for denial or approval of a PUD. However, the compatibility of individual buildings to other site elements or to surrounding development will be considerations in the review.

(l) No building permit shall be granted for any building on land for which an application for a PUD is pending or which does not conform to the approved PUD.

(m) Staging of Development:

(1) Any PUD plan proposed to be constructed in stages shall include full details relating thereto and the City Council may approve or modify where necessary, any such proposals.

(2) The staging shall include the time for beginning and completion of each stage. Such timing may be modified by the City Council on the showing of good cause by the developer.

(n) Streets, Utilities, Services and Public Facilities:

(1) The uniqueness of each proposal for a PUD requires that specifications and standards for streets, utilities and services shall be subject to minor modifications from the specifications and standards established in this and other City ordinances governing their construction. The City Council may therefore waive or modify the specifications or standards where it is found that they are not required in the interests of the residents or of the entire City. The plans and profiles of all streets, utilities and services shall be reviewed, modified if necessary, and approved by the City Engineer, Fire Chief, and Building Official, prior to the final approval of the PUD plan by the City Council.

(o) Operating and Maintenance Requirements for Planned Unit Development Common Facilities:

In the event that certain land areas or structures are provided within the PUD for private recreational use or as service facilities, the owner of such land and buildings shall enter

into an agreement with the City to assure the continued operation and maintenance to the predetermined reasonable standard. These common areas may be placed under the ownership of one of the following, depending upon which is more appropriate:

- (1) Dedicated to the public where a community-wide use would be anticipated.
- (2) Landlord control.
- (3) Landowners Association, provided all of the following conditions are met:
  - (A) The Landowners Association must be established.
  - (B) Membership must be mandatory for each owner and any successive buyer.
  - (C) The open space restrictions must be permanent, not for a given period of time.
  - (D) The Association must be responsible for liability insurance for common areas and for the reasonable maintenance of exterior, residential, and other facilities.
  - (E) Landowners must pay their pro rata share cost and the assessment levied by the association that can become a lien on the property in accordance with Minnesota Statutes.
  - (F) The Association must be able to adjust the assessment to meet changed needs.
- (p) Building Height. A building's setback from property adjacent to the PUD District site shall approximate its height, with a maximum setback of 45 feet.
- (q) Landscaping. Landscaping and/or fencing shall be provided according to a plan approved by the Planning Commission and City Council, and shall include a detailed planting list with sizes indicated.
- (r) Utilities. All utilities, including electricity and telephone, shall be installed underground.

## **Division 25-07-300. Specific PUD District Regulations**

### **Sec. 25-07-301. Tartan Crossing Planned Unit Development District**

- (a) The TC-PUD, Tartan Crossing Planned Unit Development District regulations are set forth in the Tartan Crossing Planned Unit Development Design Standards, a copy of which is included as Appendix A of this Ordinance.

### **Sec. 25-07-302. Helmo Station Planned Unit Development District**

- (a) Purpose
  - (1) The purpose of the Helmo Station Planned Unit Development (HS-PUD) is to:
    - (A) Provide the background regarding the planning process that resulted in the Helmo Station Area Plan and HSPUD; and
  - (2) Specify the regulations for Land Use, Circulation, and Parks and Open Space that shall apply to all property in the HSPUD area.
- (b) Regulations
  - (1) The Helmo Station Planned Unit Development District (Helmo Station-PUD) regulations are set forth in the Helmo Station Planned Unit Development, a copy of which is included as Appendix B of this Ordinance. All submittals for platting,

subdivision, and site development shall be in substantial conformance, as determined by the City Council, with those regulations.

**Sec. 25-07-303. Willowbrooke Planned Unit Development District**

(a) Purpose

- (1) The purpose of the Willowbrooke Planned Unit Development District (WB-PUD) is to:
  - (A) Provide the background regarding the small area planning process that resulted in the 3M Foundation Small Area Plan (Willowbrooke neighborhood); and
  - (B) Specify the design standards for Land Use, Circulation, and Parks and Open Space in the WB-PUD District.

(b) Standards

- (1) The Willowbrooke Planned Unit Development District (WB-PUD) standards are set forth in the Willowbrooke Planned Unit Development Design Standards, a copy of which is included as Appendix C of this Ordinance. All submittals for platting, subdivision, and site development shall be in substantial conformance with those standards as determined solely by the City Council.

**Sec. 25-07-304. Greenway Station Planned Unit Development District**

(a) Purpose

- (1) The purpose of the Greenway Station Planned Unit Development (GS-PUD) is to:
  - (A) Provide the background regarding the planning process that resulted in the Greenway Station Small Area Plan and PUD; and
- (2) Specify the regulations for Land Use that shall apply to all property zoned Greenway Station Planned Unit Development (GS-PUD).

(b) Regulations

- (1) The Greenway Station Planned Unit Development District (GS-PUD) regulations are set forth in the Greenway Station Planned Unit Development, a copy of which is included as Appendix D of this Ordinance. All submittals for platting, subdivision, and site development shall be in substantial conformance, as determined by the City Council, with those regulations.

**Sec. 25-07-305. Tanners Lake Planned Unit Development District**

(a) Purpose

- (1) The purpose of the Tanners Lake Planned Unit Development District (TL-PUD) is to:
  - (A) Provide a compact, walkable, mixed-use development; and
  - (B) Support high quality development and placemaking, and ensure environmental protection of the shoreland; and
  - (C) Specify the regulations for land uses, bulk standards, and design elements that shall apply to all property in the TL-PUD area.

(b) Regulations

(1) The regulations are set forth in the TL-PUD, a copy of which is included as Appendix E of this Ordinance. All submittals for platting, subdivision, and site development shall be in substantial conformance, as determined by the City Council, with those regulations.

## ARTICLE 25-08. OVERLAY DISTRICTS

### Division 25-08-100. Floodplain

#### Sec. 25-08-101. General Provisions

(a) Statutory Authorization.

(1) The legislature of the State of Minnesota in Minnesota Statutes, Chapter 103F, Minnesota Rules Parts 6120.5000 through 6120.6200 and Minnesota Statutes Chapter 462 has delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. This division is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(b) Statement of Purpose.

(1) The development of the flood hazard areas of the City of Oakdale could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community, and since these lands are suitable for open space uses that do not require structures, fill, obstructions, or any other form of development as defined in Article 25-02 Definitions, the City Council of the City of Oakdale does ordain as follows.

(c) Designation of the Floodplain Overlay.

(1) The Flood Insurance Study, Washington County, Minnesota and Incorporated Areas and Flood Insurance Rate Map Panels therein numbered 27163C0329E, 27163C0240E, 27163C0330E, & 27163C0335E all dated February 3, 2010 and prepared by the Federal Emergency Management Agency, are hereby adopted by reference and declared to be part of this division. These materials shall be on file in the office of the City Clerk. The Floodplain Management Overlay District for the City of Oakdale shall include those 100-year flood areas designated as Zone AE & Zone A on the aforementioned maps.

(d) Warning of Disclaimer of Liability.

(1) This division does not imply that areas outside the Floodplain Management Overlay District or land uses permitted within such districts will be free from flooding or damages. This division shall not create liability on the part of the City of Oakdale or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made there under.

(e) Severability.

(1) If any section, clause, provision, or portion of this division is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected thereby.

**Sec. 25-08-102. Permitted Uses in the Floodplain Overlay**

(a) The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodplain Management Overlay District without a permit to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development as defined in Article 25-02 Definitions.

- (1) Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial uses such as parking areas and airport landing strips.
- (3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- (4) Residential uses such as lawns, gardens, parking areas, and play areas.

(b) All other uses and all uses that require structures, fill, obstructions, excavations, drilling operations, storage of material or equipment or any other form of development as defined in Article 25-02 Definitions shall be prohibited.

**Sec. 25-08-103. Overlay District Administration and Enforcement**

(a) Development Approvals. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation or other form of development as defined in Article 25-02 Definitions shall be allowed. These activities are currently not allowed within the Floodplain Management Overlay District and would only be allowed if this division is amended to allow such activities in the future with appropriate specified flood protection performance standards and the issuance of development permits.

(b) Interpretation of District Boundaries. Where interpretation is needed as to the exact location of the boundaries of the Floodplain Management Overlay District as shown on the Flood Insurance Rate Map panels adopted in Section 25-08-101 General Provisions, as for example where there is a conflict between a mapped boundary and actual field conditions, the City Engineer shall make the necessary interpretation based on the 100-year flood elevation, if available, or by using other available technical data.

(c) Variances. The City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action. No variance shall have the effect of allowing any use prohibited in the Floodplain District. The City shall maintain a record of all variance

actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (1) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (2) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Amendments. All amendments to this division must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

(e) Annexations. The Flood Insurance Rate Map panels adopted by reference into Section 25-08-101 General Provisions include floodplain areas that lie outside of the corporate boundaries of the City of Oakdale on the date of adoption of this division. If any of these floodplain land areas are annexed into the City of Oakdale after the date of adoption of this division, the newly annexed floodplain lands shall be subject to the provisions of this division immediately upon the date of annexation into the City of Oakdale.

## **Division 25-08-200. Shoreland**

### **Sec. 25-08-201. General Provisions**

- (a) Policy. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Oakdale.
- (b) Statutory Authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- (c) Jurisdiction. The provisions of this division apply to the shorelands of the public water bodies as classified in Table 08-1 Public Water Bodies of this division. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.
- (d) Compliance. The City of Oakdale is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements including violations of conditions and safeguards established

in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this division can occur regardless of whether or not a permit is required for a regulated activity listed in this division.

- (e) District Application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts identified in this Ordinance as existing or amended by the text and map of this division. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the based zoning district that jointly apply. Under application of the districts, the more restrictive requirements shall apply.
- (f) Exemption. A structure or use that was lawful before adoption of this division, but that is not in conformity with the provisions of the shoreland overlay district, may be continued subject to Section 25-08-202 Dimensional Standards and Division 25-04-300 Nonconformities.
- (g) Shoreland Classification System and Land Uses
  - (1) Purpose. To ensure that shoreland development on the public waters of the City of Oakdale is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.
  - (2) The shoreland area for the waterbodies listed below are shown on the Official Zoning Map. The following public water bodies have been given classification and are regulated as such under State Law, as amended by the DNR.

Table 08-1. Public Water Bodies

DNR Basin ID	Basin Name	Shoreland Classification	Ordinary High-Water Level*
82011500	Tanners	General Development	963.5 ft.
82011602	Armstrong-South Portion	Natural Environment	1019.3 ft.
82010200	Mud	Recreational Development	995 ft.**

\*Datum: NAVD 88

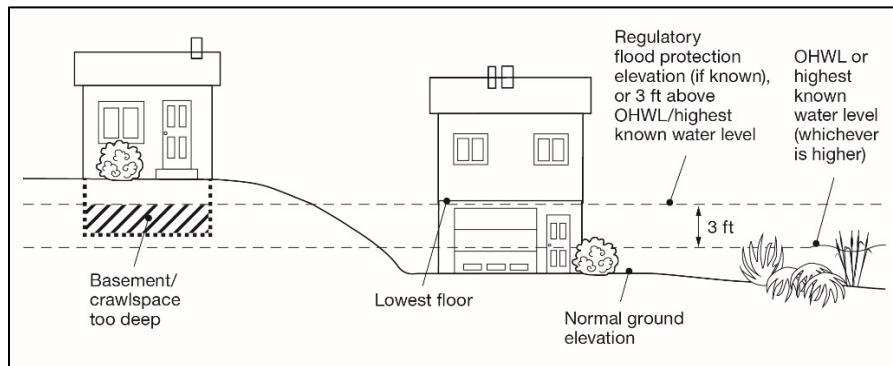
\*\*Estimated OHWL

## Sec. 25-08-202. Dimensional Standards

- (a) Lot area and width standards shall be regulated per the underlying zoning district of the property.
- (b) Riparian lots must maintain a minimum lot area no less than 20,000 square feet. Excepting the Tanners Lake Redevelopment District, any riparian residential development or redevelopment of more than four units with dwelling unit densities exceeding 20,000 square feet in size may be allowed under the following conditions.
  - (1) Preservation of the shore impact zone in its natural or existing state, for a minimum of 80%. Where the existing or natural state has been cleared or lacks woody deep-rooted vegetation, the shore impact zone shall be restored.

- (2) Protections shall be preserved in perpetuity and maintained by use of deed restrictions, covenants, permanent easements, public dedications, or other equally effective permanent instruments.
- (3) No more than four mooring spaces on one centralized mooring facility.
- (c) The use of all properties within the shoreland area shall be regulated per the underlying zoning district.
- (d) Height of structures and other facilities on lots shall be regulated per the underlying zoning district of the property.
- (e) Except as provided in Section 25-08-203 Tanners Lake Redevelopment District, impervious surface coverage of lots shall not exceed the maximum coverage allowed in the underlying zoning district. Permeable pavement shall be considered impervious surface for the purpose of lot coverage.
- (f) Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining structure setbacks from the ordinary high-water level, provided the proposed structure is not located in a shore impact zone. The setback shall be determined by the average setback of structures on the two immediately adjoining lots.
- (g) Lowest Floor Elevation.
  - (1) Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:
    - (A) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher (see Figure 08-1).
  - (2) Methods for placement.
    - (A) In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in provision (1) above.
    - (B) If elevation methods involving fill would result in filling in the shore impact zone, then structures must instead be elevated through floodproofing methods in accordance with provision (C) below.
    - (C) If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.

Figure 08-1. Lowest Floor Elevation



(3) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(h) Ordinary High-Water Level Setbacks

(1) Along with the setback requirements in the underlying zoning district, the following setback requirements from the ordinary high-water level shall apply to all principal and accessory uses.

Table 08-2. Ordinary High-Water Level Setbacks

Waterbody Classification	Setback
General Development*	50 feet
Natural Environment	50 feet
Recreational Development	50 feet

\* excludes the Tanners Lake Redevelopment District site described in Section 25-08-203.

(2) Legal non-conforming principal structures that encroach into the ordinary high-water level setbacks may be continued in accordance with Division 25-04-300 Nonconformities and lateral or vertical expansion may be permitted without a variance.

(i) Exceptions.

(1) The following types of structures are exempt from the ordinary high-water level setbacks indicated in Table 08-2, but are required to follow the standards contained in Section 25-08-204 Development and Performance Standards:

- (A) Stairways, stairway landings, and pedestrian lifts;
- (B) Watercraft lifts, landing facilities, and docks;
- (C) Fences, retaining walls, and ancillary recreational uses;
- (D) Public park, beach, and marina facilities and other public improvements;
- (E) Water-oriented accessory structures.

**Sec. 25-08-203. Tanners Lake Redevelopment District**

- (a) Intent. To allow lesser setbacks from the ordinary high-water level to accommodate redevelopment and to enable public access to the lake where development has occurred. It is also intended to ensure greater setbacks where fewer disturbances have occurred and to allow vegetative restoration along the shoreline.
- (b) The Tanners Lake Redevelopment District consists of the following legally described properties.
  - (1) Lots 10, 11, 12, 13, 14, and 15, Block 10, Lake Park Addition, according to the recorded plat thereof, Washington County, Minnesota, together with that part of the vacated alleys that accrued thereto by reason of the vacation thereof.
  - (2) Lots 21, 22, 23, and 24, Block 10, Lake Park Addition, according to the recorded plat thereof, Washington County, Minnesota, excluding therefrom the West one-half (W 1/2) of the adjoining vacated alley.
  - (3) The North 1/3 of Lot 16 and all of Lots 17, 18, 19 and 20, Block 10, Lake Park Addition, according to the recorded plat thereof, Washington County, Minnesota.
  - (4) Lots 1 through 9, and the South 1/2 of Lot 16, Block 10, Lake Park Addition, together with vacated alley accrued thereto by reason of the vacation thereof, and together with that portion of vacated alley which accrued to the North 1/2 of Lot 16, and Lots 17 through 24, Block 10, Lake Park Addition, by reason of the vacation thereof.
  - (5) Lots 1 and 2, Block 2, Tanner's Lake, Washington County, Minnesota. Together with that part of the adjacent vacated street that accrued thereto by reason of the vacation thereof.
  - (6) Lots 3, 4, 6 and 7, Block 2, Tanner's Lake, Washington County, Minnesota.
  - (7) Lot 5, Block 2, Tanner's Lake, Washington County, Minnesota.
- (c) Ordinary high-water level setbacks for the Tanners Lake Redevelopment District shall be a minimum of 30 (thirty) feet with an additional allowance for setback averaging as permitted in accordance with Section 25-08-202 Dimensional Standards, provided that the setback is no less than 25 (twenty-five) feet.
- (d) No more than 80% of the lot, parcel, or tract of land shall be covered by structures or impervious surface in the Tanners Lake Redevelopment District. Permeable pavement shall be considered impervious surface for the purpose of lot coverage.
- (e) Vegetative restoration of the shoreline shall be conducted where practicable and must include woody deep-rooted vegetation.
- (f) The following uses are prohibited in the Tanners Lake Redevelopment District:
  - (1) Beaches
  - (2) Private residential use mooring spaces

**Sec. 25-08-204. Development and Performance Standards**

- (a) Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and

control erosion to public waters consistent with the field office technical guides of the local Soil and Water Conservation Districts and comply with the following standards:

- (1) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
- (2) Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;
- (3) Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.
- (4) Private facilities must comply with the grading and filling requirements listed in provision (g) below; and
- (5) For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

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

- (1) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
- (2) Landings for stairways and lifts on residential lots must not exceed 32 (thirty-two) square feet in area. Landings larger than 32 (thirty-two) square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
- (3) Canopies or roofs are not allowed on stairways, lifts, or landings;
- (4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of this section and the requirements of Minnesota Rules, Chapter 1341.

(c) Water-oriented Accessory Structures or Facilities. Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

- (1) The structure or facility must not exceed ten (10) feet in height for single family residential lots, exclusive of safety rails, and cannot occupy an area greater than 250 (two hundred fifty) square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;
- (2) The setback of the structure or facility from the ordinary high-water level must be at least ten (10) feet;
- (3) The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
- (4) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- (5) The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
- (6) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
- (7) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 (four hundred) square feet provided the maximum width of the structure is 20 (twenty) feet as measured parallel to the shoreline; and
- (8) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 25-08-202 Dimensional Standards if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(d) Fences. Fences between principal structures and the waterbody are allowed if fences are:

- (1) Not higher than six feet.
- (2) Not located within the shore impact zone.
- (3) Not located in the regulatory floodplain.

(e) Lighting. Within the ordinary high-water level setback:

- (1) Lighting shall be fully shielded and directed away from the water.
- (2) Up lighting viewable from the water is prohibited.

(f) Vegetation and land alteration.

- (1) Limited clearing and trimming of trees and shrubs in the shore impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- (A) Vegetation be maintained to the screening of structures, vehicles, or other facilities by at least 50% as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced. The maximum view corridor shall be less than 50 (fifty) feet or one-third of the parcel width, whichever is less;
- (B) Cutting debris or slash shall be scattered and not mounded on the ground; and
- (C) Perennial ground cover is retained.

(g) Grading and filling.

- (1) Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with subsection (a) above.
- (2) Permit Requirements.
  - (A) Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards of this ordinance must be incorporated into the permit.
  - (B) For all other work, including driveways not part of another permit, a grading and filling permit is required for:
    - (i) The movement of more than 10 (ten) cubic yards of material on steep slopes or within shore impact zones; and
    - (ii) The movement of more than 50 (fifty) cubic yards of material outside of steep slopes and shore impact zones.
    - (iii) Placement of retaining walls, including boulder walls within the shore impact zone provided that:
      - a. if the project includes work at or below the ordinary high-water level, the developer shall obtain a permit through the DNR.
      - b. the structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
      - c. the height and length are the minimum necessary to control the erosion problem and are not higher than 4 feet or longer than 10 feet, unless the zoning administrator determines that a larger wall is necessary to correct the erosion problem; and
      - d. walls are screened by vegetation to not be visible from the waterbody.
    - (iv) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if:
      - a. if the project includes work at or below the ordinary high-water level, the commissioner has already approved or permitted the project;
      - b. the finished slope does not exceed three feet horizontal to one-foot vertical;

- c. the landward extent of the riprap is within ten feet of the ordinary high-water level; and
- d. the height of the riprap above the ordinary high-water level does not exceed three feet.
- e. A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than fifteen feet from the landward extent of the riprap.

(3) Grading, filling and excavation activities must meet the following standards:

- (A) Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
- (B) Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
  - (i) Limiting the amount and time of bare ground exposure;
  - (ii) Using temporary ground covers such as mulches or similar materials;
  - (iii) Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
  - (iv) Using sediment traps, vegetated buffer strips or other appropriate techniques;
  - (v) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
  - (vi) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 (thirty) percent or greater;
  - (vii) Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and
  - (viii) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties
- (C) Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

(h) Stormwater management.

(1) General Standards:

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

- (B) 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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- (C) When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(2) Specific Standards:

- (A) Except as provided in Section 25-08-203 Tanners Lake Redevelopment District, impervious surfaces of lots shall not exceed the standard of the underlying zoning district.
- (B) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
- (C) New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

(i) Sanitary provisions.

- (1) All lots within the shoreland district shall be connected to the public water and sanitary sewer systems and old sewer and water systems shall be abandoned in conformance with State law and City ordinance.

**Sec. 25-08-205. Administration and Enforcement**

(a) Permits Required.

- (1) When a building permit is required for any activity regulated herein, no additional shore land alteration permit shall be required. However, the standards for the activity as contained herein shall be applied to the issuance of that permit.
- (2) A shoreland alteration permit shall be required for all construction and development activity regulated within this division including for:
- (3) All grading, filling and excavation activity as regulated within Section 25-08-204 Development and Performance Standards.
- (4) All shoreland vegetation alteration activity regulated under Section 25-08-204 Development and Performance Standards.

(b) DNR Review Notification Process

- (1) Notification shall be provided to the DNR Area Hydrologist at least 10 (ten) days prior to a public hearing to consider variances, conditional use permits, planned unit developments, minor subdivisions, and plats within the shoreland area or amendments to the shoreland standards.

(2) Notification shall occur ten (10) days after a final decision on all variances, conditional use permits, planned developments, minor subdivisions, and plats.

## **ARTICLE 25-09. USE-SPECIFIC STANDARDS**

### **Division 25-09-100. Principal Uses**

#### **Sec. 25-09-101. Adult Establishment**

**(a) Findings and Purpose.**

(1) Studies conducted by the Minnesota attorney general, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and conclusions, the City Council of the City of Oakdale finds:

- (A) Adult establishments have adverse secondary impacts of the types set forth above.
- (B) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
- (C) It is not the intent of the City Council to prohibit adult establishments from having a reasonable opportunity to locate in the City.
- (D) It is not the intent of the City Council to regulate on the basis of content, only on the basis of likely adverse secondary effects.
- (E) Minnesota Statutes Section 462.357, authorizes the City to adopt regulations to promote the public health, safety, morals and general welfare.
- (F) The public health, safety, morals and general welfare will be promoted by the City adopting reasonable regulations governing adult establishments.

**(b) Location.**

(1) A Principal Adult Establishment may be located only in commercial and/or industrial districts subject to the limitations listed hereunder:

- (A) A principal adult establishment may not be located within any of the following areas:
  - (i) Within one thousand (1,000) feet of another principal adult establishment; or
  - (ii) Within seven hundred fifty (750) feet of a park, school, library, day care facility, or facility devoted to activities or recreation for minors, regardless of whether such facilities are public or private in nature; or

- (iii) Within seven hundred fifty (750) feet of any property zoned for residential purposes or from a site used for residential purposes.
- (iv) Distances shall be measured from the property line of the proposed adult use and the nearest boundary of the property containing any of the land uses noted above.

(c) Hours of Operation.

- (1) No principal adult establishment may be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

(d) Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:

- (1) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
- (2) No dancer, live entertainer, performer, patron or other person shall be nude in an adult cabaret.
- (3) The owner, operator or manager of an adult cabaret shall provide the following information to the City concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth and any aliases.
- (4) No dancer, live entertainer or performer shall be under eighteen (18) years old. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- (5) No dancer or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.
- (6) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (7) No patron shall pay or give any gratuity to any dancer or performer.
- (8) No dancer or performer shall solicit any pay or gratuity from any patron.

(e) License Required.

- (1) License Required. No person shall own or operate principal adult establishment without having first secured a license as provided for in this subsection. Accessory adult establishments do not require a separate license, but must be an identified use with the city at the time of requesting a business license.
- (2) Application. The application for an adult establishment license shall be submitted on a form provided by the City and shall include:
  - (A) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all those persons holding more than five (5) percent of the issued and outstanding stock of the corporation.

(B) The name, address, phone number, and birth date of the operator and manager of such operation, if different from the owners; the address and legal description of the premises where the adult establishment is to be located; the activities and types of business to be conducted; the hours of operation; and a building plan of the premises detailing all internal operations and activities.

(C) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities.

(3) Annual License Fee. The annual license fee is set by council resolution as amended from time to time.

(A) Each application for a license shall be submitted to the City Administrator and payment made to the City. Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the City shall refund the license fee.

(B) All licenses shall expire on the last day of June in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one (1) month.

(C) No part of the fee paid by any license shall be refunded, except that a pro rata portion of the fee shall be refunded in the following instances upon application to the City Administrator within thirty (30) days from the happening of the event, provided that such event occurs more than thirty (30) days before the expiration of the license: Destruction or damage of the licensed premises by fire or other catastrophe; the licensee's illness the licensee's death; or a change in the legal status making unlawful for licensed business to continue.

(D) Each application shall contain a provision on the application in bold print indicating that any withholding of information or the providing of false or misleading information will be grounds for denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be brought to the attention of the City Council by the application or licensee. If said changes take place during the investigation, said data shall be provided to the Police Chief or the City Administrator in writing and they shall report the changes to the City Council. Failure to report said changes by the applicant(s) or the licensee may result in a denial or revocation of a license.

(4) Investigative Fee. The investigative fee for an adult establishment license shall be determined as follows:

- (A) Upon applying for the license, the applicant shall pay an investigative fee set by the City per person identified on the application as an owner, operator or manager.
- (B) If it appears that the investigative costs will exceed the amount estimated by the City, the City Administrator shall notify the applicant and give the applicant an estimate of costs. The applicant shall either make an additional deposit equal to the difference or shall withdraw the application. If the additional deposit is not paid within 14 days, the application shall be deemed withdrawn.
- (C) If the costs of administration, issuance and investigation are less than the deposit, the balance shall be refunded upon the issuance or denial of the license. No license shall be issued until the applicant has paid the entire cost of administration, issuance and investigation.

(5) Granting of License.

- (A) The City Administrator and Police Chief, or such persons as they shall designate, shall complete their investigation within thirty (30) days after the City Administrator receives a complete application and all license and investigative fees.
- (B) If the application is for a renewal, the applicant shall be allowed to continue business until the Council has determined to renew or refuse to renew a license.
- (C) If, after such investigation, it appears that the applicant and the place proposed for the business are eligible for a license under the criteria set forth in this subsection, then the license shall be issued by the City Council within thirty (30) days after the investigation is completed. Otherwise, the license shall be denied.
- (D) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license. All adult establishments existing at the time of the adoption of this subsection shall be required to obtain an annual license.

(6) Persons Ineligible for License. No license shall be granted to or held by any person:

- (A) Under twenty-one (21) years of age;
- (B) Who is overdue or whose spouse is overdue in his or her payment to the City, county or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
- (C) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments;
- (D) Who is not the proprietor of the establishment for which the license is issued;

- (E) Who is residing with a person who has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment, or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding twelve (12) months;
- (F) Who has not paid the required license and investigative fees.

(7) Places Ineligible for License.

- (A) No license shall be granted for adult establishments on any premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this section, or where any license hereunder has been revoked for cause, until one (1) year has elapsed after such conviction or revocation.
- (B) No license shall be granted for any adult establishment which is not in full compliance with the City Code, the City's zoning ordinance, the Building Code, the Fire Code, the City's Health Regulations and all provisions of state and federal law.

(8) Conditions of License.

- (A) Every license shall be granted subject to the following conditions and all other provisions of this section, and of any applicable sections of the City Code, the City's zoning ordinance, the Building Code, the Fire Code, the City's Health Regulations and all provisions of state and federal law.
- (B) All licensed premises shall have the license posted in a conspicuous place at all times.
- (C) No minor shall be permitted on the licensed premises.
- (D) Any designated inspection officer of the City shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (E) Every licensee shall be responsible for the conduct of his/her place of business and shall maintain conditions of order.
- (F) No adult goods or material services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.

(9) Suspension or Revocation for Violation.

- (A) Any violation of this section shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the City Council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within thirty (30) days of the date of the notice.
- (B) The City Council shall determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

(10) Right of Appeal.

- (A) In the event that the Council determines to suspend, or revoke a license, such suspension or revocation shall not be effective until fifteen (15) days after notification of the decision to the licensee. If, within that fifteen (15) days, the licensee files and serves an action in state or federal court challenging the Council's action, then the suspension or revocation shall be stayed until the conclusion of such action.
- (B) If the City Council determines not to renew a license, the licensee may continue its business for fifteen (15) days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that fifteen (15) days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
- (C) If the City Council decides not to grant a license to an applicant, then the applicant may commence an action in state or federal court within fifteen (15) days for the purpose of determining whether the City acted properly. The applicant shall not commence doing business unless the action is concluded in its favor.

(11) **Penalty.**

- (A) Any person violating any provision of this section shall be guilty of a misdemeanor, punishable not more than the maximum penalty for a misdemeanor as prescribed by state law. Each day of violation may be charged as a separate misdemeanor.

**Sec. 25-09-102. Animal Hospital**

- (a) Boarding may be provided for animals as part of medical services.
- (b) Any animals being boarded overnight shall be confined within the indoor area between the hours of 9:00 p.m. and 6:30 a.m.
- (c) No more than four (4) play areas, with up to twelve (12) dogs each and one (1) handler per play area, are allowed in the outdoor area.
- (d) The outdoor area shall be cleaned daily.
- (e) Barking or howling dogs shall be returned indoors immediately.
- (f) Dogs must be supervised at all times when outdoors.

**Sec. 25-09-103. Assisted Living Facility**

- (a) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
- (b) All structures shall meet the setback standards established for multi-unit dwellings in the R-4 zoning district.
- (c) A permanent common open space area for passive group outdoor recreation activities shall be provided with a size of not less than ten (10) percent of the lot area:
  - (1) The area shall be landscaped with shade trees and shrubbery for the purpose of protection from the sun, screening and visual interest.

- (2) Such an outdoor living area shall be properly drained, located for convenience and optimum use, and shall be walled, fenced, or planted to provide reasonable privacy.
- (3) This area may be surfaced to provide an area for garden furniture. It may also be roofed in whole or in part, provided that it is open on all sides and meets the requirements for location of accessory buildings in its designated zoning district.
- (d) All buildings shall have a common room open for use by all of the residents of the building. The common area shall meet the occupancy and space requirements for common rooms as outlined in the Uniform Building Code.
- (e) The use shall be licensed by the proper agencies.

**Sec. 25-09-104.      Automotive Sales or Rental**

- (a) The use shall be located at least three hundred fifty (350) feet from any adjacent residential use.
- (b) No vehicle maintenance permitted on site. Light detailing, such as vacuuming and washing, is permissible.
- (c) All vehicles must be licensed and operable.
- (d) A site plan must be submitted showing a hard surfaced lot, drive aisles, and parking stalls in accordance with Division 25-10-300 Off-Street Parking, Loading, and Circulation.

**Sec. 25-09-105.      Automotive Service and Repair**

- (a) In the case of the premises adjoining a residential zoning district, required side and rear yard setbacks shall be not less than fifty (50) feet for a structure and twenty (20) feet for any parking or storage area.
- (b) All repair and service activities shall be completed within an enclosed building, including storage of parts and machines. All overhead vehicle doors on the building shall remain closed except when a vehicle is entering or exiting the building.
- (c) No outdoor storage, with the exception of customer vehicles waiting for repair or pick-up, is permitted on the property unless otherwise permitted as an accessory use.
- (d) All petroleum products, anti-freeze, and hazardous materials shall be disposed of in accordance with local and state regulations.

**Sec. 25-09-106.      Automotive Towing Service**

- (a) The use shall be located at least three hundred fifty (350) feet from any adjacent residential use.
- (b) All exterior portions of the use shall be screened from view of adjacent properties by an opaque wall or fence at least ten (10) feet in height.
- (c) The use shall be subject to site plan review.
- (d) All hazardous materials shall be disposed of in accordance with local and state regulations.

**Sec. 25-09-107. Car Wash**

- (a) Screening of automobile headlights shall be provided. Screening must be at least three (3) feet in height consisting of a wall, fence, dense vegetation, berm or grade change or similar screening as determined by the City Council.
- (b) The car wash facility shall not be located within fifty (50) feet from a residentially zoned property.

**Sec. 25-09-108. Continuum of Care Senior Facility**

- (a) A continuing care senior facility may include several uses within a single development, including townhouse or rowhouse dwellings, apartments, or assisted living facilities. Each use within the development shall be required to meet the standards specific to that use listed in this article.

**Sec. 25-09-109. Essential Service Facility**

- (a) Essential service facilities shall be located at least one hundred (100) feet from any residentially zoned property.
- (b) Substations shall be screened from view of adjacent properties according to the screening requirements in Division 25-10-700 Screening.
- (c) The use shall be subject to site plan review.

**Sec. 25-09-110. Kennel**

- (a) All kennels shall meet the requirements specified in City Code Chapter 4 Animals, Poultry, and Waterfowl.
- (b) All kennels shall meet the following requirements:
  - (1) An odor mitigation plan shall be provided to demonstrate how impacts from odors will be minimized.
  - (2) Any animals being boarded overnight shall be confined within the indoor area between the hours of 9:00 p.m. and 6:30 a.m.
  - (3) Outdoor Areas
    - (A) All outdoor areas for animals shall be enclosed with a fence.
    - (B) Dogs must be supervised at all times when outdoors.
    - (C) Barking or howling dogs shall be returned indoors immediately.
- (c) Outdoor designated areas for animals as part of commercial kennels shall be located a minimum of one hundred (100) feet from any residential property line.
- (d) Commercial kennels must be situated on a property with a minimum lot size of 0.5 acres.

**Sec. 25-09-111. Live-Work Unit**

- (a) No retail sales shall occur onsite.
- (b) No commercial vehicles or equipment shall be stored outside.
- (c) Service or repair of motor vehicles shall be prohibited.

**Sec. 25-09-112. Long-Term or Transitional Care Facility**

- (a) The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
- (b) All structures shall meet the setback standards established for multi-unit dwellings in the same zoning district.
- (c) A permanent common open space area for passive group outdoor recreation activities shall be provided with a size of not less than five (5) percent of the lot area:
  - (1) The area shall be landscaped with shade trees and shrubbery for the purpose of protection from the sun, screening and visual interest.
  - (2) Such an outdoor living area shall be properly drained, located for convenience and optimum use, and shall be walled, fenced, or planted to provide reasonable privacy.
  - (3) This area may be surfaced to provide an area for garden furniture. It may also be roofed in whole or in part, provided that it is open on all sides and meets the requirements for location of accessory buildings in its designated zoning district.
- (d) All buildings shall have a common room open for use by all of the residents of the building. The common area shall meet the occupancy and space requirements for common rooms as outlined in the Uniform Building Code.
- (e) The use shall be licensed by the proper agencies.

**Sec. 25-09-113. Manufactured Home Park**

- (a) All manufactured home parks shall adhere to the standards of the R-5 District listed in Section 25-05-501 R-5 District Standards.

**Sec. 25-09-114. Off-Site Service Business**

- (a) At least fifty (50) percent of the floor area specific to the off-site business must be dedicated to office, retail, or showroom uses and be open to the public.
- (b) Service and delivery vehicle parking in outdoor areas adjacent to an existing or planned residential use or a public roadway are subject to the screening standards in Sec. 25-10-701.
- (c) All service and delivery vehicles shall be parked in the rear of the lot or, for corner or through lots, located on the opposite side of the building from the higher classification road.
- (d) All service and delivery vehicles shall fit within standard parking stall dimensions.
- (e) Service and delivery vehicles are limited in number to no more than one (1) per four hundred (400) square feet of building occupancy, rounded to the nearest whole number.
- (f) Within the B-1 District, there shall be no exterior storage of equipment or materials related to the off-site service business use.

**Sec. 25-09-115. Tower or Wireless Facility**

- (a) Site plan review shall be required for the construction of radio and television antennae and accessory structures. Once approved, any changes or additions to the site plan,

aside from normal maintenance, that will involve increases in the number or height of one (1) or more towers, will require City Council approval.

(b) Submittal Material

- (1) In submitting an application for a site plan for the construction and maintenance of radio and television antennae and accessory structures, the applicant shall provide sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a hazard to the health, safety, and general welfare of surrounding property owners.
- (2) This information shall include an outside consultant conducting an independent study at the cost of the applicant, demonstrating that the tower complies with (structural standards for steel antenna towers and antenna supporting structures), Engineering Department, Electronic Industries Association (EIA); describing the capacity of the tower, including the number and type of antenna that it can accommodate and the basis for the calculation of capacity; and demonstrating that the application complies with FAA, FCC, and if applicable, State Aeronautics Division requirements.
- (3) A site plan drawn to scale and identifying the site boundary; towers; guy wire anchors; existing and proposed structures; vehicular parking and access; existing vegetation to be retained, removed, or replaced; and uses, structures, and land use designation on the site and abutting parcels.
- (4) A plan drawn to scale showing proposed landscaping, including species type, size, spacing and other features.

(c) Requirements on Construction and Maintenance.

All antenna, towers, and accessory structures erected, constructed, or located on any property, and all supporting devices thereof shall comply with the following requirements:

- (1) The tower shall not exceed five hundred (500) feet above grade or less, as authorized by law.
- (2) Antenna and/or tower setbacks shall be such that the distance from the base to the nearest property line or non- owned structure is not less than the calculated structural collapse radius plus five (5) percent of the height of the tower, or twenty (20) feet, whichever is greater.
- (3) No part of any antenna or tower, nor any lines, cable, equipment or wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
- (4) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed by the State Building Code and the Electronic Industries Association recognized national standards, whichever is more restrictive.
- (5) Antenna and metal towers shall be properly protected against direct strike by lightning, either by adequate grounding or suitable circuits designed to provide such protection. The installation shall comply with all applicable electrical wiring codes, statutes, regulations and standards.

- (6) All signal and remote control conductors of low energy extending horizontally above the ground between the tower or antenna and structure, or between towers, but not buried underground, shall be at least twelve (12) feet above the ground at all points.
- (7) The base of the tower and all anchors shall be surrounded with a six (6) foot high galvanized chain-link fence with the appropriate warning signs posted on all sides.
- (8) No accessory structures shall be permanently affixed except as required to accomplish the license service for which the antenna or tower is authorized by the FCC.
- (9) The applicant is responsible for supplying the City with a copy of the annual FAA inspection report.
- (10) If use of the tower is discontinued for a period of six (6) months, it shall be removed.

(d) Broadcast Interference

- (1) The applicant shall be responsible to investigate all and remedy legitimate complaints by residents regarding interference to consumer electronic equipment alleged to be caused by signals from the broadcast facility.

**Sec. 25-09-116.        Sacred Community**

- (a) Any sacred community use shall meet all requirements listed in Minnesota Statutes 327.30.

**Sec. 25-09-117.        Self-Service Storage Facility**

- (a) The self-service storage facility shall be located at least three hundred fifty (350) feet from the nearest residential property.
- (b) The self-service storage facility shall not be used for dwelling purposes.
- (c) Exterior access points to all individual storage units, including, but not limited to, exterior doors and exterior garage doors, shall be located within a courtyard area that is fully enclosed by buildings or walls, except for access openings to the courtyard area for the purpose of ingress and egress.
- (d) The facility shall comply with the design standards for industrial buildings provided in Division 25-10-200 Exterior Building Materials.
- (e) No commercial transactions may occur at the self-service storage facility other than the rental of storage units.

**Sec. 25-09-118.        Wind Energy Conversion System (WECS)**

(a) Purpose and Intent

- (1) The purpose of this section is to promote the safe, effective and efficient use of alternative energy sources and systems as the technology becomes available.
- (2) The purpose of this section is also to establish predictable and balanced regulations for the establishment of commercial and noncommercial WECS in the locations and circumstances under which the use may be established without detriment to the public health, safety and welfare of the neighboring property owners and occupants.

(b) General Standards

- (1) No more than one Wind Energy Conversion System (WECS) shall be permitted per lot.
- (2) The setback shall be at least the following distances:
  - (A) From the nearest dwelling, school, business or other habitable structure: three hundred (300) feet or 1.5 times the height of the WECS, whichever is greater.
  - (B) From the nearest public right-of-way: three hundred (300) feet or 1.5 times the height of the WECS, whichever is greater.
  - (C) From the nearest property line: three hundred (300) feet or 1.5 times the height of the WECS, whichever is greater. In no instance shall any portion of the WECS extend over any property line, including the full arc area created by any blades used in the system.
  - (D) From recreational fields: three hundred (300) feet or 1.5 times the height of the WECS, whichever is greater. However, in no instance shall any portion of the WECS extend over any recreational field, including the full arc area created by any blades used in the system.
  - (E) No portion of the WECS, including the full arc area created by any blades used in the system, shall extend over any aboveground power line or drainage and utility easement.
- (3) Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any accessory structure or tree within the full arc area created by any blades used in the system.
- (4) The WECS shall be equipped with both a manual and an automatic braking device capable of stopping the WECS operation in high winds.
- (5) The WECS, including the blades, shall be grounded and shielded to protect against natural lightning strikes in conformance with the National Electrical Code.
- (6) The WECS shall not include tower-climbing apparatus within twelve (12) feet of the ground.
- (7) The WECS shall display a sign posted at the base of the tower, not to exceed two (2) square feet in area. The sign shall contain the following information:
  - (A) A warning of high voltage,
  - (B) The manufacturer's name,
  - (C) An emergency telephone number,
  - (D) The emergency shutdown procedures

Additional signs may be required on the basis of individual applications as safety needs dictate.

No WECS shall have affixed or attached lights, reflectors, flashers or any other illumination, except for those devices required by the Federal Aviation Administration.

- a. The WECS shall be filtered, shielded or otherwise designed and constructed so as not to cause electrical, radio frequency, television, and other communication signal interference.
- b. All obsolete and unused towers and equipment shall be removed within twelve (12) months of cessation of operation at the site, unless the Zoning Administrator grants an exemption.
- c. WECS installed in accordance with the requirements of this Section shall not generate power as a commercial enterprise as defined by the Public Utilities Commission.
- d. No building permit shall be issued for the construction of a WECS until and unless the applicant for the building permit deposits with the City Clerk a policy of liability insurance indemnifying the applicant from liability for personal injury or property damage in the sum of at least \$500,000.00. The policy of insurance so deposited shall contain a clause obligating the company issuing the same to give at least thirty (30) days written notice to the City before cancellation thereof, the conditional use and building permits to be automatically revoked upon the lapse or termination of said policy.
- e. Noise emitted from the WECS shall not exceed standards set forth in Chapter 19 Noise of the Code of Ordinances.

## **Division 25-09-200. Accessory Uses**

### **Sec. 25-09-201. Accessory Building**

- (a) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.
- (b) No accessory building or use shall be constructed or developed on a lot prior to the time of construction of the principal building to which it is accessory, except by Interim Use Permit.
- (c) Accessory buildings on residential lots that are not designed for the storage of personal property or vehicles, or are not designed for human occupancy, shall not count towards the allowed number of accessory buildings. Examples include, but are not limited to, chicken coops, greenhouses, gazebos, or recreational or playground equipment.
- (d) Building Size
  - (1) Single-unit dwellings are allowed one (1) attached or detached garage on the same lot. The maximum area of the garage shall not exceed one thousand (1,000) square feet.
  - (2) In addition to one (1) garage, single-unit dwellings are allowed a second accessory building up to two hundred (200) square feet in size.
- (e) Building Location
  - (1) No detached garage or other accessory building shall be located nearer the front lot line than the principal building on that lot.

(2) Except for accessory agricultural buildings, no accessory buildings shall be erected or located within any required side yard setback or within any utility easement.

(f) Building Height

- (1) Accessory agricultural buildings are exempt from building height requirements.
- (2) Accessory buildings and garages in Residential Districts shall not exceed the height of the principal structure.
- (3) Split Elevation Lots: When the principal structure is at the lower elevation, the maximum height of the accessory building is restricted to sixteen (16) feet if the roof line of the accessory building exceeds the height of the roof line of the principal structure. See additional height requirements in Division 25-05-400 Lot and Site Dimensions.
- (4) Accessory buildings in a Commercial or Industrial District may exceed the height of the principal structure with approval of a Conditional Use Permit.

(g) Exterior Building Materials

- (1) Accessory buildings for commercial, industrial, institutional, mixed-use, and multifamily uses shall be of the same exterior material, quality and appearance as the principal structure.
- (2) Accessory buildings shall not be pole building type construction (defined as a structure that utilizes treated lumber buried in the ground that serves as the building foundation) nor prefabricated metal exterior materials.

**Sec. 25-09-202. Accessory Dwelling Unit (ADU)**

- (a) The ADU is a complete, separate housekeeping unit that can be isolated from the original unit.
- (b) One (1) ADU is permitted per lot containing a single-unit dwelling.
- (c) The ADU shall be limited in size to fifty (50) percent of the finished gross floor area of the principal structure or one thousand five hundred (1,500) square feet, whichever is less.
- (d) The owner(s) of the property in which the ADU is created shall occupy at least one (1) of the dwelling units on the premises, except for bona fide temporary absences.
- (e) The design and size of the ADU shall conform to all applicable standards in the health, building, and other codes.
- (f) In addition to the parking requirements for single-unit dwellings specified in Division 25-10-300 Off-Street Parking, Loading, and Circulation, at least one (1) additional off-street parking space shall be provided for use by the occupant(s) of the ADU.
- (g) Attached ADUs shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-unit dwelling. In general, any new entrances shall be located on the side or in the rear of the building.
- (h) Detached ADUs shall:
  - (1) Not be located in front of the front plane of the principal dwelling.
  - (2) Meet accessory structure setbacks.

- (3) Be set back at least five (5) feet from the principal structure.
- (i) The square footage of any detached ADU shall not be included in the maximum allowable accessory structure square footage specified in Section 25-09-201 Accessory Building.

**Sec. 25-09-203. Accessory Office**

- (a) Accessory office space shall not exceed one thousand five hundred (1,500) square feet per building in floor area.

**Sec. 25-09-204. Accessory Retail or Service**

- (a) Such use shall not exceed forty (40) percent of the total floor area of the building.

**Sec. 25-09-205. Cemetery**

- (a) Cemeteries must have a minimum acreage size of one (1) acre.
- (b) Cemeteries must have direct access to a collector or arterial street as shown in the Comprehensive Plan.
- (c) No burial sites or structures shall be located closer than fifty (50) feet from any property line.
- (d) All burial sites shall be set back a minimum of fifteen (15) feet from any potable water well.
- (e) All burial sites shall be set back a minimum of one hundred (100) feet from any wetland.
- (f) No burial site shall be located in a flood hazard area within a 500-year flood event boundary.
- (g) All cemeteries must have planting strips or buffer yards adjacent to residential districts or uses, public uses, and public rights of way. In the absence of a planting strip along a property line, boulevard trees are required to be planted at fifty (50) foot intervals. The interior of the cemetery includes a minimum of one (1) tree per five thousand (5,000) square feet to break up the large expanse of turf area.
- (h) All burial sites must be within two hundred (200) feet of interior access drives, if the cemetery is to be open to public access. All interior driveways must be paved in accordance with standards specified in Division 25-10-300 Off-Street Parking, Loading, and Circulation.
- (i) All burial sites must have minimum direct frontage to a six (6) foot wide land containing no gravesites to provide access to gravesites for equipment.
- (j) All burials must utilize a concrete vault to avoid risk of cave ins, buried to a minimum depth of six (6) feet so that no portion of the grave is above the frost line during winter months.
- (k) All cemetery development will require site plan review approval and will be subject to the conditions for grading permits. In addition, soil borings will be required to determine the depth of the water table and the soil structure appropriateness for burials.

**Sec. 25-09-206. Drive-Through Facility**

- (a) Screening of automobile headlights shall be provided. Screening must be at least three (3) feet in height consisting of a wall, fence, dense vegetation, berm or grade change or similar screening as determined by the City Council.
- (b) The drive-through facility, including the window, any canopy, menu boards, and any stacking area shall not be located within fifty (50) feet from a residentially zoned property.

**Sec. 25-09-207. External Solid Fuel-Fired Heating Device**

- (a) Purpose and Intent
  - (1) The purpose of this section is to establish and impose restrictions upon the construction, installation, and operation of external solid fuel-fired heating devices (outdoor furnaces) within the limits of the City of Oakdale for the purpose of securing and promoting the public health, safety, comfort, convenience, and welfare of the City and its inhabitants. It is generally recognized that the types of fuel used, and the scale and duration of the burning by such furnaces can create noxious and hazardous smoke, soot, fumes, odors, air pollution, particles, and other combustion that can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises.
- (b) General Regulations.
  - (2) All external solid fuel-fired heating devices used, installed, or purchased within the city limits of Oakdale, Minnesota, are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing or equivalent accredited agency. No person shall use an external solid fuel-fired device in violation of this paragraph.
  - (3) All outdoor wood-burning units or external solid fuel-fired devices operated or installed within the city limits are subject to regulation as public nuisances as described in this ordinance.
  - (4) 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 was designed, is declared a public nuisance.
  - (5) Every solid fuel-fired device shall have a minimum chimneystack height of twenty (20) feet from ground level and be a minimum of two (2) feet above the roofline of the highest structure within two hundred feet. A freestanding outdoor furnace must be setback a minimum of seventy-five (75) feet from all property lines, be located on a lot of not less than one acre, and be a minimum of ten (10) feet from any principal or accessory structure. Construction of all stacks or chimneys must be of masonry or insulated metal with a minimum of six-inch (6") flue and be constructed to withstand wind and snow loads per the current Minnesota Building Code. No person shall use an external solid fuel-fired heating device in violation of this paragraph.
  - (6) Only wood or other 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

device. No person shall use an external solid fuel-fired heating device in violation of this paragraph.

- (7) An outdoor furnace shall not be used between April 15 and October 15 of each year.
- (8) The City of Oakdale requires any person to obtain a building permit for any external solid fuel-fired heating device that is sold or purchased after the date this ordinance becomes effective.
- (9) Any violation of this ordinance is a misdemeanor.

**Sec. 25-09-208. Firewood Pile**

- (a) Firewood piles which are neatly stacked and free from vermin shall be stored in the rear and side yards only.
- (b) Such piles of wood must also be elevated at least four (4) inches off the ground.

**Sec. 25-09-209. Garage Sale**

- (a) Garage sales are allowed in all residential zoning districts with the following restrictions:
  - (1) There shall be not more than three (3) sales events in each calendar year per dwelling unit, including the annual citywide Oakdale garage sale.
  - (2) Sale events are limited to any consecutive four-day period.
  - (3) Garage and craft sale signs must comply with the sign ordinance including sections of the City Code.

**Sec. 25-09-210. Home Occupation**

- (a) A Conditional Use Permit shall be required for a home occupation in the following circumstances:
  - (1) The home occupation employs nonresident, outside employees.
  - (2) The home occupation exceeds 20% of the gross floor space of the principal structure.
  - (3) Two or more customers a day visit the premises.
  - (4) The home occupation requires more than one non-standard delivery per week.
  - (5) The home occupation requires equipment, machinery, or materials other than a type normally found in or compatible with a dwelling.
  - (6) A license for the home occupation is required by the City or another government agency.
- (b) A Conditional Use Permit is not required for the following home occupations:
  - f. Art studios with no onsite sales.
  - g. Teaching or tutoring with no more than one (1) pupil at any time, up to eight (8) pupils per day.
  - h. Office, clerical, and administrative work.
  - i. Off-site businesses with no outside storage of commercial vehicles.

(c) The following activities are prohibited as home occupations:

- j. General retail or wholesale operations that allow walk-in customers.
- k. Restaurants, cafes, and similar commercial food services which provide food onsite.
- l. Repair, service, building, rebuilding, or painting of motor vehicles.
- m. Occupations that create detriments to the residential character of a neighborhood due to excessive noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, or traffic congestion.
- n. Occupations that impact public utilities and services beyond that of residential living.

(d) All home occupations shall be subject to the following criteria:

- (1) The home occupation shall be carried out by a resident of the dwelling unit. Up to two (2) nonresident, outside employees may be permitted by Conditional Use Permit.
- (2) The home occupation shall be carried on wholly within the principal or accessory structures on the property.
- (3) Noticeable noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare shall not be produced.
- (4) Hours and intensity of operation may be limited for home occupations which require a Conditional Use Permit and shall be set forth in the Conditional Use Permit.
- (5) Home occupations are permitted to have one (1) sign up to five (5) square feet in size and set back at least ten (10) feet from the front property line.
- (6) If the home occupation requires a license, the restrictions imposed in the Conditional Use Permit shall become a part of such license; violations of either the license requirements or Conditional Use Permit shall cause forfeiture of both the license and the special permit.

**Sec. 25-09-211.      Outdoor Dining**

- (a) Outdoor dining areas of two or more tables shall be installed in conformance with an approved site plan.
- (b) The outdoor dining area shall be located contiguous to the food or beverage service principal use to which it is accessory.
- (c) The seating area shall be located on private property along the front, side or rear of the principal building but shall not be located within a required setback or on the side abutting any residential use or district.
- (d) The outdoor dining area shall be delineated by a fence, barriers, or landscaping approved by the Community Development Director.
- (e) The seating area shall not interfere with circulation in any required parking, loading, maneuvering or pedestrian area. A minimum four (4) foot passageway shall be maintained along any pedestrian walkway.
- (f) None of the minimum number of off-street parking stalls required for the principal use shall be occupied by the outdoor dining area.

- (g) No communication system shall be audible from a noncommercial or nonindustrial use or district.
- (h) All food and drink preparation shall be performed within the principal use. No preparation or storage of food or drink shall be permitted within the outdoor dining area.
- (i) All equipment associated with the outdoor dining area that is stored outdoors when not in use shall be neatly stacked in an area approved by the City on a site plan.
- (j) Temporary outdoor dining shall be licensed and shall meet the standards in Chapter 9 Article 16 Temporary Outdoor Patios.

**Sec. 25-09-212.      Outdoor Display**

- (a) Outdoor display areas may not be located within required setback areas.
- (b) Outdoor display areas are limited to the lesser of one hundred fifty (150) square feet or a maximum of forty (40) percent of the width of a building frontage that contains a customer entrance or exit, unless such merchandise is of a type customarily displayed outdoors such as automobiles and garden supplies.
- (c) There shall be no more than one (1) building frontage with an outdoor display area.
- (d) Outdoor display areas shall be located on a paved surface immediately adjacent to and within the dimensions of the building frontage and shall not extend beyond the building edge.
- (e) Outdoor display shall not be located so as to block pedestrian walkways, doorways, parking stalls, drive aisles (including access for emergency services). Four (4) feet is the minimum width required to maintain pedestrian access.
- (f) Outdoor display areas shall not exceed a height of five (5) feet, except that vending machines or cabinets for items such as beverages, ice, movies, and propane may exceed the height as long as there are no more than three (3) machines per frontage.
- (g) Outdoor display areas shall be maintained in an orderly and attractive manner.
- (h) Outdoor display areas shall be limited to products for sale and shall not serve as a storage area for inventory.

**Sec. 25-09-213.      Outdoor Sales**

- (a) Outdoor sales may be located in parking lots, drive areas, or landscaped areas of the principal use.
- (b) Display and sales activity, including temporary structures, shall not take up or interfere with access to, any required parking, loading, maneuvering or pedestrian area.
- (c) Tent sales shall be licensed according to Chapter 9 Article 5 Garden Centers/Retail Tent Sales.

**Sec. 25-09-214.      Outdoor Storage**

- (a) All exterior storage of raw materials, supplies, finished, or semi-finished products and equipment shall be excluded from the front yard.
- (b) All outdoor storage areas shall be screened from view of abutting residential properties and adjacent right-of-way by an opaque wall or fence.

**Sec. 25-09-215. Recreational Vehicle Storage**

- (a) No more than one (1) recreational vehicle may be parked outside on a single lot.
- (b) Recreational vehicles shall not be parked on grass, vegetation, or other permeable surfaces.
- (c) Recreational vehicles parked outdoors must be currently licensed and operable.
- (d) Recreational vehicles must be parked a minimum of fifteen (15) feet from the back of the curb or roadway.
- (e) All recreational vehicles shall be parked behind the front setback line of the zoning district in which they are located except that vehicles may be allowed within the front setback for a period of forty-eight (48) hours for the purpose of loading and unloading.
- (f) Exceptions
  - (1) Personal watercrafts on trailers, motor homes, all-terrain vehicles, utility trailers, campers, and camping buses may be parked within the front setback from May 1 to November 1.
  - (2) Snowmobiles on their trailers, all-terrain vehicles, or utility trailers may be parked within the front setback from November 1 to the following May 1.
  - (3) Above "exceptions" are to be parked a minimum 15 feet from the back of the curb or roadway.
- (g) Recreational and non-commercial vehicles may be parked in the side and rear yard, but shall be at least five (5) feet from any property line. On corner lots, both yards abutting a street shall be considered a front yard.

**Sec. 25-09-216. Swimming Pool, Residential**

- (a) A building permit shall be required for the construction or installation of any swimming pool which shall have a capacity of three thousand (3,000) gallons or more.
- (b) An application for a building permit shall include the following information:
  - (1) Type and size of pool.
  - (2) Site plan to scale.
  - (3) Location of pool.
  - (4) Location of house, garage, fencing and other structures on the lot.
  - (5) Location of structures on all adjacent lots.
  - (6) Location of filter unit, pump, and wiring (indicating type of such equipment).
  - (7) Location of back-flush and drainage outlet.
  - (8) Grading plan, finished elevations, and final treatment (decking, landscaping, etc.) around the pool.
  - (9) Location of existing overhead or underground wiring and utility easements.
- (c) In single-unit and two-unit residential areas:

- (1) Pools for which a building permit is required shall not be located within ten (10) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within the front or side-yard setback area.
- (2) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
- (3) Pools shall not be located within any private or public utility, walkway, drainage, or other easement.
- (4) To the extent feasible, back-flush water or water from pool drainage shall be on the owners' property or into approved public drainage ways. Water shall not drain onto adjacent land.
- (5) Any mechanical or electrical equipment which produces noise, such as pumps or filters, shall be located at least thirty (30) feet from any dwelling on adjacent property and not closer than ten (10) feet to any lot line unless such equipment is enclosed in a sound-resistive enclosure. In all cases, noise shall not exceed minimum standards as set forth in Chapter 19 Noise.
- (6) Lighting for the pool shall be directed into or onto the pool and shall not spill onto adjacent property. Any floodlights shall be shielded sufficiently to prevent the spillover of light onto adjacent properties.
- (7) Swimming Pools: For any pool of over 18 (eighteen) inches of water depth, a safety fence and/or poolside of a non-climbable type of at least four (4) feet in height shall completely enclose the pool, prior to filling of the pool. Temporary pools are exempt from this requirement. Temporary pools are defined as those that are removable and/or portable which are removed seasonably for winter.
- (8) Water in the pool shall be maintained at all times in a suitable manner to avoid health hazards of any type. Water shall be subject to periodic inspection by the City.
- (9) All wiring, lighting, installation of heating units, grading, installation of pipes, and all such other installations and construction shall be subject to inspection by the City for code compliance.
- (10) Above ground pools utilizing removable ladders for ingress and egress shall have the ladder removed when unattended. Above ground pools utilizing fixed stairs shall be affixed with a four (4) foot, non-climbable fence or gate to be locked when unattended.
- (11) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

(d) In multiple-unit residential areas and non-residential use areas: Pools in multiple-unit residential areas (residential structure containing three (3) or more dwelling units) shall conform to the standards set out in provision (c) above with the following added restrictions:

- (1) No part of the water surface of the swimming pool shall be closer than thirty (30) feet to any lot line.

- (2) No pump, filter, heating units, or other apparatus used in connection with or to service a swimming pool shall be located less than thirty (30) feet from any lot line.
- (3) All deck areas, patios, or other similar areas used in conjunction with a swimming pool shall be located not closer than thirty (30) feet to any adjacent residential district line. Adequate screening, including both fencing and landscape treatment, shall be placed between said areas and adjacent single-unit and two-unit lot lines.
- (4) All-season pool enclosures shall require site plan review by the Planning Commission and City Council.

(e) In all areas:

- (1) Required safety fencing shall be completely installed within three (3) weeks following installation of pool and prior to pool being filled.
- (2) Nuisances such as undue noise, lighting onto adjacent property, health and safety hazards and the like shall not be permitted.

2. Permit Fee: Prior to the issuance of a construction or installation permit, the applicant shall pay a permit fee based upon the estimated value of the proposed pool. The amount of the fee shall be determined by using the City of Oakdale Table of Inspection Department Building Permit Fees. These fees shall apply to all pools requiring a building permit.

## **ARTICLE 25-10. DEVELOPMENT STANDARDS**

### **Division 25-10-100. General Design Standards**

#### **Sec. 25-10-101. Development Review Committee**

- (a) The Development Review Committee (DRC) shall consist of at least three (3) members of the City Staff, to be appointed by the City Administrator. The DRC shall determine technical conformance of proposed developments with the requirements of this article.
- (b) If the DRC determines that the plans comply with the intent and standards of this article, a building permit may be issued. All decisions of the DRC may be appealed to the City Council whose decision shall be final. The City Council shall refer such an appeal to the Planning Commission first for a recommendation.

#### **Sec. 25-10-102. Performance Standards**

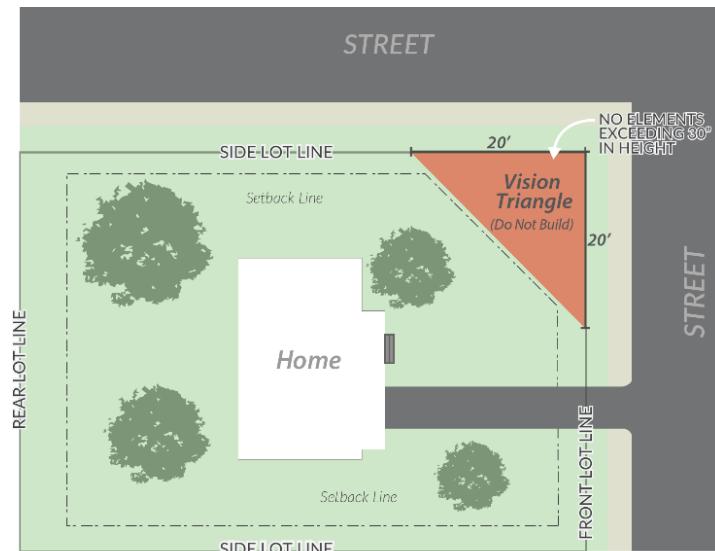
- (a) Glare, Smoke, Dust, Odors, and Noise
  - (1) The emission of smoke, odor, or particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards and Minnesota Pollution Control Agency Regulations.
  - (2) Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations.
- (b) Radiation and Electrical Emissions

- (1) All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.
- (2) All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.
- (c) Bulk Storage (Liquid)
  - (1) All uses associated with the bulk storage of all gasoline, oil, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshal, Minnesota Pollution Control Agency, and Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.

#### **Sec. 25-10-103. Vision Triangle**

- (a) On corner lots in all districts, no structure or planting in excess of thirty (30) inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected property lines of two intersecting streets, thence twenty (20) feet along one property line, thence diagonally to a point twenty (20) feet from the point of beginning on the other property line, thence to the point of beginning.

Figure 10-1. Vision Triangle



#### **Sec. 25-10-104. Surface Water Ponding**

- (a) If the multiple unit residential, commercial, or industrial site is over one (1) acre in size and the subdivision does not provide a regional basin in conformance with the requirements of Appendix C of the Oakdale Surface Water Management Plan, on-site ponding and infiltration will be required to comply with Appendix C. The applicant shall enter into a Maintenance Agreement for the ponding area and have the agreement recorded against the property.

## Division 25-10-200.      **Exterior Building Materials**

(a) It is the intent of this division to promote high standards for new building design and construction in the city. These exterior building material standards are set forth in order to enhance the visual appearance of the non-residential, large apartment, and mixed use apartment buildings; to prevent the physical deterioration of buildings; to increase the City's tax base; to promote the general welfare of the community; and ensure new development and redevelopment contributes to enhancing the community's character and image.

(b) Exterior building material standards shall apply to all non-residential, apartment, and mixed use apartment buildings.

(c) Primary exterior building materials are categorized into three classes – Class I, Class II, Class III - and shall be applied in the following manner:

- (1) To qualify as a primary material, a building material must comprise at least five (5) percent of the exterior building facades.
- (2) Garage doors, window trim, flashing accent items and the like, shall not constitute primary materials.
- (3) The use of Class II or III materials may be vary for each building facade as long as the average across all building facades meets the minimum or maximum standards.

(d) Primary classes of materials. For the purpose of this division, primary materials shall be categorized as Class I; Class II; and Class III as follows:

- (1) Class I shall be considered high-quality building materials that are long-lasting and able to withstand wear and tear. Class I materials are considered architecturally desirable and are designed for the climate conditions the material will commonly be exposed to resulting in a typical material life expectancy of 40 years or more.
- (2) Class II shall be considered standard building materials. Class II materials are considered architecturally desirable and are designed for the climate conditions the material will commonly be exposed to resulting in a typical material life expectancy of 20 years or more.
- (3) Class III shall be considered lower-cost and trim grade materials. Class III materials are considered aesthetically incompatible as a primary building material with Class I or Class II materials or are materials which are typically more prone to damage or degradation of material quality from weatherization resulting in a typical material life expectancy of 20 years or less.

Table 10-1. Exterior Building Material Classes

<b>Material Class</b>	<b>Materials Included</b>
Class I	Brick or thin-veneer brick systems <ul style="list-style-type: none"><li>- For the purpose of counting number of distinct materials used, a distinctively different color of brick may be considered as a second Class I material.</li><li>- Minor blended color variations shall not be counted as a separate material.</li></ul>

Material Class	Materials Included
Class I	Natural stone or architectural precast stone
	Glass <ul style="list-style-type: none"> <li>- No glass located on the ground floor of non-residential buildings shall be opaque, colored, or have any reflective mirror type coating unless it is bird-friendly glass</li> </ul>
	Fiber cement wall panel systems
	Copper or stainless steel panels
Class II	Specialty concrete block such as textured, burnished block, or rock faced block
	Architecturally textured precast concrete panels (except raked finish)
	Masonry stucco
	Exterior insulation and finish systems (EIFS)
	Architectural metal wall panel systems
	Other comparable or superior materials
Class III	Opaque panels
	Smooth scored concrete block
	Ceramic finished concrete block
	Glass block
	Wood
	Other comparable or superior materials
Prohibited	Corrugated metal Plastic Sheet fiberglass Plaster Panels systems with exposed fasteners

(e) Buildings shall be composed of materials from Table 10-1 Exterior Building Material Classes in the following manner:

Table 10-2. Exterior Building Material Distribution

Use	Class I	Class II	Class III
Non-residential, except industrial	70% minimum; Minimum of 3 materials <sup>1</sup>	30% maximum	15% maximum
Industrial	50% minimum;	50% maximum	

Use	Class I	Class II	Class III
	Minimum of 2 materials		15% maximum
Apartment and mixed use apartment buildings	60% minimum	40% maximum	15% maximum
<sup>1</sup> Buildings may be constructed primarily of one (1) specific Class 1 material provided the design is superior to the general intent of this division and provides variation in detailing, footprint of the structure, or deviations in long wall sections to provide visual interest.			

## Division 25-10-300. Off-Street Parking, Loading, and Circulation

### Sec. 25-10-301. General Provisions

- (a) Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings, including additions thereto requiring more parking, shall not be permitted until there is furnished such additional parking space as required by these zoning regulations.
- (b) Maintenance
  - (1) It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, all aspects of the parking area, including but not limited to parking spaces, access ways, striping, landscaping, and required fences.
  - (2) Parking lots existing prior to the adoption of this ordinance shall not be exempt from the requirement.

### Sec. 25-10-302. Parking and Driveways for Single-Unit Detached and Two-Unit Dwellings

- (a) Parking in residential areas shall be limited to driveways and garages only, except as provided in the City Code. Private passenger vehicles must be parked on a driveway or in a garage, or on an additional off-street parking area. Parking is not permitted on grass vegetation, or other permeable surfaces.
  - (1) Additional off-street parking shall be allowed on the side yard, behind the front setback, for the length of the principal structure provided the parking is located five (5) feet from any property line.
  - (2) The driveway on the property may have an approach to the additional off-street parking area.
- (b) Off-street parking shall be utilized only for the following items:
  - (1) Currently licensed and operable passenger vehicles having a lawful capacity of nine (9) passengers or less;
  - (2) For the parking of one (1) commercial usage vehicle per dwelling unit, provided that it is parked in a garage or other lawfully constructed building;

- (3) For the parking of one (1) public utility vehicle registered to a company that provides emergency repair services and is used by the occupant of the residence.
- (4) For the parking of recreational vehicles as specified in Section 25-09-215 Recreational Vehicle Storage.

(c) No more than four (4) motor vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential zoned property; the Community Development Director can authorize exceptions. This maximum number does not include vehicles of occasional guests.

(d) Driveway Design

- (1) All off-street parking spaces shall have access from driveways and not directly from the public street.
- (2) Curb Cuts
  - (A) Number of Curb Cuts
    - (i) All property shall be entitled to at least one (1) curb cut.
    - (ii) Single-unit dwellings shall be limited to one (1) curb cut access per property.
    - (iii) For all other uses, each property shall be allowed one (1) curb cut access for each one hundred (100) feet of street frontage.
    - (iv) These conditions shall apply unless otherwise granted approval by the City Council.
  - (B) No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.
  - (C) No driveway access curb opening on a public street shall be located less than forty (40) feet from another.
  - (D) No curb cut access shall exceed twenty-four (24) feet in width at the gutter elevation unless approved by the City Engineer.
- (3) Driveways shall be located at least five (5) feet from any side or rear property line.
- (4) Surfacing
  - (A) All driveways to be utilized for parking in front of the front setback shall be surfaced with bituminous, concrete, or brick. Additional off-street parking areas to be surfaced with bituminous, concrete, brick, Class V, or other materials as approved by the City.
  - (B) Approaches from the driveway to the additional off-street parking area shall be surfaced with bituminous, concrete, or brick. Plans for surfacing and drainage of driveways and stalls shall be submitted to the City Engineer for review and the final drainage plan shall be subject to written approval by the City Engineer.
- (5) Where a proposed driveway is to be constructed so that it opens onto any street designated as either a Minnesota State, Washington County, or U.S. Trunk Highway, in addition to the requirements of this division, all specifications of the appropriate

highway departments will apply, and the required permits shall be obtained from the appropriate department.

**Sec. 25-10-303.      Parking and Driveways for Multi-Unit Residential and Non-Residential Uses**

**(a) Parking Design**

(1) **Parking Dimensions:** The following shall be the minimum parking space dimensions:

Table 10-3. Parking Dimensions

Angle	Width	Length	Aisle Width
90 degrees	9'	18'	25'
60 degrees	9'	18'	19'
45 degrees	9'	18'	13'
Parallel	8'	22'	

(2) **Within Structures:** The off-street parking requirements may be furnished by providing spaces that are designated within the principal building or structure attached thereto; however, unless provisions are made, no building permit shall be used to convert said parking structure into a dwelling unit or living area or other use until adequate provisions are made to comply with the required off-street parking regulations of this division.

(3) **Parking areas and circulation drives shall be set back at least five (5) feet from any lot line.**

(4) **Circulation between Bays**

(A) **Parking areas shall be designed so that circulation between parking bays or aisles occur within the designated parking lot and does not depend upon a public street or alley.**

(B) **Parking area design which requires backing into the public street is prohibited.**

(5) **Grade:** The grade elevation of any parking area shall not exceed five (5) percent.

(6) **Striping:** All parking stalls shall be marked with painted lines not less than four (4) inches wide.

(7) **Curbing:** All open off-street parking shall have a concrete curb according to the direction of the City Engineer.

(8) **Lighting:** Any lighting used to illuminate an off- street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with this article.

(9) **Signs:** No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall conform to the Oakdale Sign Code.

**(b) Driveway Design**

- (1) All off-street parking spaces shall have access from driveways and not directly from the public street.
- (2) Curb Cuts
  - (A) Number of Curb Cuts
    - (i) All property shall be entitled to at least one (1) curb cut.
    - (ii) Each property shall be allowed one (1) curb cut access for each one hundred (100) feet of street frontage.
    - (iii) These conditions shall apply unless otherwise granted approval by the City Council.
  - (B) No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.
  - (C) No driveway access curb opening on a public street shall be located less than forty (40) feet from another.
  - (D) No curb cut access shall exceed twenty-four (24) feet in width at the gutter elevation unless approved by the City Engineer.
- (3) Driveways shall be located at least five (5) feet from any side or rear property line.
- (4) Surfacing
  - (A) All driveways to be utilized for parking in front of the front setback shall be surfaced with bituminous, concrete, or brick. Additional off-street parking areas to be surfaced with bituminous, concrete, brick, Class V, or other materials as approved by the City.
  - (B) Approaches from the driveway to the additional off-street parking area shall be surfaced with bituminous, concrete, or brick. Plans for surfacing and drainage of driveways and stalls shall be submitted to the Public Works Director/City Engineer for review and the final drainage plan shall be subject to written approval by the Public Works Director/City Engineer.
- (5) Where a proposed driveway is to be constructed so that it opens onto any street designated as either a Minnesota State, Washington County or U.S. Trunk Highway, in addition to the requirements of this division, all specifications of the appropriate highway departments will apply, and the required permits shall be obtained from the appropriate department.

#### **Sec. 25-10-304.      Parking Spaces Required**

- (a) The minimum number of off-street parking spaces as specified in Table 10-4 below shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth.
- (b) Computation of Required Spaces
- (c) The total number of minimum parking spaces required may be reduced by up to 40% with Conditional Use Permit approval if at least one (1) of the following criteria are met:

- (1) Floor Area. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors minus ten (10) percent.
- (2) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- (3) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Community Development Director.
- (4) When computing total number of parking spaces required for a use, individual activities within the use will be calculated separately and added together to arrive at the total required parking spaces for each specific use proposed.

Table 10-4. Minimum Parking Spaces Required

<b>Use</b>	<b>Minimum Parking Spaces Required</b>
<b>Residential</b>	
Single-unit or two-unit dwellings	2 spaces per unit Each 20 linear feet of single-lane driveway count as 1 parking space
Attached townhouse or rowhouse dwelling	2 spaces per unit plus $\frac{1}{2}$ space per unit for visitor parking
Apartment dwelling	1.5 spaces per unit
Apartment mixed use dwelling	Uses calculated separately
Cottage courtyard development	1.5 spaces per unit
Manufactured home park	2 spaces per unit
Senior (55+) exclusive independent living	Reservation of area equal to 1 parking space per unit. Initial development is, however, required of only $\frac{1}{2}$ space per unit. Said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated.
Residential facilities (including assisted living, long-term care, transitional care, and residential care)	1 space per 3 client rooms
Sacred community	1 space per unit
Hotel or Motel	1.25 spaces per guest room; other uses within the principal structure calculated separately
<b>Commercial</b>	
Animal hospital	1 space per 400 SF of gross floor area

<b>Use</b>	<b>Minimum Parking Spaces Required</b>
Art studio	1 space per 5 persons of the maximum occupancy
Automotive fuel station	1 space per 4 fuel pumps. Space adjacent to fuel pumps does not count toward this requirement. Other uses calculated separately.
Automotive sales or rental	Spaces for customers and employees shall be provided as follows: 1 space per 500 SF of indoor showroom space Plus 1 space for each 3,000 SF of outdoor storage area
Automotive service and repair	1 space per 300 SF of gross floor area plus 1 space per repair bay
Car Wash	6 stacking spaces per wash stall. Automatic Drive Through, Serviced: A minimum of 6 spaces, maximum of 12. Self-Service: A minimum of 1.5 spaces per stall. Motor Fuel Station Car Wash: None in addition to that required for the station or other onsite uses.
Catering establishment	1 space per 500 SF Plus 1 space for each company-owned vehicle stored on-site
Kennel	1 per 400 SF of office space
Off-site service business	1 space per 500 SF Plus 1 space for each company-owned vehicle stored on-site
Office	1 space per 400 SF of gross floor area
Laboratory, research, and/or development facility	1 space per 400 SF of gross floor area
Restaurant, including brew pub, specialty food or beverage shop, taproom, or tavern	1 space per 4 persons of the maximum occupancy
Retail and/or service uses, such as commercial centers, standalone stores, and pawn shops	1 space per 400 SF of gross floor area
Showroom	Indoor Showroom Space Under 10,000 SF: 1 space per 600 SF of indoor showroom space Indoor Showroom Space Over 10,000 SF: 1 space per 800 SF of indoor showroom space

<b>Use</b>	<b>Minimum Parking Spaces Required</b>
Standalone small grocery stores less than 40,000 SF in area	1 space per 300 SF of gross floor area
<b>Industrial</b>	
Brewery, winery, distillery, meadery	1 space per 4 persons of the maximum occupancy
Data center	1 space per 3,500 SF of gross floor area
Manufacturing	1 space per 1,000 SF of gross floor area
Self-service storage facility	1 space per 8,000 SF of indoor storage area plus 2 visitor spaces
Warehousing or wholesale	1 space per 400 SF of office space Plus 1 space per 2,000 SF of warehouse space
<b>Public &amp; Institutional</b>	
Medical and Dental Offices	3 spaces per treatment room
Club or lodge	1 space per 6 persons of the maximum occupancy
Day care facility	1.5 space per classroom Plus 1 off-street loading space per 5 participants based on total participant capacity of the facility Plus additional spaces necessary to accommodate the parking of vans and buses used for client transport by the center
Financial institution	1 space per 400 SF of gross floor area
Funeral home, mortuary	1 space per 6 persons of the maximum occupancy
Government use	1 space per 400 SF of gross floor area
Hospital	1 space per 400 SF of gross floor area
Place of worship	1 space per 6 persons of the maximum occupancy
School, elementary or middle	1 space per classroom Plus 1 additional space for each 8 student capacity
School, secondary, post-secondary, or vocational	1 space per classroom Plus 1 space for each 3 student capacity
<b>Entertainment &amp; Recreation</b>	
Adult establishment	1 space per 6 persons of the maximum occupancy
Commercial event center	1 space per 6 persons of the maximum occupancy
Indoor recreation or health uses (includes indoor commercial recreation)	1 space per 6 persons of the maximum occupancy

<b>Use</b>	<b>Minimum Parking Spaces Required</b>
facility and health and athletic club facility)	
Commercial recreation facility, outdoor	25 spaces per field or sports court plus 1 space per 3 fixed seats for spectator area
Social or cultural facility	1 space per 6 persons of the maximum occupancy
<b>Agriculture &amp; Forestry</b>	
Nursery, tree farm, or greenhouse	1 space per 400 SF of retail gross floor area Plus 1 space per 2,000 SF of outdoor display area
<b>Utilities &amp; Transportation</b>	
Truck terminal	1 space per 400 SF of office space Plus 1 space per 2,000 SF of outdoor yard space

(c) The total number of minimum parking spaces required may be reduced by up to 40% with Conditional Use Permit approval if at least one (1) of the following criteria are met:

- (1) Proof of parking for all spaces required by this Ordinance is provided. If the applicant clearly demonstrates that the required parking is in excess of the actual demand, all of the required parking need not be initially constructed. The remainder of the parking spaces not initially needed, as shown on the site plan, are to be constructed by the applicant if and when the City determines that the additional parking spaces are needed. The area of future parking must be sodded and kept free of buildings, shrubs, and trees.
- (2) A parking study prepared by a licensed engineer is provided that demonstrates no adverse effects resulting from a reduced number of parking spaces.
- (3) The applicant clearly demonstrates that there is no substantial conflict in the hours of peak parking demand for two (2) or more uses which may be located within the same structure(s).

(d) The total number of minimum of parking spaces may be reduced by up to 10% if the site is within a half mile of a Metropolitan Council-operated bus stop served by a bus route that operates at a weekday average frequency of thirty (30) minutes or less.

#### **Sec. 25-10-305. Joint Parking Facilities**

- (a) Two (2) or more buildings or uses may collectively provide off-street parking where the total number of spaces provided is less than the sum of the total required for each use should they be provided separately.
- (b) Conditions required for joint use are:
  - (1) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.

- (2) The applicant shall show that there is no substantial conflict in the operating hours of two (2) or more buildings or uses for which joint use of off-street parking facilities is proposed.
- (3) A properly drawn, legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with Washington County Property Records.

#### **Sec. 25-10-306. Off-Site Parking**

Any off-site parking which is used to meet the requirements of this division shall be subject to the conditions listed below:

- (a) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this division.
- (b) Reasonable access from off-site parking facilities to the use being served shall be provided.
- (c) Off-site parking for multiple family dwellings shall not be located more than one hundred (100) feet from any normally used entrance of the principal use served.
- (d) Off-site parking for non-residential uses shall not be located more than three hundred (300) feet from the main entrance of the principal use being served. No more than one (1) main entrance shall be recognized for each principal building.
- (e) When required accessory off-street parking facilities are provided elsewhere than on the lot in which the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, the owner of the principal use shall file a recordable document with the City requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.

#### **Sec. 25-10-307. Parking Lot Landscaping**

- (a) Grass, plantings, or surfaced material shall be provided in all areas bordering an off-street parking area.
- (b) Landscaping shall mean, at a minimum, the use of trees and ground cover defined as grass, shrubs, or other material allowing water to seep through the ground. Berming may also be used. Unless approved by the City Engineer, berm profile shall not exceed a slope of one (1) foot of elevation in three (3) horizontal feet.
- (c) Side yard landscaping requirements for parking areas may be reduced if the developer proposes to locate their parking area next to an existing or proposed parking lot on an adjacent parcel owned by others and the owners have a written agreement to allow joint parking and a common driveway. However, only the common boundary to be used for parking will qualify. In such cases, the sum of the parking area of the two (2) owners will determine the landscaping requirements within the total parking area.

#### **Sec. 25-10-308. Electric Vehicle Charging Stations**

- (a) Electric vehicle charging station infrastructure shall be installed in compliance with the state building and electrical codes.

- (b) The installation of electric vehicle supply equipment shall not reduce the overall minimum parking space area dimensions below those required in this division.
- (c) Parking spaces equipped with electric vehicle charging infrastructure shall count toward meeting minimum parking space requirements.
- (d) All electric vehicle charging station wayfinding and station signage shall conform to the standards in Article 25-11 Signage.
- (e) Individuals seeking to install electric vehicle charging infrastructure in residential and non-residential settings should refer to the recommendations in the City of Oakdale Electric Vehicle Charging Infrastructure Guidelines document.

**Sec. 25-10-309. Installation of Asphalt Driveways and Parking Lots**

- (a) The following procedure and specifications shall be required for all asphalt driveway construction from streets to private garages, and for all parking lot construction. Work conducted within the Right-of-Way shall follow the procedures of Chapter 20 Right-of-Way Management.
  - (1) The driveway or parking lot shall be excavated to remove all organic or other unstable soils from the area to be surfaced.
  - (2) The area to be surfaced shall be graded and compacted to the elevation that will permit the placement of the full pavement section.
  - (3) Minimum pavement sections for driveways and parking lots shall be:
    - (A) Driveways for residential buildings with four (4) units or less per building: 2331 bituminous wearing course two (2) inches compacted Class V aggregate base - six (6) inches compacted.
    - (B) Parking lots and driveways for residential buildings with more than four (4) units per building, and commercial, industrial, and institutional areas: 2341 bituminous wearing course - two (2) inches compacted 2331 bituminous binder course - two (2) inches compacted Class V aggregate base, six (6) inches compacted unless alternates are approved, in writing, by the City. In all cases, alternate pavement sections shall be considered only if sufficient data to justify another pavement design, based on the current Minnesota Highway Department design procedure for flexible pavement is submitted as part of a formal alternate request. If, based on the plan that is presented, the Building Official determines that the proposed driveway or parking lot construction is not deemed adequate due to traffic volumes or types of traffic, additional construction materials may be required by the City, based on Minnesota Highway Department design criteria.
  - (4) The performance of the work and the quality of materials shall be in accordance with the latest revision of the State of Minnesota, Department of Highways Standard specifications for Highway Construction.
  - (5) The Building Official shall be granted access to the improvement area during all phases of construction. The contractor or owner shall arrange for inspections of the grading work, the aggregate base placement, and the bituminous course placement, by the Building Official prior to proceeding with the subsequent work phase. Any and all stability, compaction, gradation, or other material or placement tests that the

Building Official may request shall be provided by the contractor or owner through a testing company acceptable to the City.

- (6) Driveways and parking lots shall be constructed so as to provide drainage from the garage to the street or storm sewer system, unless an alternative method is approved by the Building Official.
- (7) Installation of metal utility covers on curb boxes and clean-outs in paved areas is required.

#### **Sec. 25-10-310. Off-Street Loading**

- (a) All required loading berths shall be off-street and located on the same lot as the building or use to be served.
- (b) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.
- (c) Except for loading berths required for apartments, no loading berth shall be located closer than fifty (50) feet from a residential district unless within a structure.
- (d) Loading berths shall not be located within the front yard setback.
- (e) Loading berths located at the front or at the side of buildings on a corner lot shall observe the following requirements:
  - (1) Loading berths shall not conflict with pedestrians
  - (2) Loading berths shall not obstruct the view of the public right-of-way from off-street parking access; and
  - (3) Loading berths shall comply with all other requirements of this article.

#### **Division 25-10-400. Lighting**

- (a) Parking areas in commercial and industrial developments shall be adequately lit for the safety of vehicular and pedestrian movements.
- (b) No light which is flashing, revolving or otherwise resembles a traffic control signal shall be allowed in any area where it could create a hazard for passing vehicular traffic.
- (c) All exterior lighting shall be designed and arranged to direct illumination away from adjacent properties. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property.
- (d) Glare, whether direct or reflected, as differentiated from general illumination, shall not be visible beyond the limits of the site from which it originates.
- (e) Lighting shall be designed such that there is a maximum 0.5 footcandles at any property line.
- (f) Site lighting shall have a maximum height of thirty (30) feet to the illumination source. Site lighting for public recreational uses shall have a maximum height of seventy (70) feet to the illumination source.
- (g) A photometric plan inclusive of all site lighting and specification sheets for each lighting fixture shall be submitted for review.

## **Division 25-10-500. Fencing and Walls**

### **Sec. 25-10-501. City Approval Required**

- (a) A zoning permit shall be obtained for fences less than seven (7) feet in height prior to the construction of the fence.
- (b) A building permit shall be obtained for any fence seven (7) feet in height or more which is intended to be a permanent structure on the premises, except on a farm and related to farming activities.

### **Sec. 25-10-502. Construction and Maintenance**

- (a) Fences may be located up to any property line, but shall not be located within the right-of-way.
- (b) Fences may be located within drainage and utility easements at the property owner's risk. Any fences located within drainage and utility easements may be subject to future removal for work conducted by the City of Oakdale or utility providers.
- (c) Fences shall be constructed so that their more attractive side faces neighboring property, and the most exposed area of the fence post faces the permitted resident.
- (d) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance and the Oakdale Building Official shall commence proper proceedings for the abatement thereof.

### **Sec. 25-10-503. Fencing Material**

- (a) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used.
- (b) Link fences shall be constructed in such a manner that no barbed ends shall be at the top except in the B-4 General Industrial District.
- (c) Electric fences shall only be permitted on farm property when related to farming and on farms in other districts when related to farming, but not as boundary fences.
- (d) Barbed wire fences shall only be permitted on farms or for properties with high-security needs.

### **Sec. 25-10-504. Residential District Fences**

- (a) Fence Height
  - (1) For all properties in residential districts, excluding farms, fences are limited to eight (8) feet in height.
  - (2) No fence shall be erected in any required front yard to a height in excess of four (4) feet.
  - (3) No fence in excess of four (4) feet shall be erected within the required corner side setback area of a corner lot.

- (4) Fences on corner lots must receive special consideration from the Oakdale Building Official to assure site safety before a zoning permit or building permit is issued. This review may require the applicant to pay an additional fee if extraordinary means need to be taken to ascertain impacts (e.g. consultation by a Traffic Engineer).
- (5) Fences greater than six (6) feet in height shall submit a Certificate of Survey with the permit application, and all pertinent property pins shall be visible upon inspection. Fences shall be constructed within the provisions of the Minnesota State Building Code (MSBC).
- (6) In those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be unobstructed and a minimum of three (3) feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.

**Sec. 25-10-505.      Commercial and Industrial District Fences**

- (a) Fences in all Commercial and Industrial districts shall not exceed ten (10) feet in height.

**Sec. 25-10-506.      Special Purpose Fences**

- (a) Fences for special purposes and fences differing in construction from the provisions listed within this division may be permitted in any district in the City of Oakdale by issuance of a conditional use permit.
- (b) Findings shall be made that the fence is necessary to protect, buffer, or improve the premises for which the fence is intended.

**Sec. 25-10-507.      Retaining Walls**

- (a) Retaining walls over four (4) feet in height require a building permit.
- (b) Exposed areas of retaining walls shall be constructed of a permanent material and finish and shall be of a color compatible with the principal structure.

**Division 25-10-600.      Landscaping**

**Sec. 25-10-601.      General Landscaping Requirements**

- (a) A landscape plan shall be submitted and approved in conjunction with any site plan application.
- (b) All exposed ground areas surrounding or within a principal or accessory use including street boulevards which are not devoted to drives, sidewalks, patios, other such uses shall be landscaped with a combination of trees, shrubs, flowers, and ground cover materials including native plantings.
- (c) For multi-unit residential, commercial, industrial uses, and institutional uses, these areas shall be landscaped, inspected, and certified by a professional landscape architect licensed by the State of Minnesota.
- (d) All areas not otherwise improved in accordance with approved site plans shall be sodded. Exceptions to the above provision are as follows:

- (1) Seeding of future expansion areas as shown on approved plans.
- (2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material.
- (3) Areas designated as open space or future expansion areas properly planted and maintained with prairie grass.
- (4) Use of mulch material such as rock or wood chips in support of shrubs and foundation plantings.
- (e) All landscaped areas shall be kept neat, clean and uncluttered.
- (f) Landscaped areas shall not be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.
- (g) Public parks shall not be required to meet the landscaping requirements of this chapter.

**Sec. 25-10-602. Landscaping Design Standards**

Landscaping for all lots shall be designed to meet the following standards:

- (a) Required Plantings
  - (1) Single-unit and two-unit dwellings
    - (A) At least two (2) trees shall be planted per lot. At least one (1) of these trees shall be planted in the front yard.
    - (B) The trees planted on a single lot shall include at least two (2) different genera.
  - (2) All other uses
    - (A) There shall be a minimum of one (1) tree planted per one thousand (1,000) square feet of the site not occupied by buildings. The area of the following uses may be removed from the non-building area at the City Council's discretion:
      - (i) Sports fields or other outdoor recreational use areas
      - (ii) Urban farm plots
      - (iii) Plazas, patios, terraces, and other outdoor open space areas designed for people
    - (3) In addition, the minimum number of overstory trees along the boulevard shall be one (1) overstory tree per fifty (50) linear feet of lot frontage. If the preferred landscaping technique is to cluster the boulevard trees instead of one (1) tree per fifty (50) feet, it may be deemed allowable if it is determined workable by the Development Review Committee.
      - (A) The complement of trees fulfilling this requirement shall be not less than twenty-five (25) percent overstory deciduous and not less than twenty-five (25) percent coniferous. For difficult soil conditions or unique sites, coniferous trees may be reduced up to 1/4 of their specified percentage (i.e. coniferous 25% reduced 1/4 to net 17.5%).

(B) All trees selected for landscaping must specify a minimum of two (2) varieties of each species.

(b) Minimum Plant Size. All vegetation installed to meet the requirements of this Division shall meet the minimum size at installation as identified in Table 10-5 Minimum Plant Size.

Table 10-5. Minimum Plant Size

Vegetation Type	Minimum Size at Installation
Deciduous tree	1 inch caliper
Ornamental tree	1 inch caliper
Coniferous tree	5 feet in height
Shrub	#5 gallon container

(c) Species

- (1) All trees used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.
- (2) All deciduous trees proposed to satisfy the minimum requirements of this division shall be long-lived hardwood species.
- (3) No trees may be planted which are a noxious or invasive tree species, including those identified on the MN Department of Natural Resources "Invasive Non-Native Plants" list.

(d) Existing Tree Credit. Credit for the retention of existing trees meeting the species, size, and location requirements of this division may be used to satisfy the minimum number requirements set forth in this division.

(e) It is the responsibility of the owner to ensure the longevity and maintenance of all plantings. If any plantings were to die within a year of construction, the owner must replace such plantings to be in compliance with the standards in this Division.

(f) Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, ground cover, or engineered surface treatment.

(g) Landscape and screening plantings shall be installed within one (1) year from the date of issuance of the building permit. If plantings have not been installed at this time, the City may require the applicant to provide a financial guarantee to ensure the plantings are installed according to the approved site plan.

#### **Sec. 25-10-603.      Parking Lot Requirements**

- (a) Parking lots are required to landscape five (5) percent of the parking lot surface area within the parking setback.
- (b) The landscaped area may be in the form of landscape islands or as setback areas that are incorporated into the parking lot.

- (c) Landscape islands shall be a minimum width of sixteen (16) feet and a minimum surface area of four hundred (400) square feet. A minimum of 600 cubic feet of soil is required for each tree.
- (d) The landscaped area shall adhere to the size and material requirements of this ordinance.

## **Division 25-10-700. Screening**

### **Sec. 25-10-701. Required Elements to be Screened**

- (a) The following elements shall be screened from residential uses and adjacent public streets and the public front and office sides of all commercial and industrial uses, except at access points:
  - (1) Areas of outdoor storage; external loading and service areas; service and delivery parking in outdoor areas
    - (A) The screening requirements will be satisfied through the use of walls, earthen berms, hedges, and other landscape materials as follows:
      - (i) The placement of the building on the lot or the placement of a building on an adjacent lot.
      - (ii) Berming at least three (3) feet in height with a maximum slope ratio of 3:1.
      - (iii) Landscaping
        - a. Landscaping shall produce a screen that is at least eighty (80) percent opaque at the time of maturity.
        - b. Planting screens shall consist of healthy, hardy plant materials at least six (6) feet in height.
        - c. Evergreen shrubs used for screening purposes shall be at least three (3) feet in height at planting. Evergreen shrubs will have a minimum spread of twenty-four (24) inches.
      - (iv) Screen walls or fences of similar type, material, quality, and appearance as that of the principal structure. Such screens shall be at least six (6) feet in height and provide a minimum opaqueness of eighty (80) percent.
      - (v) If the topography, existing vegetation, permanent structure, or other features create a barrier that meets the standards of this division, they may be substituted.
    - (b) Parking lots
      - (1) Such screening shall be at least seventy (70) percent opaque and a maximum height of three (3) feet.
      - (2) The screen may consist of:
        - (i) Plant materials;
        - (ii) Wood, concrete, masonry or ornamental iron;
        - (iii) Berming; or
        - (iv) A combination of these materials.

(B) On a corner lot, and at entrances, nothing shall be placed or allowed to grow in such a manner as to impede vision as established in Section 25-10-103 Vision Triangle.

(3) Trash, recycling, and related handling equipment

(A) All trash, recycling, and related handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or within an unattached structure. Such attached storage area shall be separated from the principal structure by a firewall.

(i) Such structure shall be of the same material and architecturally harmonious with principal structure and shall be enclosed by a roof and readily served through a door or gate system properly designed and constructed for abusive use.

(ii) In Industrial Zones, an attached two-sided structure, or an unattached three-sided structure, without an overhead door or roof, may be allowed for containers that must be truck lifted and not manually positioned.

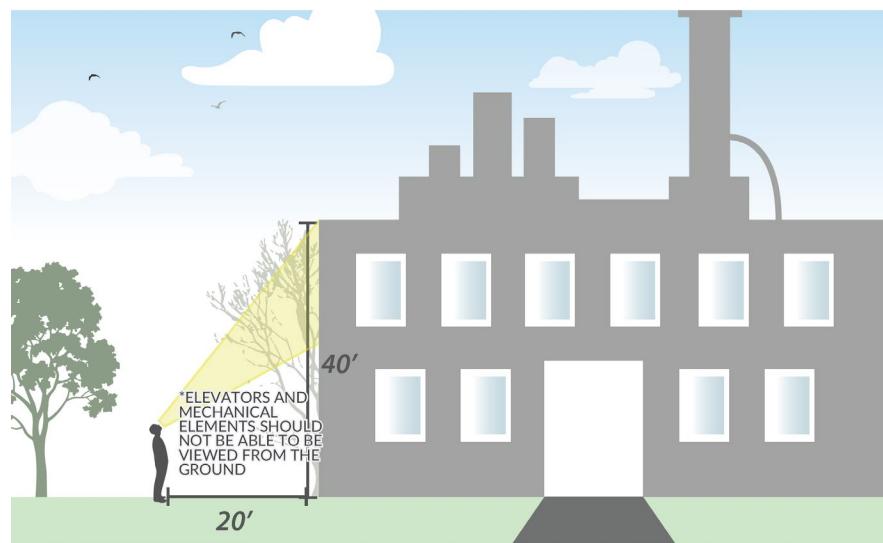
(B) Recycling areas shall also be provided.

(C) Any changes to trash handling once the building is constructed shall comply with the above and meet with approval of the Development Review Committee (i.e. new tenants).

(4) Mechanical equipment, including those utilities placed on the rooftop or around the building perimeter:

(A) The ground level view of all rooftop equipment including rooftop structures related to elevators and other mechanical utilities, shall be located at a length equal to 1/2 the height of the face of the building.

Figure 10-3. Mechanical Equipment Location



(B) All mechanical equipment shall be screened with materials that are comparable and compatible with that of the exterior building materials. If due to factors unique to the property or the project, it is physically impossible or impractical to screen these utilities, the Development Review Committee, after consultation with the Planning Commission, may approve alternative solutions that renders them aesthetically compatible with the principal structure.

(5) Commercial and industrial uses which are situated within seventy-five (75) feet of an R-1, R-2, or R-3 district.

(A) These uses shall be screened using a combination of vegetation and a wall or fence:

- (i) The wall or fence shall be one hundred (100) percent opaque and up to ten (10) feet in height above the level of the R-1, R-2, or R-3 property at the district boundary.
- (ii) Such wall or fence shall be set back from the property line at least ten (10) feet.
- (iii) A combination of coniferous and deciduous plants shall be planted in the setback area in order to soften the appearance of the fence or wall for the affected residential area.

(B) Walls or fences of lesser heights or planting screens may be permitted by the City Council if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will adequately promote and protect the use and enjoyment of the properties within the adjacent R-1, R-2, or R-3 district, or if there is a finding that a screening of the type required by this Ordinance would interfere with the provision of adequate amounts of light and air to same said properties.

(C) Chain link fence with privacy slats shall not be used to fulfill the requirements of this section.

**Sec. 25-10-702. Maintenance**

- (a) Screen walls that are in disrepair shall be repaired.
- (b) Planting screens shall be maintained in a neat and healthy condition. Plantings that have died shall be promptly replaced.

**Division 25-10-800. Tree Preservation**

**Sec. 25-10-801. Findings and Purpose**

- (a) Findings
  - (1) The City Council has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private premises, and impair the safety, good order, general welfare, and convenience of the public.
  - (2) The City Council desires to protect the integrity of the natural environment and finds that trees, do so by providing for better air quality, scenic beauty, and noise buffer; by

protection against wind and water erosion, storm water runoff, and severe weather conditions; and by providing habitat for birds and other wildlife.

(3) Additionally, the City Council finds that mature trees take many years to replace, and such trees protect privacy and provide enhancement of property values.

(b) Purpose

- (1) The City Council hereby declares its intention to protect and preserve existing trees and to provide regulations relating to the cutting, removal or killing of trees, with the consequent damage and destruction of the wooded and forested areas of the City:
  - (A) To promote the orderly development of such areas and thereby minimize public and private losses;
  - (B) To encourage protection and preservation of the natural environment and beauty of the city;
  - (C) To encourage a resourceful and prudent approach to urban development of wooded areas which provides for minimal tree loss and mitigation of tree removal resulting from development;
  - (D) To provide an objective method to evaluate a development's impact on trees and wooded areas and identify whether and how the impact may be reduced; and
  - (E) To provide incentive for creative land use and site design which preserves trees while allowing development in wooded areas with mitigation or tree removal and destruction.

**Sec. 25-10-802. Application**

- (a) These guidelines shall apply to the following site activities:
  - (1) Any major subdivision application for a residential development;
  - (2) Any site plan or subdivision application for a commercial, industrial, institutional, or multifamily use which will involve site grading and/or principal structure construction;
  - (3) Any building permit that involves the new construction of a principal structure, the reconstruction of a principal structure, or construction that increases the building footprint of a principal structure by more than fifty (50) percent;
  - (4) Grading permits that are not associated with a development or redevelopment; and
  - (5) Removal of more than twenty-five (25) percent of significant trees on any undeveloped parcel.
- (b) Tree preservation requirements for PUDs shall be determined as part of the development review process.

**Sec. 25-10-803. Tree Preservation Plan**

- (a) A Tree Preservation Plan shall include the following items:
  - (1) The name(s) and address(es) of property owners, developers, or contractors.
  - (2) Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon.

- (3) Delineation of all areas to be graded and limits of land disturbance.
- (4) Size, species, and location of all significant trees located within the site. For large wooded sites, a representative sample may be used to determine the number of significant trees outside the limits of land disturbance.
- (5) Identification of all significant trees on all individual lots. (The developer shall be required to submit a list of all lot and block numbers identifying those lots, along with the Tree Preservation Plan).
- (6) Measures to protect significant trees.
- (7) Identification of all Significant Trees proposed to be removed within the construction area.
- (8) Size, species, and location of all replacement trees to be planted on the property in accordance with the Tree Replacement Schedule.
- (9) Signature of the person preparing the plan.
- (b) The tree preservation plan must be prepared by an arborist, forester, or licensed landscape architect. If fewer than six (6) significant trees are proposed to be removed, the applicant may provide the tree preservation plan.

**Sec. 25-10-804. Process**

Unless otherwise determined by the City Council, the following process for tree preservation shall be required for all eligible site activities:

- (a) The applicant shall submit a complete tree preservation plan in accordance with Section 25-10-803 Tree Preservation Plan.
- (b) Approval:
  - (1) For major subdivisions, the City Council shall approve or deny the tree preservation plan.
  - (2) For all other eligible site activities described in Section 25-10-802 Application, the tree preservation plan shall be approved or denied by the Community Development Director. The decision may be appealed to the City Council.
  - (3) No plat or grading plans shall be approved without an approved tree preservation plan.
- (c) The applicant shall implement the tree preservation plan prior to and during any construction.
- (d) The applicant shall provide the required security outlined in Section 25-10-808 Security following approval of the Tree Preservation Plan and prior to any construction and/or grading. The performance guarantee may be included as part of any "performance guarantee" required in conjunction with design standards, site plans, grading, and landscape plans of the City Code.
- (e) At least three (3) working days prior to construction or grading, the applicant shall be required to request approval of on-site (installed) tree protection measures from the City. No encroachment, grading, trenching, filling, compaction, or change in soil

chemistry shall occur within the fenced areas protecting the root zone of the trees to be saved.

- (f) The City will continue to monitor the tree protection measures at the time of routine inspections.
- (g) The tree protection measures shall remain in place until all grading and construction activity is terminated.
- (h) The City will inspect the building site in order to determine compliance with the approved Tree Preservation Plan. The City will determine that:
  - (1) Compliance has been met, or
  - (2) Alternative mitigation measures have been implemented, or
  - (3) Appropriate tree replacement measures have been approved by the City.
- (i) After grading, construction, and restoration for a subdivision or site plan has been completed, a forester, arborist, or landscape architect retained by the developer, shall:
  - (1) Certify in writing to the City that the Tree Preservation Plan was followed.
  - (2) Certify in writing to the City that the tree protection measures were installed.
  - (3) Indicate which significant trees remain and which have been destroyed or damaged.
  - (4) Submit a plan for City review identifying where replacement trees, if required, will be integrated into the approved landscape plan, or another plan, as required by the City.
  - (5) The name(s) and address(es) of property owners and developers or contractors.

#### **Sec. 25-10-805. Tree Protection Measures**

- (a) Measures to protect significant trees may include, but are not limited to:
  - (1) Installation of retaining walls or tree wells to preserve trees.
  - (2) Installation of snow fencing, silt fence, or polyethylene laminate safety netting placed at the drip line of significant trees to be preserved.
  - (3) Identification of any oak trees requiring pruning between April 15 and July 1; any oak trees so pruned shall be required to have any cut areas sealed with an appropriate tree wound sealant.
  - (4) Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.
  - (5) Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.
  - (6) Use of tree root aeration, fertilization, and/or irrigation systems.
  - (7) Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.
  - (8) Therapeutic pruning.
- (b) If any significant tree indicated to be saved on the Tree Preservation Plan is destroyed or damaged, the Tree Replacement Schedule will be enforced by the City.

**Sec. 25-10-806. Tree Removal**

- (a) Removal of significant trees shall be in accordance with the City-approved tree preservation plan.
- (b) The development of the site shall require the minimum removal of tree cover. The Community Development Director shall review the tree preservation plan to assess the best overall design for the project taking into account significant trees and ways to enhance the efforts of the developer or property owner to mitigate damage to significant trees.
- (c) Twenty-five (25) percent of the existing significant trees may be removed during development without obligation of replacement.
  - (1) Any removal beyond twenty-five (25) percent will require replacement as described in Section 25-10-807 Tree Replacement.
  - (2) Where practical difficulties or practical hardships result from strict compliance with the provisions of this paragraph, the Community Development Director may permit the removal of up to an additional five (5) percent of the significant trees without requiring a variance approval by the City Council.
- (d) Trees exempt from replacement. The following types of trees shall not be included as part of the tally of tree removals and shall not be required to be replaced:
  - (1) Dead, diseased, or dying trees;
  - (2) Invasive species;
  - (3) Trees that are transplanted from the site to another appropriate area within the City; or
  - (4) Trees that were planted as part of a commercial business such as a tree farm or nursery.

**Sec. 25-10-807. Tree Replacement**

- (a) Developers and property owners will be required to replace all significant trees that were indicated on the Tree Preservation Plan to:
  - (1) Be saved, but which were ultimately destroyed or damaged and,
  - (2) Be replaced, in accordance with the tree preservation requirements.
- (b) These replacement trees shall be in addition to any other landscape requirements of the City.
- (c) All significant trees shall be replaced at the ratio of one-half (0.5) caliper inch per one (1) caliper inch removed.
- (d) Replacement trees shall be no smaller than the following sizes:
  - (1) Deciduous trees shall be no less than one (1) caliper inch.
  - (2) Coniferous trees shall be no less than four (4) feet tall. A four (4) foot tall coniferous tree shall count as two (2) caliper inches for the replacement calculations.
- (e) Replacement Tree Species

- (1) Replacement trees shall be of a similar species to those that are removed, but also shall be a minimum of twenty-five (25) percent hardwood deciduous trees and twenty-five (25) percent coniferous trees.
- (2) Replacement trees shall be indigenous to the appropriate hardiness zone or adaptable to the climate and tolerant of the physical characteristics of the site.
  - (A) Tree types listed on the Minnesota Department of Natural Resource's Invasive Non-Native Plants list shall not be used as replacement trees.
  - (B) If necessary, the City Forester may make a determination on whether a tree is appropriate.
- (3) Replacement trees shall consist of "certified nursery stock" as defined by Minnesota Statutes, Section 18H.02.

(f) Location of Replacement Trees

- (1) Replacement trees shall be planted on the subject property in appropriate soil types and in a space large enough to accommodate the natural growth of the planted species.
- (2) If the site cannot accommodate the required replacement trees, those remaining to be planted shall be located on other property owned by the developer or property owner located within the City, or on property owned by the City. The City shall determine the location of the placement of trees on City property.
- (3) The City recognizes that there may be instances where the total amount of tree replacement required cannot occur on sites as outlined in provisions (f)(1) and (2) above or that there are some land uses (such as refining) that are not compatible with trees. In those instances, the City may, at its option, accept a fee in lieu of tree placement. The fee in lieu of tree replacement will be determined annually by the City Council through the City fee schedule.

**Sec. 25-10-808. Security**

- (a) Unless financial guarantee for tree replacement provisions are provided through the subdivision or site plan process as part of the landscaping plan, the applicant shall adhere to the following tree replacement requirements.
- (b) The applicant shall be responsible to remove and restore any replacement tree which is not alive or healthy, one (1) year after the date that the last replacement tree has been planted.
- (c) Any tree removed shall be replaced with a new healthy tree of the same size and species in place of the removed tree within eight (8) months of removal.
- (d) The builder, developer, owner shall provide security to the city for the performance of its obligations pursuant to this article as follows:
  - (1) Form. The security may consist of a bond, letter of credit, cash, or escrow deposit, all in such form and substance as shall be approved by the City Council.
  - (2) Amount of Security. The amount of security, unless modified by the City Council, shall be as determined by the City of Oakdale fee schedule:

**(3) Release of Security**

- (A) The tree replacement security shall be retained for at least one (1) year after the date that the last replacement tree has been planted.
- (B) The City may release the security at that time unless the City, upon inspection, finds that any of the replacement trees have died or are unhealthy or if there was any encroachment upon the protective fencing surrounding any tree to be saved.
- (C) The City may retain that portion of the security equal to the cost of:
  - (i) Removing dead or unhealthy trees and planting replacement trees, or
  - (ii) Replacing a tree which protective fencing had been encroached upon.

**Division 25-10-900. Land Reclamation, Excavation, and Soil Processing**

- (a) Land reclamation, excavation, and soil processing shall require the issuance of a interim use permit for each project, and the issuance of such a permit shall always require the prior consultation of the City Council with the Public Works Director and City Engineer.
- (b) A performance bond, irrevocable letter of credit, or cash deposit shall be required to guarantee that proposed work is done satisfactorily.
- (c) Any permit issued for land reclamation shall specify plans and programs for the finished grade which will not adversely affect the adjacent land, the type of fill permitted, rodent control, fire control and general maintenance of the site, vehicular ingress and egress, material disbursed by wind or by hauling of material to or from the site, surface water drainage, site restoration. Hours of operation shall be specified. The Council may also apply any other regulations it sees fit to protect the interest of the public. Such permit shall be granted for a specified period.
- (d) Any permit issued for soil processing shall include as a condition thereof a site plan where the processing is to be done, showing the location of the plant, disposal of water, and the route of trucks moving to and from the site in removing processed material from the site. Such permit shall be granted for a specified period.

**ARTICLE 25-11. SIGNAGE**

**Division 25-11-100. General Provisions**

**Sec. 25-11-101. Purpose**

- (a) The purpose of this article is to protect and promote the general welfare, health, safety, and order within the City of Oakdale through the standards, regulations and procedures governing the erection, use and/or display of devices, signs, or symbols serving as visual communicative media to persons situated within or upon public rights-of-way or properties.

## **Sec. 25-11-102. General Requirements**

- (a) Substitution. Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.
- (b) Construction. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial, provided that nothing in this Code shall be interpreted as authorizing the erection or construction of any sign not now permissible under the Zoning or Building Codes of the City.
- (c) Maintenance. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated, or defaced, as determined by the Community Development Director, shall be removed, repainted, repaired, or replaced by the permit holder, owner, or agent of the property upon which the sign stands.
- (d) Placement
  - (1) No sign, other than those of governmental jurisdictions, shall be erected or temporarily placed within any street right-of-way or upon any public easements.
  - (2) A permit for a sign to be located within fifty (50) feet of any street or highway regulatory or warning sign, or of any traffic sign or signal, or of any crossroad or crosswalk, will be issued only if:
    - (A) The sign will not interfere with the ability of drivers and pedestrians to see any street or highway sign, or any traffic sign or signal, or any crossroad or crosswalk, and
    - (B) The sign will not distract drivers nor offer any confusion to any street or highway sign, or any traffic sign or signal.
  - (3) No part of a freestanding sign shall be closer than ten (10) feet to any property line.
  - (4) Any freestanding sign within twenty-five (25) feet of any intersection of street right-of-way lines and/or driveway entrances shall have vertical clearance for proper visibility by motorists on all affected roadways.
- (e) Freestanding Signs
  - (1) Freestanding signs along major thoroughfares (I-94, I-694, MN36/120/Inwood Ave/Hadley Ave/10th St/34<sup>th</sup> St) shall be subject to review and approval by the Development Review Committee. The focus of the review is to assure the quality of the sign with regard to design and materials pursuant to the requirements in this article.
  - (2) The base of any freestanding signs shall be at least seventy-five (75) percent of the width of the sign from the ground to the bottom of the sign.
  - (3) The base or support structure for the sign shall complement the design of the building and incorporate forty (40) percent of brick, stone, decorative block, or similar substantial materials as approved by the City.

(4) Freestanding sign height shall be measured from the base of the sign to the highest point of the sign.

(f) Wall Signs

(1) A wall sign shall not project more than eighteen (18) inches from the wall to which the sign is to be affixed. Furthermore, wall mounted signs shall not exceed the roofline on any building.

(2) Banners shall be included in the allowance for wall signs. The design and construction of all banners shall be professional looking and not be allowed to become torn or weathered.

(3) Canopies and marquees shall be considered to be an integral part of the structure to which they are accessory. Signs may be attached to a canopy or marquee but such structure shall not be considered as part of the wall area and thus shall not warrant additional sign area.

(g) Illuminated signs

(1) All illuminated signs shall have a shielded light source.

(2) Any sign illuminated and located within fifty (50) feet of a lot line or a residential district shall be diffused or indirect so as not to direct rays of light into adjacent residence.

(3) All illuminated signs in commercial or industrial districts in close proximity to residential districts shall be designed so as to illuminate the sign and not residential property to the extent practicable.

(4) The Building Official, in granting permits for illuminated signs, shall specify the hours during which the sign may be kept lighted to prevent the creation of a nuisance.

(h) The total sign area of any multi-faced sign shall not exceed twice the permitted area of a two-sided sign or three times the area of a three-sided sign. All applications for signs of more than two (2) sides shall be reviewed by the Planning Commission and Council.

## **Division 25-11-200. Sign Types**

### **Sec. 25-11-201. Prohibited Signs**

The following signs shall not be permitted, erected, or maintained on any property within the City:

- (a) Roof signs;
- (b) Private signs that resemble any official marker, governmental agency, or display such words as "stop" or "danger" unless so specified by this article;
- (c) Signs containing "obscene" content as defined by Minnesota Statutes, Section 617.241;
- (d) Signs which contain moving parts or flashing lights;
- (e) Permanent signs which are portable and internally lit;
- (f) Signs which by reason of position, movement, shape, illumination, or color would constitute a hazard to oncoming traffic;

- (g) Signs located on private property without the consent of the owner thereof;
- (h) Signs which are structurally unsafe, dilapidated, or abandoned.

#### **Sec. 25-11-202. Exempt Signs**

The exemptions allowed by this section shall apply only to the requirement of a permit and shall not be construed as excusing the installer of the sign, or the owner of the property upon which the sign is located, from complying with the other provisions of this article. No permit is required under this section for the following signs:

- (a) Property address information no larger than two (2) square feet in area which is visible from the street or road fronting the property for public safety purposes.
- (b) Signs erected by a governmental unit or public school district.
- (c) A window sign placed within a building and not exceeding fifty (50) percent of the window area.
- (d) All noncommercial signs of any size may be posted in any number beginning 46 days before any primary in any election year until ten days following any election. These signs must be placed no less than five (5) feet from any lot line and cannot be located within the public right-of-way.
- (e) Signs which are located completely within a building and are not visible from the outside of said building.
- (f) Signage which does not outwardly face the public right-of-way and which is intended for internal site communication.
- (g) Bench signs are allowed in all districts at Metro Transit bus stops.
- (h) Back-lighted signs are allowed on the ends of bus shelters.
- (i) In addition to the signage allowed in this article, one (1) additional non-illuminated wall sign is allowed on any property with a home occupation. Said sign shall be no more than six (6) square feet in area.

#### **Sec. 25-11-203. Permitted Signs**

- (a) In addition to those exempt signs listed in Section 25-11-202 Exempt Signs, the following permanent signs are allowed in each specific district with a permit and shall be regulated according to the requirements herein set forth:
  - (1) Residential Districts
    - (A) Residential uses
      - (i) One freestanding (1) sign per each major development, not to exceed twenty-four (24) square feet in area and six (6) feet in height.
      - (ii) One (1) wall sign for each street frontage shall be permitted on any multi-unit residential building. The total area of each wall sign shall not exceed twenty (20) percent of the total area of the wall on which it is affixed or one hundred fifty (150) square feet, whichever is less.
      - (iii) Blade signs as specified in provision (2)(C) below may be placed on multi-unit residential buildings containing eight (8) or more units.

(B) Private parks and recreational uses

- (i) One (1) freestanding sign per street frontage is allowed. Such sign shall not exceed twenty-four (24) square feet in area nor shall it be placed closer than ten (10) feet to any property line nor shall it be placed in a location that would interfere with the safe movement of traffic.

(C) Non-residential institutional uses

- (i) Wall Signs:
  - a. One (1) wall sign for each street frontage shall be permitted on a building. The total area of each wall sign shall not exceed twenty (20) percent of the total area of the wall on which it is affixed or one hundred fifty (150) square feet, whichever is less.
- (ii) Freestanding Signs:
  - a. One (1) freestanding sign is permitted for each street frontage. The total area of a freestanding sign for a building having one (1) street frontage shall not exceed sixty (60) square feet. Where a building has two (2) or more street frontages, each permitted freestanding sign in excess of one (1) shall be no greater than thirty (30) square feet in area.
  - b. No part of a freestanding sign shall exceed ten (10) feet in height.

(2) Commercial Districts

(A) Wall Signs:

- (i) One (1) wall sign per tenant shall be permitted on a building for each street frontage, including private drives. The total area of each wall sign shall not exceed twenty (20) percent of the total area of the wall on which it is affixed or one hundred fifty (150) square feet, whichever is less.
- (ii) For retail establishments exceeding 60,000 square feet in size:
  - a. One (1) wall sign for each street frontage, including private drives, shall be permitted on a building for each business located within such building.
  - b. The total square footage of wall signage shall not exceed ten (10) percent of the total square footage of the wall upon which the signs are affixed.
  - c. No individual wall sign shall exceed three hundred fifty (350) square feet.
  - d. Wall signs for sub-tenants and sub-brands shall not exceed one hundred fifty (150) square feet, unless the sub-tenant or sub-brand contains sixty thousand (60,000) square feet or greater of gross floor area, in which case its wall sign shall not exceed three hundred fifty (350) square feet.

(B) Freestanding Signs:

- (i) One (1) freestanding sign is permitted for each building for each street frontage, including private drives.
- (ii) The total area of a freestanding sign for a building having one (1) street frontage shall not exceed eighty (80) square feet. Where a building has two

(2) or more street frontages, each permitted freestanding sign in excess of one shall be no greater than one-half the area of the first sign.

(iii) No part of a freestanding sign shall exceed twenty-five (25) feet in height.

(C) Blade Signs:

- (i) Blade signs may be placed on buildings within the B-1, B-2, B-3, and MX zoning districts.
- (ii) Blade signs shall meet the following standards:
  - a. No more than one (1) blade sign per tenant space
  - b. The sign may be located on the ground floor façade only (sign to be mounted below fifteen (15) feet as measured from finished grade outside the facade)
  - c. The maximum area of the sign shall be fifteen (15) square feet.
  - d. The sign shall not obstruct any pedestrian or vehicular way. Minimum vertical clearance of ten (10) feet from the finished sidewalk if it is non-illuminated and eleven (11) feet from the finished sidewalk if it is illuminated.
  - e. The sign may project no more than three (3) feet from building wall.

(D) Pylon Signs on properties abutting an interstate freeway, State highway, or County highway right-of-way:

- (i) Retail and service establishments may erect one (1) pylon sign not exceeding one hundred fifty (150) square feet of display surface area in addition to freestanding signage allowed in provision (B) above.
- (ii) Multi-tenant retail establishments exceeding 60,000 square feet in size are allowed one (1) pylon sign on the interstate frontage for all tenants in the establishment in addition to freestanding signage allowed per provision (a)(2)(B) above. Total sign area on the pylon sign shall not exceed three hundred fifty (350) square feet. Multi-tenant big box retail pylon signs shall have a support structure in compliance with the performance standards set forth in Subsection 25-11-102(e).
- (iii) The minimum allowance distance of a pylon sign to an interstate freeway or County highway right-of-way is fifty (50) feet, with a maximum height of thirty (30) feet.
- (iv) The minimum allowable distance in any direction between pylon signs within the boundaries of the City of Oakdale is five hundred (500) feet.

(3) Industrial Districts

(A) Freestanding Signs:

- (i) One (1) freestanding sign is permitted for each principal building, not to exceed eighty (80) square feet in area and fifteen (15) feet in height.

(B) Wall Signs:

- (i) One (1) wall sign for each street frontage shall be permitted on a building.
- (ii) One (1) additional wall sign is permitted for each tenant in a multi-tenant building.
- (iii) The total square footage of wall signage shall not exceed ten (10) percent of the total square footage of the wall upon which the signs are affixed.
- (iv) No wall sign shall exceed 150 square feet in area.

(C) Commercial uses in industrial districts may have signs according to the standards for commercial districts listed in provision (2) above.

**Sec. 25-11-204. Billboards**

- (a) Billboards are allowed only in the B-1, B-3, and B-4 zoning districts.
- (b) Billboards may only be erected along and are intended to be viewed from Interstate Highways 94 and 694.
- (c) The maximum allowable size of any billboard is seven hundred (700) square feet. The maximum allowable extensions shall not exceed fifteen (15) percent of the total sign area. All skirting and perimeter material shall be counted as part of the sign area.
- (d) The maximum allowable height of any billboard is thirty-five (35) feet. If an Interstate Highway served by a billboard is elevated above the surface on which it is placed, the City Council may grant a variance to this regulation according to its discretion.
- (e) The minimum allowable distance in any direction between billboards within the boundaries of the City of Oakdale is one (1) mile.
- (f) The minimum allowable proximity of any billboard to any residential zoning district is five hundred (500) feet.
- (g) The minimum allowable distance of any billboard to any Interstate or Trunk Highway right-of-way is fifty (50) feet.
- (h) The minimum allowable distance of a billboard to any building is twenty-five (25) feet.
- (i) No portion of any billboard shall occupy air space above any driveway or parking area.
- (j) No billboard may display any moving parts nor shall it be illuminated with any flashing or intermittent lights.
- (k) Three dimensional attachments on billboards are prohibited.
- (l) All dynamic billboards shall be licensed pursuant to Chapter 9 Licenses and Business Regulations of the City Code.

**Sec. 25-11-205. Electronic Message Signs**

- (a) All electronic message signs, including dynamic billboards, shall meet the following standards:
  - (1) The lamp wattage and luminance level in Nits shall be provided at the time of permit application.
  - (2) Public service messages, in addition to messages such as Amber Alerts, are to be provided at no cost to the public.

- (3) Electronic dynamic business signs are prohibited as temporary signs.
- (4) Electronic message signs must have minimum display duration of 30 seconds.
- (5) The sign must be rectangular in shape and all messages contained within.

(b) Additional standards for dynamic billboards:

- (1) Such displays shall contain static messages only; change from one (1) static message to another shall be instantaneous without any special effects, through dissolve or fade transitions, or with the use of other subtle transition that do not have the appearance of moving text or images.
- (2) The sign shall not be allowed on any buildings.
- (3) All electronic message signs shall have installed ambient light monitors and shall, at all times, allow such monitors to automatically adjust the brightness level of the electronic sign based on light conditions.
- (4) Electronic message signs shall not exceed two thousand five hundred (2,500) Nits between the hours of civil sunrise and civil sunset and shall not exceed five hundred (500) Nits between the hours of civil sunset and civil sunrise as measured from the face of the sign.
- (5) Electronic message signs shall have a fully functional monitoring off switch system that automatically shuts the electronic display off when the display deteriorates, in any fashion, five (5) percent or greater until the electronic display sign has been repaired to its fully functional factory specifications.
- (6) When a static billboard is replaced with an electronic message sign, a permanent removal of two (2) square feet of existing static billboard shall be required for every one (1) square foot of electronic message sign.
- (7) Conversion of a nonconforming static billboard sign to a dynamic display electronic message sign is prohibited.

(c) For institutional uses in residential districts, electronic message signs are allowed as part of the total area of any freestanding sign, with the following standards:

- (1) A conditional use permit is required.
- (2) The electronic portion of the sign not to exceed thirty-two (32) square feet.
- (3) Electronic message signs shall not exceed two thousand five hundred (2,500) Nits between the hours of civil sunrise and civil sunset, as measured from the sign face.
- (4) The electronic portion of the sign may not be illuminated between 10:00 pm and 6:00 am, and shall have a maximum of two hundred fifty (250) Nits from civil sunset to civil sunrise, as measured from the sign face. The City Council may extend the hours of illumination if the proposed sign is located at least one hundred (100) feet from a residential property boundary.
- (5) Signs shall have a fully functional off switch that automatically shuts the electronic display sign off when the display deteriorates ten (10) percent or greater.

(d) In commercial districts, electronic message signs are allowed as part of the total area of a permitted freestanding sign, with the following standards:

- (1) Signs shall not exceed two thousand five hundred (2,500) Nits between the hours of civil sunrise and civil sunset and shall not exceed five hundred (500) Nits between the hours of civil sunset and civil sunrise, as measured from the sign face.
- (2) Signs adjacent to residential properties shall be shut off from 10 pm to 6 am or have a maximum of two hundred fifty (250) Nits from civil sunset to civil sunrise.
- (3) Signs shall have a fully functional off switch that automatically shuts the display sign off when the display deteriorates ten (10) percent or greater.

#### **Sec. 25-11-206.      Temporary Signs**

- (a) Sandwich Board Signs do not require a sign permit.
  - (1) The maximum area shall be eight (8) square feet per side of the sign with the maximum height being three and a half (3.5) feet.
  - (2) Only one sandwich board sign per business per street frontage shall be permitted. Signage shall be located directly in front of or adjacent to the building that contains the business that is being advertised, except when a business has written authorization from another business and its property owner for its sign to be located directly in front or adjacent to said other business/property.
  - (3) Sandwich board signs shall: not be illuminated, nor shall they contain moving parts; only be displayed during business operating hours, except those located on private property; be removed from public sidewalks if there is any snow accumulation (the sign may not be replaced until the snow is removed).
  - (4) Sandwich board signs within the public right-of-way may be moved/removed by the City for municipal purposes. (i.e. snow removal, traffic issues, maintenance, etc.).
- (b) Temporary signs associated with special event permits do not need a sign permit.
- (c) Other Temporary Sign Regulations
  - (1) Other temporary signs shall include: banners, pennants, flying signs, air inflated devices, search lights, portable bulletin signs, streamers, and other signs approved through a temporary sign permit.
  - (2) Other temporary signs may be displayed for up to sixty (60) calendar days each year.
  - (3) After the issuance of a Certificate of Occupancy (CO), the business that was issued the CO is exempt from the monetary and time restraints of temporary sign requirements for a period of ninety (90) days.
- (d) Additional temporary signage may be permitted by the City Council with issuance of an interim use permit.

#### **Sec. 25-11-207.      Nonconforming Signs**

- (a) Any nonconforming temporary or portable sign existing at the time of adoption of this Ordinance shall be made to comply with the requirements set forth herein or shall be removed within one hundred eighty (180) days after the adoption of this article.
- (b) Nonconforming permanent signs lawfully existing at the time of the adoption of this article shall have five (5) years from the date of the adoption of this article to comply with the provisions of this article or be removed.

## **Division 25-11-300. Administration and Enforcement**

### **Sec. 25-11-301. Permits**

- (a) Except as provided in Section 25-11-202 Exempt Signs, the owner or occupant of the premises on which a sign is to be displayed, or the owner or installer of such signs, shall file an application provided by the City Building Official for permission to display such sign. Permits must be acquired for all existing, new, relocated, modified or redesigned signs except those specifically exempted in Section 25-11-202 Exempt Signs. The applicant shall submit with the application a complete description of the sign and a sketch showing its size, location, manner of construction and such other information as shall be necessary to inform the City Building Official of the kind, size, material, construction and location of the sign. The City Building Official may approve Sign Permits. The applicant shall also submit the fee at the time of application.
- (b) If a sign authorized by a permit has not been installed within three (3) months after the date of issuance of said permit, the permit shall become null and void.
- (c) All signs shall be constructed in accordance with the current Minnesota State Building Code and National Electric Code.
- (d) All signs utilizing electricity shall be subject to the State's current Electrical Code and electrical wiring shall be buried or concealed.
- (e) All sign structures shall be designed and constructed to withstand a wind pressure of not less than 80 mph, or as determined by the current Minnesota State Building Code.

### **Sec. 25-11-302. Violations and Fines**

- (a) If the City Building Official finds that any sign regulated by this article is in violation of this article, the Building Official shall give written notice of such violation to the owner or permittee thereof. If the owner or permittee fails to comply with the provision set forth in this Ordinance within ten (10) calendar days following receipt of said notice, the following shall apply:
  - (4) Nuisance. Such sign shall be deemed to be a nuisance and may be abated by the City by proceedings taken under Minnesota Statutes, Chapter 429, and the cost of abatement, including administration expenses, may be levied as a special assessment against the property upon which the sign is located.
  - (5) Penalty. Failure to comply with the provisions of this article shall be a misdemeanor.
  - (6) Confiscation. Signs in violation of this article.
    - (A) Process:
      - (i) Whenever signs are not in conformance with this article, the signs may be picked up by City Staff.
      - (ii) All confiscated signs shall be stored at Public Works, in a location designated by Public Works for their storage
      - (iii) Public Works shall retain the signs for a minimum of two (2) weeks, after which they are free to dispose of the sign(s).

- (iv) Any sign(s) in violation, which requires more than one (1) person in the removal, shall be released after the handling fee of \$100.00 has been paid at Public Works.
- (7) Exceptions: Signage allowed by Minnesota Statute Section 211B.045 which are in violation shall first receive notification that they are in violation and have twenty-four (24) hours to remove the sign. Confiscated signs will then be held at Public Works and disposed of after the election.

**Sec. 25-11-303. Appeals**

- (a) A permit applicant or permit holder may appeal any order or determination made by the City Building Official pursuant to this article by filing a notice of appeal with the Community Development Director requesting a hearing before the City Council within ten (10) days of any such order or determination. The City Council will hear:
  - (1) Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this article.
  - (2) Requests for variances from the literal provisions of this article.