

## CHAPTER 10 ZONING AND SUBDIVISION REGULATIONS

This is a Chapter establishing comprehensive land use and development management regulations for the City of Hendricks and adjacent areas, and providing for the administration, enforcement and amendment thereof. These regulations were created in accordance with the provisions of Chapter462 and Chapter103G (both as amended from time to time) of the Minnesota Statutes.

### **10.101. Authority and Enactment Clause.**

In pursuance of the authority conferred in Section 462 and Section 103G of the Minnesota Statutes, as amended and supplemented, the Council of the City of Hendricks, Minnesota, does hereby ordain and enact into law the following Sections and Parts.

### **10.102. Short Title.**

This Chapter shall be known as the “Hendricks Development Management Ordinance”, and will be referred to herein as "this Ordinance".

### **10.103. Purpose.**

This Ordinance is enacted to promote and protect the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. This Ordinance is designed to lessen congestion, to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide shoreland standards, for the best interests of the public health, safety and welfare to provide wise subdivision, use and development; and facilitate the efficient and timely provisions of public services. This Ordinance seeks to conserve the value of land and buildings and encourage the most appropriate use of land throughout the City through responsible planning and regulation.

### **10.104. Application.**

Subdivision 1. Jurisdiction. The provisions of this Ordinance shall apply within the corporate limits of the City of Hendricks, Minnesota, plus the adjacent unincorporated areas located in the E ½ of the NW ¼ of Section 18, N ½ of the NW ½ of section 20, and E ½ of the W ½ of Section 17 all in Township 112 N, Range 47W.

Subdivision 2. Scope. From and after the effective date of this Ordinance, the use of all land and every building portion of a structure, erected, altered or relocated, and every use within a building or use accessory thereto within the jurisdiction shall be in conformity with the provisions of this Ordinance.

Subdivision 3. Interpretation. In interpreting and applying the provisions of this Ordinance they shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare.

- Subdivision 4. Repeal of Conflicting Ordinances. Chapter 19 of the Hendricks City Code of 1975 and Amendments thereto are hereby repealed and replaced by the provisions of this Ordinance.
- Subdivision 5. Conflict With Other Regulations. Whenever the requirements of this Ordinance conflict with those of other ordinances, laws or regulations the most restrictive requirements shall govern.
- Subdivision 6. Enforcement. The Zoning Administrator 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) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity.
- Subdivision 7. Severability. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- Subdivision 8. Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

#### **10.105. Definitions.**

- Subdivision 1. Interpretation of Terms. For the purpose of interpreting this Ordinance, certain terms are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary meanings. Words used in the present tense include the future tense. Words used in the singular include the plural and words used in the plural include the singular. The words "shall" and "must" are always mandatory, not permissive. The word "used" or "occupied", as applied to any land or buildings, shall be construed to include the phrase "intended, arranged, or designed to be used or occupied". All distances, unless otherwise specified, shall be measured horizontally.
- Subdivision 2. Definition of Terms.
1. Accessory Use, Structure or Facility. A use, structure or facility subordinate to the principal use, structure, or facility which is located on the same lot as the principal building or use and the use of which is clearly incidental to the use of the principal building, and which, because of the nature of its use can reasonably be located at or greater than normal structure setbacks.

2. Accessory Farm Occupation. Any occupation occurring at a farm dwelling site that involves the sale of nonagricultural goods and services and is secondary to the primary agricultural occupation.
3. Agriculture. The use of land for agriculture purposes, including general farming, horticulture, dairying, livestock, and poultry raising, farm forestry and other similar enterprises or uses; except that commercial feedlots shall not be included in this definition. The necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
4. Agriculture Structure. Any structure existing or erected and used principally for a agricultural purposes, with the exception of dwelling units.
5. Agricultural Use. Means that use of land for the production of food or fiber, their storage on the area, and/or the raising thereon of domestic pets and domestic farm animals.
6. Alley. A dedicated right-of-way, for the use of vehicles, which affords only a secondary means of access to abutting property, and is less than 50 feet in width.
7. Alterations. The term "alterations" shall mean any change, addition or modification in construction which changes the area of a lot covered by a structure, changes the height of a structure, or changes the usable floor area of a structure, or any change in the use of a structure.
8. Anchoring System. "Anchoring System" means any method used for the purpose of securing a manufactured home to a foundation system or the ground.
9. Billboard. A structure upon which a sign is located which directs attention to a business, commodity, service, or entertainment, which is located or provided elsewhere than upon the premises where such structure is located.
10. Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
  - A. Part or all of the feature is located in a shoreland area;
  - B. The slope rises at least 25 feet above the ordinary high water level of the water body;
  - C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
  - D. The slope must drain toward the water body.

11. Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.
12. Board. Zoning Board of Appeals.
13. Boat House. An enclosed structure designed and used solely for the storage of boats or boating equipment located on the landward side of the normal high water mark, not used as a dwelling; and not containing any sanitary facilities.
14. Building. Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents, awnings, or vehicles situated on private property and/or used for the purpose of a building.
15. Building Drain. The building drain is that part of the lowest piping of the drainage system which receives the sewage discharge inside the walls of the building and conveys it to the building sewer.
16. 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.
17. Building, Principal. The principal building is a non-accessory building in which is conducted the principal use of the building site on which it is located. Only one principal building shall be located per building site. For farm sites, the principal building is the farm dwelling. If no habitable dwelling exists, the principal building shall be determined by the Zoning Administrator.
18. Building Sewer. The building sewer is that part of the horizontal portion of the building drainage system which extends from the end of the building drain and conveys its discharge to an individual sewage treatment system.
19. Building Site. A lot or contiguous lots under single ownership used or proposed for use as a location for a structure or structures.
20. Campground. An area under the ownership or control of a person or group of persons containing two or more campsites or camping spurs for tents and/or recreation vehicles occupied as temporary living quarters.
21. City. The City of Hendricks, Minnesota.
22. Commercial Feedlot. The feeding of animals within a building or fenced in area where more than 1,000 animal units, as defined by the USDA, are fed at any given time and the density exceeds 10 animal units per acre of confined area.
23. Commercial Use. The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services.

24. Commission. Hendricks City Planning Commission.
25. Community Water or Sewer System. Utility systems serving a group of buildings, lots or an area of the City, with the design and construction of such utility systems approved and regulated by the appropriate state or federal agencies.
26. Conditional Use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.
27. Council. The Hendricks City Council.
28. 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.
29. Depth of Rear Yard. The mean horizontal distance between the rear line of the building and the rear lot line.
30. Dock. An open, uncovered platform or walkway used to provide access from the normal high water mark to and over the water. A dock is a temporary structure which is removed from the water when the lakes are frozen over.
31. DNR Commissioner. The Commissioner of the Department of Natural Resources.
32. Dwelling. Any building or part thereof designed or used exclusively for residential purposes by one or more human beings.
33. Dwelling, Apartment, or Multi-Unit. A dwelling designed for or used for five (5) or more dwelling units.
34. Dwelling, Duplex, Triplex, and Quad. A dwelling structure on a single lot having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
35. Dwelling, Farm. A dwelling located on a farm where the resident of said dwelling either owns, operates or is employed thereon.

36. Dwelling, Farm Accessory. One or more dwellings, in addition to the primary farm dwelling. All accessory farm dwellings shall be equipped with permanent individual bathroom and kitchen facilities.
37. Dwelling, Non-Farm. A dwelling located on a parcel of land contiguous to or surrounded by farmland that is under separate ownership and operation.
38. Dwelling, Single Family. A free standing (detached) residence designed for and occupied by one (1) family only.
39. Dwelling Site. A designated location for one (1) dwelling unit.
40. Dwelling, Temporary. Dwelling units or sites intended primarily for temporary or transient occupancy. Including camping and recreational vehicle sites, motels, hotels, and resort rooms or cabins.
41. Dwelling Unit. Any structure or portion of a structure, or other shelter designed as living quarters for one or more persons. Individual bathrooms and complete kitchen facilities, permanently installed shall be included for each dwelling.
42. Easement. A grant by an owner of land for the specific use of said land by the public, or to a person or persons.
43. Easement, Utility. A grant by a property owner for the use of land for the purpose of constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
44. Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
45. Essential Services. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.
46. Extractive Use. The use of land for surface or subsurface removal of sand, gravel rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51 as they are amended from time to time. Any artificial excavation of the earth exceeding fifty (50) square feet of surface area or two (2) feet in depth, excavated or made by the removal from the

natural surface of the earth, of sod, sod, sand, gravel stone or other natural matter, or made by turning or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any structure erected or to be erected, built, or placed thereon in conjunction with or immediately following such excavation shall be exempted, if a permit has been issued for such construction for installation.

47. Family. An individual or a group of two or more persons related by blood, marriage or adoption, together with not more than three additional persons not related by blood, marriage or adoption, living together as a single housekeeping unit.
48. Farm. A tract of land, which is principally used for agricultural activities such as the production of crops, livestock or poultry farming. Such farm may include agricultural dwellings and accessory buildings and structures necessary to the operation of the farm and must meet the definition of "farm" under Minnesota's Green Acres Law, M.S.A. Chapter 273.111 (as amended from time to time).
49. Feedlot, livestock. Lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purposes of this Ordinance, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered feedlots. Pastures shall not be considered animal feedlots.
50. Flood. A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
51. Flood Frequency. The average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.
52. Flood Fringe. The portion of the flood plain outside the floodway.
53. Flood Plain. The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood Plain areas in Hendricks shall encompass all areas designated as Zone A on the Hendricks Flood Insurance Rate Map.
54. Flood Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
55. Flood Protected Elevation. The level of the regional flood plain including the calculated effects of flood plain encroachment plus one foot of freeboard.

56. Flood, Regional. 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 with an average frequency of once in one hundred years.
57. Floodway. The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining flood plain, which are reasonably required to carry and discharge the regional flood.
58. Foundation System. "Foundation System" means a permanent foundation constructed in conformance with the state building code.
59. Frontage. The dimension of a lot measured along a street right-of-way line.
60. Hardship. As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes 216C.06, Subdivision 2 (as it is amended from time to time), when in harmony with the official controls. The Zoning Board of Appeals may consider the inability to use solar energy a "hardship" in the granting of Variances.
61. Height of Building. The vertical distance from the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
62. Home Occupation. An accessory use conducted within a dwelling or a structure accessory thereto which is clearly incidental and secondary to residential occupancy and does not change the residential character of the premises or neighborhood. Specifically excluded is the storage or display of merchandise not produced by such home occupation in such a manner as to be visible from off the lot on which the use is located.
63. Industrial Use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

64. Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
65. Junkyards. An open area where waste, used or secondhand materials are brought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.
66. Kennel. Any lot or premises on which more than three (3) dogs, cats or other household pets are either permanently or temporarily boarded, bred or sold.
67. Label. "Label" means the approved form of certification required by the Department of Housing and Urban Development to be affixed to each transportable section of each manufactured home manufactured for sale, after June 14, 1976, to a purchaser in the United States.
68. Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation. A lot is a parcel of land under one ownership on which a principal biding and its accessories are, or may be located, together with all required yards, having frontage upon one or more streets.
69. Lot Area. The area of a horizontal plane bounded by the front, side and rear lot lines, and the ordinary high water level.
70. Lot, Corner. A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees.
71. Lot, Coverage. That part or percentage of a lot occupied by buildings, including accessory buildings.
72. Lot, Depth. The mean horizontal distance between the mean front road right-of-way line and mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.
73. Lot, Double Frontage. A lot having frontage on two parallel or approximately parallel streets.
74. Lot, Interior. Any lot other than a corner lot.
75. Lot Lines. The lines bounding a lot, as defined herein. When a lot abuts a road, street, highway, avenue, park or other public property, accept an alley, such line

shall be known as a right-of-way line and when a lot line abuts on an alley, it shall be known as an alley line. For riparian lots, the OHWL shall be considered a lot line.

76. Lot of Record. A lot which is part of a subdivision or a parcel of land described by metes and bounds, the map or description of which has been recorded in the office of the Lincoln County Recorder prior to the effective date of this Ordinance.
77. Lot Width. The shortest distance between lot lines measured at the midpoint of the building line.
78. Manufactured Home. "Manufactured Home" means a structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling for one family, with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A manufactured home shall meet the requirements of the Manufactured Home Building Code as defined in Minnesota Statutes Chapter 327.31 Subdivision 3 (as it is amended from time to time). A manufactured home is a single family dwelling as defined under the terms of this Ordinance.
79. Manufactured Home Building Code. "Manufactured Home Building Code" means, for manufactured homes manufactured after July 1, 1972, and prior to June 15, 1976, the standards code promulgated by the American National Standards Institute and identified as ANSI A119.1, including all revisions thereof in effect on May 21, 1971, or the provisions of the National Fire Protection Association and identified as NFPA 501B, and further revisions adopted by the Commissioner of Administration. "Manufactured Home Building Code" means, for manufactured homes constructed after June 14, 1976, the manufactured home construction and safety standards promulgated by the United States Department of Housing and Urban Development which are in effect at the time of the manufactured home's manufacture.
80. Mobile Home. "Mobile Home" means a residential structure having the general characteristics of a manufactured home but which does not meet the standards of the manufactured home building code as evidenced by the appropriate seal/or label. For the purposes of this Ordinance a mobile home shall not be included under the definition of the term "dwelling", but shall be considered a distinct type of building and use.
81. Non-conforming Lot. A lot which does not comply with the minimum lot area or dimensions of the district in which it is located.

82. Non-conforming Structure. A structure that does not comply with the yard, setback or height regulations of the district in which it is located.
83. Non-conforming, Use of Land or Structures. Means any legal use, structure, sanitary facility or parcel of land already in existence, before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established.
84. Nonconformity. Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized. Any use, structure or parcel created illegally shall not be treated as a nonconformity.
85. Obstruction. Any dam, well, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, 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.
86. Ordinary High Water Level (OHWL). 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.
87. Owner. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in a property to commence and maintain proceedings under this Ordinance, or owner of record.
88. Pastures. Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.
89. Person. Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.

90. Pier. An open, uncovered permanent structure used to provide access from the ordinary high water mark into the water.
91. Public Waters. Any waters as defined in Minnesota Statutes, Section 103G.005, subdivisions 14 and 15 (as they are amended from time to time) or a body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of these regulations, any body of water that has the potential to support any type of recreational pursuit or water supply purpose.
92. Recreational Vehicle. A self-powered or towed vehicle, licensed for highway use, used for temporary living, sleeping, business or storage purposes. The term includes travel trailers, motor homes, pickup campers, tent campers, and any other type of vehicle used or connected for use for the purposes listed.
93. Regulatory Flood Protection Elevation. An elevation no lower than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or flood proofed.
94. Retaining Wall. A structure designed and used to stabilize steep slopes and prevent the horizontal movement of soil.
95. Road. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as street, highway, parkway, road, avenue, boulevard, lane, service road, place or however otherwise designed.
96. Road, Private. An unplatted road accessing more than one lot or parcel including lease or rental properties.
97. Seal. “Seal” means a device or insignia issued by the Commissioner of Administration to be displayed on the manufactured home to evidence compliance with the manufactured home building code.
98. Selective Cutting. Means the removal of single scattered trees.
99. Semipublic Use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
100. Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes,

susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

101. Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
102. Setback, Front Yard. The minimum horizontal distance between a road, and a Structure, sewage treatment system or other facility,
103. Setback, Rear Yard. The minimum horizontal distance between a rear property line or alley line, and a structure, sewage treatment system or other facility.
104. Setback, Riparian or Shoreland. The minimum horizontal distance between the Ordinary High Water Level and a structure, sewage treatment system or other facility.
105. Setback, Side Yard. The minimum horizontal distance between a side property line and a structure, sewage treatment system or other facility.
106. Septage. Those solids and liquids removed during periodic maintenance of a septic or aerobic tank, or those solids and liquids that are removed from a holding tank.
107. Sewage. Any water-carried domestic waste, exclusive of foundation and roof drainage, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources, and specifically excludes animal waste and commercial or industrial wastewater.
108. Sewage, Treatment System. A septic tank and soil absorption system or other individual or cluster type sewage treatment system serving a dwelling, or other establishment, or group thereof, which uses subsurface sod treatment and disposal as described and regulated in this Ordinance.
109. 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.
110. 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, or 50 feet for permitted agricultural uses.

111. Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.
112. Shoreline. Ordinary High Water Level of a lake or stream.
113. Sign. A name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or the ground, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs.
114. Sign, Off Premises. A sign which directs attention to a business, commodity, service or entertainment located or provided elsewhere than upon the lot where such sign is located.
115. Sign, On Premises. A sign which advertises only goods, services, facilities, events or attractions available on the lot where located or identifies the owner or occupant or directs traffic on the premises.
116. Significant Historic Site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
117. Steep Slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
118. Street. A public thoroughfare which affords a principal means of access to abutting property, and having a right-of-way width of fifty (50) feet or more.

119. Street, Collector. A street which carries traffic from local streets to a major street and is designated a collector street by the Council.
120. Street, Cul-de-sac. A street having one end opened to a vehicular traffic and the other end terminated by a vehicular turnaround.
121. Street, Dead-end. A street having one end opened to vehicular traffic and the other end terminated, but without a vehicular turnaround.
122. Street, Local. A street used primarily to provide access to abutting properties.
123. Street, Major. A street of considerable continuity used primarily for heavy through traffic.
124. Street, Marginal Access. A local street which is parallel and adjacent to a major street; and which provides access to abutting properties and protection from through traffic.
125. Street or Alley Right-of-Way Line. A line separating a lot from a dedicated street or alley right-of-way.
126. Structural Alteration. Any change in the height or lot area covered by a structure.
127. Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to, buildings, mobile homes, towers, sheds, signs, retaining walls, decks, and boat docks, and excluding essential services.
128. Subdivision. Land that is divided for the purpose of sale, rent, or lease.
129. Substandard Use. Means any use within the land use district existing prior to the date of enactment of this Ordinance which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of this Ordinance.
130. Support System. "Support System" means any foundation system or other structural method used for the purpose of supporting a manufactured home at the site of occupancy.
131. Surface Water-Oriented Commercial Use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

132. Toe of the Bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
133. Top of the Bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
134. Travel Trailer. A towed or self-propelled vehicle designed or converted for residential occupancy. Includes all self-propelled types and all mobile homes less than 320 square feet in size.
135. Use. The purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied or maintained.
136. Variance. Any modification or variation of this Ordinance were it is determined that, by reason of exceptional circumstances, the strict enforcement of this Ordinance would cause unnecessary hardship.
137. Water-Oriented Accessory Structure or Facility. A small above ground building or other improvement except stairways, fences, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
138. Water Management or Flood Control Structure. Means a dam, floodwall, wingdam, dike, diversion channel or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management or flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner of Natural Resources.
139. Water Supply Purpose. Includes any uses of water for domestic, commercial, industrial or agricultural purposes.
140. Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), and refers to land which is

annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, marsh or slough.

141. Yard. The area between any lot line and a structure.
142. Yard, Front. The open and unoccupied space, on the same lot with a principal building, between a building and a street right-of-way line.
143. Yard, Rear. The open and unoccupied space, in the same lot with a principal building, between a building and rear lot line or alley right-of-way line.
144. Yard, Riparian or Shoreland. The open unoccupied space between the ordinary high water mark and the principal building line.
145. Yard, Side. The open and unoccupied space, in the same lot with a principal building, between a building and a side lot line that is not also a street or alley right-of-way line. A side yard extends from the rear line of a front yard to the front line of a rear yard.

#### **10.106. Establishment of Districts.**

Subdivision 1. Zoning Districts. In order to regulate and restrict the use, location, size and spacing of structures and the use and intensity of use of the land, the City of Hendricks is hereby divided into zoning districts, as named and described in this Ordinance.

Subdivision 2. Zoning Map.

1. Official Zoning Map. The boundaries of the districts established by this Ordinance are identified in the Official Zoning Map, which, is hereby adopted by reference and declared to be part of this Ordinance.
2. Original Zoning Map. The zoning map initially adopted with this Ordinance shall be labeled "Original Zoning Map". The map shall bear the signatures of the Mayor and City Clerk-Administrator with the seal of the City and the following phrase: "This is to certify that this is the Original Zoning Map adopted as a part of Chapter 10 of the Hendricks City Code of the City of Hendricks, Minnesota, together with the date of the adoption of this Code. The Original Zoning Map shall be filed in the Office of the City Clerk-Administrator and copies of the original shall be filed in the Lincoln County Recorder's Office. The Original Zoning Map shall remain without change as originally adopted by the Council, and shall be used only for reference purposes when there is a need to determine the original zoning.
3. Current Official Zoning Map. For legal and administrative purposes the official zoning map shall be entitled "Current Official Zoning Map". The map shall also

be identified by the signature of the Mayor attested to by the City Clerk-Administrator-Administrator and shall bear the seal of the City together with the phrase: "This is to certify that this is the Current Official Zoning Map referred to in Chapter 10 of the Hendricks City Code of the City of Hendricks, Minnesota. All duly authorized changes, alterations and amendments shall be placed on this map and they shall constitute the only official zoning map when determining the zoning of any property in the City of Hendricks.

4. Map Amendments. Zoning district boundary changes shall be made only in accordance with the provisions of this Ordinance and Chapter 462 (as it is amended from time to time) of the Minnesota Statutes. Map changes that increase the accuracy of the zoning map without materially affecting the extent or affect of the zoning district boundaries may be authorized by Council Resolution. Changes in the City Limits, street dedications, vacations, or wide and the platting of subdivisions are types of changes the Council may authorize by resolution.
5. Map Replacement. In event that either the Original or Current Official Zoning Maps become damaged, destroyed, lost or difficult to interpret because of usage or age, the Council may adopt new Original or Current Official Zoning Maps which shall supersede the prior maps. The new Zoning Maps may correct drafting or other errors or omissions in the prior maps, but no such corrections shall have the effect of amending this Ordinance or any amendment thereof. The new Zoning Maps shall be identified by the signature of the Mayor attested to by the City Clerk-Administrator, and shall bear the seal of the City and the following phrase: "This is to certify that this (Original or Current Official) Zoning Map supersedes and replaces the (Original or Current Official) Zoning Map adopted as part of Chapter 10 of the Hendricks City Code of the City of Hendricks," together with the date of adoption of the new map.
6. Zoning of Vacated Areas. Wherever any street, alley or other public way within the City of Hendricks shall have been vacated by action of the Council, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands formerly within such vacated street, alley or public way shall automatically and without further action of the Council thence forth acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach.
7. Zoning Annexed Areas. Any area annexed to the City of Hendricks and not previously within the jurisdiction of this Ordinance shall, immediately upon such annexation, be automatically classified as an "A-I" District, until such time as the Council adopts some alternate designation.
8. Rules for Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Maps, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shore he shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- G. Where physical or cultural features existing on the ground are at variance with those shown on the

**10.107. Zoning District Regulations.**

Subdivision 1. General Agriculture District: A-1

- 1. Purpose. The purpose of this district is to keep land currently best suited for agriculture in agricultural use until such time as it is needed for urban expansion.
- 2. Permitted Uses. The following uses shall be allowed within the General Agricultural District:
  - A. All general agricultural, horticultural and forest cropping practices.
  - B. Pasturage of livestock.
  - C. Barns, granaries, storage sheds, and other farm related accessory uses or structures.
  - D. Farm dwellings.
  - E. Flood control and watershed structures.
  - F. Cemeteries and Parks.
  - G. Landscape nurseries, greenhouses, and tree farms.

- H. Utility lines and facilities necessary for service within and adjacent to the area.
  - I. Riding academies and stables.
  - J. Grain storage bins as a principal use.
3. Conditional Uses. The following may be allowed in the General Agricultural District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5.
- A. Public and private airports.
  - B. Home occupations.
  - C. Schools and churches.
  - D. Extraction, processing and/or storage of sand, gravel or stone.
  - E. Feedlots and confinement feeding operations excluding commercial feedlots.
  - F. Water supply buildings, reservoirs, wells, elevated tanks, regional pipelines, power lines or communication lines, public sewage treatment facilities, sanitary landfill operations, and other similar public utility facilities.
  - G. Dog kennels.
  - H. Veterinary clinics.
  - I. Radio or television transmitting or receiving towers.
  - J. Non-farm dwellings.

Subdivision 2. Single Family Residential District: R-1

1. Purpose. The purpose of this district is to provide for the maintenance and development of urban residential environments.
2. Permitted Uses. The following uses shall be allowed within the Single Family Residential District.
- A. Single family detached dwellings.
  - B. Typical residential accessory uses such as private automobile garages, and storage sheds.
  - C. Underground utility lines and services.
3. Conditional Uses. The following uses may be allowed in the Single Family Residential District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5:
- A. Duplexes or two-family dwellings.
  - B. Home occupations compatible with residential development.
  - C. Overhead utility lines and services.
  - D. Churches, schools, parks, hospitals, nursing homes, and related uses.

- E. Funeral homes.
- F. Bed and Breakfast Businesses.

Subdivision 3. General Residential District: R-2

1. Purpose. The purpose of this district is to provide for the maintenance and development of urban residential environments.
2. Permitted Uses. The following uses shall be allowed within the General Residential District:
  - A. Single family detached dwellings.
  - B. Duplexes or two-family dwellings.
  - C. Typical residential accessory uses such as private automobile garages and storage sheds.
  - D. Underground utility lines and services.
3. Conditional Uses. The following uses may be allowed in the General Family Residential District after issuance of a Conditional Use Permit as described in Section 19.215, Part V:
  - A. Apartment, Triplex, Quad condominiums and other types of multiple unit dwellings.
  - B. Home occupations compatible with residential development.
  - C. Churches, schools, hospitals, nursing homes, libraries, and related uses.
  - D. Overhead utility lines and services.
  - E. Mobile Homes.
  - F. Funeral homes.
  - G. Compatible government offices and buildings.
  - H. Bed and Breakfast Businesses.

Subdivision 4. Central Business District: B-1

1. Purpose. The purpose of this district is to promote compact, pedestrian oriented development within the downtown area of Hendricks and to facilitate future expansion, rehabilitation and redevelopment within the district.
2. Permitted Uses. The following uses shall be allowed within the Central Business District:
  - A. Dwelling units located above businesses.
  - B. Offices, banks and other financial institutions, and doctors' or dentists' offices and clinics.
  - C. Establishments selling goods and services at retail and located entirely within an enclosed building.

- D. Personal service businesses, including barber shops, beauty shops, shoe repair shops, laundry and dry cleaning pick-up stations, lumber yards, auto sales and service, photography studios, and similar businesses meeting the purpose and characteristics of this district.
  - E. Theaters and other places of amusement conducted entirely within an enclosed building.
  - F. Restaurants, bars, cocktail lounges and similar businesses.
  - G. Grocery stores, bakeries, and meat markets where slaughtering is not done on the premises.
  - H. Hotels and motels.
  - I. Compatible public utility and government offices and buildings.
  - J. Churches, schools and parks.
  - K. Other compatible uses similar to the above businesses. Another opinion-Board of Adjustment
3. Conditional Uses. The following uses may be allowed in the Central Business District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5.
- A. Drive-in or drive-through service facilities.
  - B. Gas stations and convenience stores,
  - C. On premises slaughtering in conjunction with a retail meat market.

Subdivision 5. Highway Business District: B-2

1. Purpose. The purpose of this district is to provide appropriate areas for commercial uses which are oriented to the motoring public or require large sites for off-street parking or display of merchandise.
2. Permitted Uses. The following uses shall be allowed within the Highway Business District:
- A. Restaurants including drive-in restaurants.
  - B. Bars and cocktail lounges.
  - C. Mobile home sales.
  - D. Lumber yards.
  - E. Automobile sales and service businesses, and gas stations and convenience stores.
  - F. Farm implement sales and service.
  - G. Motels and campgrounds.
  - H. Retail sales establishments.
  - I. Animal hospitals and veterinary offices where there are no outside runs or kennels.
  - J. Distributor's warehouses and warehouse outlet stores.
  - K. Utility offices, warehouses, pumping stations, and substations.

- L. Indoor theaters.
  - M. Other businesses of similar nature whose needs lie within the scope of the purpose of this Part.
3. Conditional Uses. The following uses may be allowed in the Highway Business District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5.
- A. Livestock auction barns.
  - B. Construction contractors warehouses and storage yards.
  - C. Automobile repair and body shops.
  - D. Junk and scrap dealers when adequate fencing and screening is provided.

Subdivision 6. Industrial District: I

1. Purpose. The purpose of this district is to designate land for industrial expansion and development in locations where a minimum of conflict with other uses is likely.
2. Permitted Uses. The following uses shall be allowed within the Industrial District:
- A. Production or processing of agricultural crops for animal feed, oil, fuel alcohol or food.
  - B. Fabrication, assembly, and manufacture of machinery, equipment or components thereof.
  - C. Warehouse of materials and products.
  - D. Construction contractors' offices, warehouses and storage yards.
  - E. General repair, service and sales of automobiles, trucks, farm equipment and construction equipment.
  - F. Mobile home manufacturers, sales and service.
  - G. Truck terminals.
  - H. Uses of a similar and complementary nature.
  - I. Grain elevators.
3. Conditional Uses. The following uses may be allowed in the Industrial District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5:
- A. Junk yards provided that all material is enclosed within a solid fence or building.
  - B. Livestock sales barns or transfer stations.
  - C. Livestock slaughtering plants.
  - D. Sewage treatment plants and sanitary landfill operations.
  - E. Yard Waste Site

- F. Recycling Facility
- G. Transfer Station

**10.108. Area, Yard, and Height Requirements.**

Subdivision 1. General Provisions. Except as otherwise specifically provided in this Ordinance no lot shall be created and no structure shall be erected or maintained except those which are in compliance with the provisions of this Section.

Subdivision 2. Minimum Lot Requirements. The following minimum lot requirements shall apply within the respective zoning districts unless specifically modified elsewhere in this Ordinance.

1. General Agricultural District: A-1

- A. Minimum lot area shall be 80,000 square feet.
- B. Minimum lot width shall be 150 feet.
- C. Minimum lot depth shall be 250 feet.

2. Single Family Residential District: R-1

- A. Minimum lot area shall be 10,500 square feet for a single family dwelling and 13,500 square feet for a duplex dwelling.
- B. Minimum lot width shall be 75 feet.
- C. Minimum lot depth shall be 140 feet.  
(Meet all platted before ordinance adopted)

3. General Residential District: R-2

- A. Minimum lot area shall be 6,000 square feet for a single family dwelling, 9,000 square feet for a duplex dwelling, and an additional 2,000 square feet for each dwelling unit over two units in an apartment dwelling.
- B. Minimum lot width shall be 50 feet for a single family dwelling and 60 feet for a duplex and apartment dwellings.
- C. Minimum lot depth shall be 120 feet.

4. Central Business District: B-1.

- A. Minimum lot area shall be 1,000 square feet.

- B. There is no minimum lot width or depth in the Central Business District.
5. Highway Business District: B-2.
- A. Minimum lot area shall be 12,000 square feet provided that the lot is served by a public sewer system. Minimum lot area shall be increased to 40,000 square feet if a private septic system is to be used.
  - B. Minimum lot width shall be 75 feet.
  - C. Minimum lot depth shall be 140 feet.
6. Industrial District: I.
- A. Minimum lot area shall be 10,500 square feet.
  - B. Minimum lot width shall be 75 feet.
  - C. Minimum lot depth shall be 140 feet.
7. General Flood Plain Overlay District: F. The minimum lot requirements of the underlying district shall apply to this district.
8. Shoreland Overlay District: S. The more restrictive District's requirements shall apply.
- Subdivision 3. Yard and Height Requirements. The following minimum setbacks and height requirements shall apply within the respective zoning districts unless specifically modified elsewhere in this Ordinance.
1. General Agricultural District: A-1.
- A. The front yard setback shall be 50 feet.
  - B. The side yard setback shall be 20 feet.
  - C. The rear yard setback shall be 50 feet.
  - D. The shoreland setback shall be 150 feet.
  - E. The maximum height of any structure other than the electrical and telephone lines shall be limited as follows:

1. No structure shall be taller than the distance it is setback from a lot line.
2. Single Family Residential District: R-1.
  - A. The front yard setback shall be 30 feet.
  - B. The side yard setback shall be 6 feet.
  - C. The rear yard setback shall be 25 feet.
  - D. Setbacks within the Shoreland area are listed in Section 10.110., Subdivisions 4 – 6 and are more restrictive than those listed here.
  - E. The maximum height of structures shall be 35 feet.
3. General Residential District: R-2.
  - A. The front yard setback shall be 25 feet.
  - B. The side yard setback shall be 5 feet.
  - C. The rear yard setback shall be 20 feet.
  - D. Setbacks within the Shoreland area are listed in Section 10.110., Subdivision 9 and shall apply if more restrictive than those listed here.
  - E. The maximum height of structures shall be 35 feet.
4. Central Business District: B-1. There are no setback or height limitations in the Central Business District.
5. Highway Business District: B-2.
  - A. The front yard setback shall be 30 feet.
  - B. The side yard setback shall be 10 feet.
  - C. The rear yard setback shall be 20 feet.
  - D. Setbacks within the Shoreland area are listed in Section 10.110, Subdivision 9 and shall apply if more restrictive than those listed here.
  - E. The maximum height of structures shall be 35 feet.

6. Industrial District: I.
  - A. The front yard setback shall be 25 feet.
  - B. The side yard setback shall be 6 feet.
  - C. The rear yard setback shall be 25 feet,
  - D. The shoreline setback shall be 200 feet.
  - E. The maximum height of structures shall be 40 feet or the height of any structure previously existing on the lot whichever is greater.
7. General Flood Plain Overlay District: F. The minimum yard requirements and maximum height of structures of the underlying district shall apply to this district.
8. Shoreland Overlay District: S. The minimum yard requirements and maximum height requirements shall be determined by the more restrictive District requirements.

Subdivision 4. Modifying Regulations. The following regulations are intended to modify, clarify and supplement the general requirements of Section 10.108.

1. Lot of Record. Where an owner or his successor in title of a lot of official record in any district at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the minimum lot requirements of this Ordinance, such lot may be used as a building site provided that said lot requirements are not reduced below the minimums specified in this Ordinance by more than twenty (20) percent. If, however, the owner of two or more adjoining lots, either of which has insufficient land dimensions, decides to build on or sell said lots, he must first combine said lots to comply with the dimensional requirements of this Ordinance. Any lot requiring dimensional adjustments exceeding the twenty (20) percent maximum set forth in this Part shall be required to obtain a variance from the Zoning Board of Appeals.
2. Front Yard Setbacks. The front yard depth requirements of this Ordinance for dwellings shall not apply to any lot of record where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use district, and fronting on the same street as such lot, is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, or a distance of fifteen (15) feet from the street right-of-way line, whichever is greater.

3. Side Yard Widths. The required side yard shall be maintained on each side of a building or structure but each side yard may be reduced to ten (10) percent of the lot width on lots of record of less than fifty (50) feet in width, provided however, that no required side yard shall be less than three (3) feet. For the purpose of side yard requirements, a two-family or multiple-family dwelling shall be considered as one building occupying one lot.
4. Rear Yard Widths. The required rear yard may be reduced to ten (10) percent of the depth of the lot on any lot record not exceeding one hundred (100) feet in depth. An accessory building may be built within a required rear yard when located at least five (5) feet from any lot line and when occupying not more than fifty (50) percent of the area of such required rear yard.
5. Projections Into Required Open Space. Every part of a required yard shall be open from its lowest point to the sky unobstructed, except for:
  - A. Trees and shrubbery.
  - B. The ordinary projection of sills, belt courses, cornices, eaves, bay windows and ornamental features may be permitted, but not to exceed more than twelve (12) inches in any required yard.
  - C. An open, uncovered deck, terrace or patio may extend not more than ten (10) feet into any required yard and not closer than three (3) feet to any lot lines.
  - D. Sidewalks, driveways and parking areas providing access to a street or alley may be constructed within any required yard.
  - E. Fences and retaining walls may be built within any required yard, providing that they do not support a roof or overhead enclosure of any kind.
6. Height Limitations. The height limitations of this Ordinance may be waived for the following structures provided that a Conditional Use Permit is issued for said structures.
  - A. Chimneys, cooling and water towers, fire towers, radio towers, wind mills, and wind generators, television towers, and necessary public service facilities.
  - B. Church steeples, grain storage facilities, and electric substations.
7. Corner Lots. On corner lots the front yard setback running parallel to the longest front lot line may be reduced by a maximum of 50 percent.

8. In the Highway Business District the front yard setback may be decreased by 50 percent when a lot fronts on a street which is designated a marginal access street by the Council.

**10.109. General Floodplain Overlay District: F.**

Subdivision 1. Purpose. The General Flood Plain Overlay District is established to provide for the safe discharge of floodwater and minimize flood losses, to preserve the storage capacity of the flood plain and to prevent pollution in order to protect the public health, safety, and general welfare. The District is intended as a means of supplemental control of land use and placement of structures in addition to the normal requirements of the several districts that are set forth herein and shall be used only in combination with one or more of such other districts.

Subdivision 2. Permitted Uses. The following uses shall be allowed within the General Flood Plain Overlay District:

1. Agricultural uses not requiring permanent or temporary structures such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial and commercial uses such as: loading areas, parking areas, airport landing strips, and storage yards for equipment or machinery easily moved in an emergency.
3. Public and private recreational uses not requiring permanent or temporary structures designed for human habitation such as: parks, swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, and hunting, fishing and hiking areas.
4. Utility facilities such as: dams, flowage areas, transmission lines, pipelines, and water monitoring devices.
5. Navigational and drainage aids such as: channels, channel markers, buoys, wharfs, bridges and culverts.

Subdivision 3. Conditional Uses. The following uses may be allowed in the General Flood Plain Overlay District after issuance of a Conditional Use Permit as described in Section 10.115., Subdivision 5.

1. Structures, temporary or permanent, which are accessory to open spaces uses permitted in Section 10.107., Subdivision 3, provided the structure shall be

designed for low flood damage potential and are not to be used for human habitation.

2. Fills or deposition of materials may be permitted provided:
  - A. A plan is submitted by the owner showing the intended use and final dimensions of the proposed fill that demonstrates some beneficial purpose and provided further that the amount of the fill is no greater than necessary to achieve that purpose.
  - B. The fill does not encroach on the channel area or floodway.
  - C. The fill or material deposited will be protected from erosion by the rip-rap, vegetative cover or bulk heading.

Subdivision 4. Abrogation and Greater Restrictions. When the General Flood Plain Overlay District and the underlying zoning district regulations conflict, the most restrictive combination of regulations shall prevail. All applicable Federal and State regulations shall be complied with.

Subdivision 5. District Regulations.

1. No temporary or permanent structure, fill (including fill for roads and levees), deposits obstructions, storage of materials, or other flood plain uses shall be permitted which alone or in combination with the present or future flood plain uses will increase flood heights or adversely affect the efficiency or capacity of the flood way or the storage capacity of the flood plain based on the assumption that there will be an "equal degree of encroachment", extending for a significant "reach" on both sides of the stream.
2. No flood plain uses shall be permitted which adversely affect the efficiency or capacity of the channel or floodways of tributaries, drainage ditches or other facilities.
3. Any structure, if permitted, shall be located and constructed, whenever possible, with the longitudinal axis parallel to the direction of flow and in line with adjoining structures so as to offer the minimum obstruction to the flow of flood waters.
4. Structures shall be firmly anchored to prevent floating and thus threatening to further restrict bridge openings or other constructed sections of the stream or river.
5. Any building designed for either human habitation or commercial use to be erected, constructed, reconstructed or moved onto the flood plain shall be placed on fill. The fill elevation shall not be less than one foot above the regional flood

elevation plus any increase in elevation due to floodway encroachment and the fill shall extend at such elevation no less than 15 feet beyond the limits of any structure or building erected thereon. The first floor or basement floor of the building or structure shall be at or above the flood protection elevation which elevation is determined to be 2 feet above the regional flood elevation. A variance may be granted by the Zoning Board of Appeals for buildings or structures to be located at a lower elevation when flood proofing measures are taken which shall be designed for the flood velocities, depths, forces, and other factors associated with the regional flood.

6. Any building shall have its heating, electrical and other vital utility facilities at or above the flood protection elevation for the particular area.
7. Agricultural levees shall be designed so that the levees will overtop upon the occurrence of the 13 year recurrence interval flood and so that upstream flood heights shall not exceed 0.5 foot based on an assumption of an equal degree of encroachment on both sides of the river or stream and provided the consent of the property owners affected is obtained.
8. No construction, use, fill, excavation or issuance of local permits shall be allowed before all State and Federal permits required have been issued.

#### **10.110. Shoreland Overlay District: S**

Subdivision 1. Purpose. The Shoreland Overlay District is established to provide for adequate lot sizes for permitted uses, reduce pollution potential, and preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of water and related land resources of the state. The District is intended to provide as a means of supplemental control of land use and placement of structures in addition to the normal requirements of the several Districts, which are set forth herein and shall be used in combination with one or more of such other Districts.

Subdivision 2. Application. The Shoreland Overlay District shall apply to all the shorelands of the public waters identified and classified in Section 10.110, Subdivision 4 of this Ordinance. The regulations and requirements imposed by the Shoreland Overlay District shall be in addition to those established for the underlying Districts, and the Floodplain District when there is joint application, and the more restrictive regulations shall apply.

Subdivision 3. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the

subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations.

Subdivision 4. Shoreland Classification System. The public waters of Hendricks have been classified consistent with the criteria found in Minnesota Regulations, Part 612033W, and the Protected Waters Inventory Map for Lincoln County, Minnesota. The Lake Identification number used is as listed in the "Division of Waters, Soils, & Minerals Bulletin No. 25".

1. The shoreland area for the water bodies listed in this Part shall be as deemed in Section 10.105 and as shown on the Official Zoning Map.
  - A. Lake Hendricks, Inventory I.D.# 41-110 is a General Development Lake, located in Section 18, Township 112, Range 46.
  - B. Unnamed Lake, Inventory I.D.# 41-121 is a Natural Environment Lake, located in the E1/2 of NW1/4, Section 18, T112N, R46W.
  - C. Lac qui Parle River is an Agricultural River from the outlet of Hendricks Lake to the north City limits.

Subdivision 5. Shoreland Boundaries. The shoreland boundaries for the City of Hendricks are established at 1,000 feet from the Ordinary High Water Level of the lakes, 300 feet from the shoreline of the Lac qui Parle River, or the boundary of the Floodplain District, whichever is greater.

Subdivision 6. Permitted and Conditional Uses. The following uses shall be allowed in the Shoreland Overlay District:

1. Permitted Uses overlying Agricultural Districts.
  - A. Essential Services.
  - B. Sensitive Resource Management.
  - C. Agriculture: cropland and pasture, but excluding structures and feedlots.
2. Permitted Uses overlying Residential Districts.
  - A. Single Family Dwellings.
  - B. Duplex, triplex, and quad residential for Lake Hendricks only.
3. Permitted Uses overlying Business and Commercial Districts.
  - A. Commercial Uses for Lake Hendricks only.

- B. Public and Semi-public uses for Lake Hendricks only.
4. The following uses may be allowed in the Shoreland Overlay District overlying the Agricultural District after issuance of a Conditional Use Permit as described in Section 10.115, Subdivision 5.
- A. Agricultural Feedlots.
  - B. Parks and historic sites.
  - C. Extractive Uses.
  - D. Single Family Dwellings.
5. The following uses may be allowed in the Shoreland Overlay District overlying the Residential District after issuance of a Conditional Use Permit as described in Section 10.115, Subdivision 5.
- A. Semipublic uses.
  - B. Parks and Historic Sites.
  - C. Extractive Uses.
  - D. Duplex, Triplex, and Quad residential for Unnamed Lake and the Lac qui Parle River.
6. The following uses may be allowed in the Shoreland Overlay District overlying the Business and Commercial Districts after issuance of a Conditional Use Permit as described in Section 10.115, Subdivision 5.
- A. Industrial Uses for Lake Hendricks.
  - B. Extractive Uses.
  - C. Parks and Historic Sites.
  - D. Commercial Uses for Unnamed Lake and the Lac qui Parle River.
  - E. Public and Semi-Public Uses for Unnamed Lake and the Lac qui Parle River.

Subdivision 7. Lot Area and Width Standards.

1. Minimum lot area for Lake Hendricks residential lots with city sewer.
  - A. For single residential riparian lots, the minimum lot size is 15,000 square feet; for single residential non-riparian lots, the minimum lot size is 10,000 square feet.
  - B. For duplex residential riparian lots, the minimum lot size is 26,000 square feet; for duplex residential non-riparian lots, the minimum lot size is 17,500 square feet.
  - C. For triplex residential riparian lots, the minimum lot size is 38,000 square feet; for triplex residential non-riparian lots, the minimum lot size is 25,000 square feet.
  - D. For quad residential riparian lots, the minimum lot size is 49,000 square feet; for quad residential non-riparian lots, the minimum lot size is 32,500 square feet.
2. Minimum lot area for Lake Hendricks residential lots without connection to city sewer.
  - A. For single residential riparian, on lake, the minimum lot size is 20,000 square feet; for single residential non-riparian lots, the minimum lot size is 40,000 square feet.
  - B. For duplex residential riparian lots, the minimum lot size is 40,000 square feet; for single residential non-riparian lots, the minimum lot size is 80,000 square feet.
  - C. For triplex residential riparian lots, the minimum lot size is 60,000 square feet; for single residential non-riparian lots, the minimum lot size is 120,000 square feet.
  - D. For quad residential riparian lots, the minimum lot size is 80,000 square feet; for single residential non-riparian lots, the minimum lot size is 160,000 square feet.
3. The minimum lot width for sewerred Lake Hendricks residential lots on Lake Hendricks are as follows:
  - A. For single residential riparian and non-riparian lots, the minimum width is 75 feet.
  - B. For duplex residential riparian and non-riparian lots, the minimum lot width is 135 feet.

- C. For triplex residential riparian lots, the minimum lot width is 195 feet, for non-riparian lots, the minimum width is 190 feet.
  - D. For quad residential riparian lots, the minimum lot width is 255 feet, for non-riparian lots, the minimum lot width is 245 feet.
4. The minimum lot width for unsewered Lake Hendricks residential lots are as follows:
- A. For single residential riparian lots, the minimum lot width is 100 feet; for non-riparian lots, the minimum width is 150 feet.
  - B. For duplex residential riparian lots, the minimum lot width is 180 feet; for non-riparian lots, the minimum lot width is 265 feet.
  - C. For triplex residential riparian lots, the minimum lot width is 260 feet; for non-riparian lots, the minimum width is 375 feet.
  - D. For quad residential riparian lots, the minimum lot width is 340 feet; for non-riparian lots, the minimum lot width is 490 feet.
5. Minimum lot area for Unnamed Lake (I.D.# 41-121) residential lots with city sewer.
- A. For single residential riparian lots, the minimum lot size is 40,000 square feet; for single residential non-riparian lots, the minimum lot size is 20,000 square feet.
  - B. For duplex residential riparian lots, the minimum lot size is 70,000 square feet; for duplex residential non-riparian lots, the minimum lot size is 35,000 square feet.
  - C. For triplex residential riparian lots, the minimum lot size is 100,000 square feet; for triplex residential non-riparian lots, the minimum lot size is 52,000 square feet.
  - D. For quad residential riparian lots, the minimum lot size is 130,000 square feet; for quad residential non-riparian lots, the minimum lot size is 65,000 square feet.
6. Minimum lot area for Unnamed Lake (I.D.# 41-121) residential lots without connection to city sewer.

- A. For single residential riparian, the minimum lot size is 80,000 square feet; for single residential non-riparian lots, the minimum lot size is 80,000 square feet.
  - B. For duplex residential riparian lots, the minimum lot size is 120,000 square feet; for single residential non-riparian lots, the minimum lot size is 160,000 square feet.
  - C. For triplex residential riparian lots, the minimum lot size is 160,000 square feet; for single residential non-riparian lots, the minimum lot size is 240,000 square feet.
  - D. For quad residential riparian lots, the minimum lot size is 200,000 square feet; for single residential non-riparian lots, the minimum lot size is 320,000 square feet.
7. The minimum lot width for sewerred residential lots on Unnamed Lake (I.D.# 41-121) are as follows:
- A. For single residential riparian and non-riparian lots, the minimum width is 125 feet.
  - B. For duplex residential riparian lots, the minimum lot width is 225, and for non-riparian lots, the minimum lot width is 220 feet.
  - C. For triplex residential riparian lots, the minimum lot width is 325 feet, for non-riparian lots, the minimum width is 315 feet.
  - D. For quad residential riparian lots, the minimum lot width is 425 feet, for non-riparian lots, the minimum lot width is 410 feet.
8. The minimum lot width for unsewered Unnamed Lake (I.D.# 41-121) residential lots are as follows:
- A. For single residential riparian and non-riparian lots, the minimum width is 200 feet.
  - B. For duplex residential riparian lots, the minimum lot with is 300 feet; for non-riparian lots, the minimum lot width is 400 feet.
  - C. For triplex residential riparian lots, the minimum lot width is 400 feet; for non-riparian lots, the minimum width is 600 feet.
  - D. For quad residential riparian lots, the minimum lot width is 500 feet; for non-riparian lots, the minimum lot width is 800 feet.

9. The minimum lot width for lots along the Lac qui Parle River are as follows:
  - A. For single residential lots, the minimum lot width is 150 feet.
  - B. For duplex residential lots, the minimum lot width is 225 feet.
  - C. For triplex residential lots, the minimum lot width is 300 feet.
  - D. For quad residential lots, the minimum lot width is 375 feet.
10. The minimum lot area and width standards for nonresidential uses shall be the same as for single residential lots provided that all setbacks, lot coverages, and all other conditions of this Ordinance are met.

Subdivision 8. Additional Special Provisions.

1. Only land above the OHWL of public waters can be used to meet lot area standards, and lot width standards must be met at both the OHWL and at the building line. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property.
2. Subdivisions of Duplexes, Triplexes, and Quads on Unnamed Lake must also meet the following standards:
  - A. Each building must be set back at least 200 feet from the Ordinary High Water Level.
  - B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building.
  - C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the budding.
  - D. No more than 25 percent of the lake's shoreline can be in duplex, triplex, or quad developments.
3. Controlled Access Lots. Lots intended as controlled access to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:
  - A. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

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

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

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

Subdivision 9. Placement, Design and Height Structures.

- 1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks

from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows.

- A. **Structure and on-site Sewage System Setbacks (in feet) from Ordinary High Water Level.**
1. The setback for structures with individual sewage treatment systems on Lake Hendricks is 75 feet, on Unnamed Lake is 150 feet, and the Lac qui Parle River is 100 feet.
  2. The setback for structures using a community sewer system is 50 feet.
  3. The sewage treatment system setback is 50 feet from Lake Hendricks, 150 feet from Unnamed Lake, and 75 feet from the Lac qui Parle River.
  4. One water-oriented accessory structure designed in accordance with Section 10.110, Subdivision 8 of this Ordinance may be set back a minimum distance of ten (10) feet from the Ordinary High Water Level.
- B. **Additional Structure Setbacks.** The following additional structure setbacks apply.
1. The minimum setback from a bluff is 30 feet. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
  2. 50 feet setback from an unplatted cemetery.
  3. 50 feet setback from the right-of-way line of a federal state, or county highway.
  4. 30 feet setback from the right-of-way line of a town road, public street, or other roads or streets not classified.
- C. **Bluff Impact-Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- D. **Uses Without Water-Oriented Needs.** Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be

substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria For Structures.

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

1. for lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level or three (3) feet above the ordinary high water level whichever is higher;
2. for rivers and streams, by placing the lowest floor at least three (3) feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and
3. water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

B. Water-Oriented Accessory Structures. Each lot may have one (1) water-oriented accessory structure not meeting the normal structure setback in Section 10.110, Subdivision 9 of this Ordinance if this water-oriented accessory structure complies with the following provisions:

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

2. the setback of the structure or facility from the ordinary high water level must be at least ten (10) feet;
3. 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;
4. the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
5. the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
6. as an alternative for water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

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

1. stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, and public open-space recreational properties;
2. landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open space recreational properties;
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, provided that the dimensional and performance standards of sub items 1 to 5 above are complied with.

D. 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.

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

3. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

Subdivision 10. Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

1. Vegetation Alterations.

A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 10.110, Subdivision 12 of this Ordinance are exempt from the vegetation alteration standards that follow.

B. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 10.110, Subdivision 12 is allowed subject to the following standards:

1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
  - (a) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
  - (b) along rivers, existing shading of water surfaces is preserved; and
  - (c) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

Subdivision 11. Topographic Alterations/Grading and Filling.

1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Part must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
2. Public roads and parking areas are regulated by Section 10.110, Subdivision 12 of this Ordinance.
3. Notwithstanding Section 10.110, Subdivision 11, Numbers 1 and 2, a grading and filling permit will be required for:
  - A. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - B. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
4. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, Conditional Use Permits, variances and subdivision approvals:

- A. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the functional quality of the wetland. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised. The following functional qualities of a wetland must be evaluated:
1. Sediment and pollutant trapping and retention;
  2. Storage of surface runoff to prevent or reduce flood damage;
  3. Fish and wildlife habitat;
  4. Recreational use;
  5. Shoreline or bank stabilization; and
  6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- B. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- C. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- D. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- E. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- F. Fill or excavated material must not be placed in a manner that creates an unstable slope;
- G. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

- H. Fill or excavated material must not be placed in bluff impact zones;
    - 1. Any alterations below the OHWL of public waters must first be authorized by the DNR Commissioner under Minnesota Statutes, Section 103G.245 (as it is amended from time to time);
  - I. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - J. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the furnished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the OHWL, and the height of the riprap above the OHWL does not exceed three (3) feet.
5. Connections to Public Water. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors may be allowed as a conditional use given only after the DNR Commissioner has approved the proposed connection to public waters.

Subdivision 12. Placement and Design of Roads, Driveways, and Parking Areas.

- 1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and Topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- 2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- 3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 10.110, Subdivision 11 of this Ordinance must be met.

Subdivision 13. Storm Water Management. The following general and specific standards shall apply.

1. General Standards.

- A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water 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 and protected as soon as possible and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards.

- A. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- B. When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- C. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subdivision 14. Special Provisions for Commercial, Industrial, Public / Semipublic, Agricultural and Extractive uses.

1. Standards for Commercial, Industrial, Public, and Semipublic Uses.

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

1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the, need; and
  3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - (a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
    - (b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
    - (c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- B. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards.

- A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local sod and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- B. Animal feedlots must meet the following standards.
1. new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the OHWL of all public waters basins; and
  2. modifications or expansions to existing feedlots that are located within 300 feet of the OHWL or within a bluff impact zone are allowed if they do not further encroach into the existing OHWL setback or encroach on bluff impact zones.

3. Extractive Use Standards.

- A. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
- B. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

Subdivision 15. Conditional Uses. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
    - A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
    - B. The visibility of structures and other facilities as viewed from public waters is limited;
    - C. The site is adequate for water supply and on-site sewage treatment; and
    - D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
  
  2. Conditions Attached to Conditional Use Permits. The Council, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but Are not limited to, the following:
    - A. Increased setbacks from the ordinary high water level;
    - B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
    - C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- Subdivision 16. Nonconformities in the Shoreland Overlay District. All legally established nonconformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alteration's and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:
1. Construction on Nonconforming Lots of Record.
    - A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 10.110, Subdivision 7 of this Ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting

lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.

- B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Zoning Board of Appeals shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- C. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 10.110, Subdivision 7 of this Ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 10.110, Subdivision 7 of this Ordinance as much as possible.

2. Additions/expansions to Nonconforming Structures.

- A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of the Shoreland Overlay District. Any deviation from these requirements must be authorized by a variance pursuant to Section 10.115, Subdivision 7.
- B. Deck additions may be allowed, without a variance, to a structure not meeting the required setback from the OHWL if all of the following criteria and standards are met:
  - 1. The structure existed on the date the structure setbacks were established;
  - 2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - 3. The deck encroachment toward the OHWL does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - 4. The deck is constructed primarily of wood, and is not roofed or screened.

3. Nonconforming Sewage Treatment Systems.

- A. A sewage treatment system not meeting the requirements of Section 10.113, Subdivision 5 of this Ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the OHWL.
  
- B. The Council has by formal resolution notified the DNR Commissioner of its program to identify nonconforming sewage treatment systems within the Shoreland Jurisdiction. The City of Hendricks will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201 (as it is amended from time to time), in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

**10.111. Off-Street Parking and Loading Requirements.**

Subdivision 1. Off-Street Parking Requirements. Except with respect to lots in District B-1, there shall be provided off-street parking for motor vehicles, and the minimum number of parking spaces to be provided shall be as shown in the following list:

<u>USE</u>	<u>SPACES REQUIRED</u>
Single family, duplex dwellings,	1.5 per dwelling unit
Rooming houses, convalescent homes, elderly or handicapped housing projects,	1 per 100 square feet of floor area
Apartments or townhouses hotels and motels,	1 per room in addition to spaces required for bar and restaurant facilities

Churches, theaters, concert halls, auditoriums, facilities for spectator sports	.35 times the seating capacity
Retail and service establishments	1 per 150 square feet of floor area
Other commercial and industrial uses	.75 times the maximum number of employees on the premises at any one time

Subdivision 2. Miscellaneous Off-Street Parking Rules.

1. A parking space shall be deemed as an area of 9 feet by 18 feet exclusive of any required turn around or driveways.
2. In the case of mixed uses the parking spaces required shall equal the sum of the requirements for the various uses computed separately.
3. Where fractional spaces result, the number of spaces required shall be construed to be the nearest whole number.
4. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of a similar nature.

Subdivision 3. Requires Off-Street Loading Spaces. Loading spaces required under this Part shall be at least 50 feet long and 12 feet wide. The regulations of this Part are not applicable in District B-1. Every lot used for commercial or industrial purposes and a budding or buildings with a total floor area of at least 10,000 square feet and every lot used for office or educational purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds 100,000 square feet.

**10.112. Sign Regulations.**

Subdivision 1. District Regulations

1. Signs permitted in the R-1 and R-2 Districts. One sign attached to the principal building identifying a home occupation and not exceeding 6 square feet in size.
2. Signs permitted in the A-1 District. On premises signs having an area not exceeding 1 square foot for each 10 feet of street frontage with a maximum of 100

square feet for each sign. Signs permitted by this Part are exempt from the front setback requirements of Section 10.108, Subdivision 3.

3. Signs Permitted in the B-1 and B-2 Districts. On premises signs are permitted having an aggregate area not exceeding 2 square feet for each foot of street frontage. Where any building is shared by more than one occupant the permitted area shall be divided among them in the same proportion as floor space is occupied by them. Where an occupant has an entrance on an alley, an additional 10 square feet is permitted for signs visible in such alley. No setback shall be required, but there shall be a sign height limit of 30 feet.
4. Signs Permitted in the I District. On premises signs are permitted having an area not exceeding 6 square feet for each foot of frontage. In addition, off-premises signs may be allowed as conditional uses provided that in no case shall more than one off-premises sign be erected or maintained on any premises and the maximum area of a single sign shall be 350 square feet.

Subdivision 2. Exemptions From Sign Regulations. Signs having an area of not more than 2 square feet, the message of which is limited to conveying street numbers, the name of the premises, the name of the owner of the premises and the name of the occupant of the premises; signs having an area of not more than 6 square feet each, the message of which is limited to warning of any danger, prohibition or regulation of the use of the property or traffic or parking thereon, or advertising the premises for sale or rent; the flag of any state or nation respectfully displayed; church or institutional bulletin boards having an area not exceeding 32 square feet, and signs posted by duly constituted public authorities in pursuance of their public duties are exempt from regulation under this Ordinance.

Subdivision 3. Obsolete Signs. It is unlawful to maintain for more than 30 days any sign which has become obsolete because of discontinuance of the business, service or activity which it advertises, removal from the location to which it directs or for any other reason. The fact that an obsolete sign is nonconforming shall not be construed as modifying any of the requirement of this Part.

Subdivision 4. Signs Projecting Over Public Property. It is unlawful to erect or maintain any sign on, over or above any public street right-of-way if any part of such sign extends more than 4 feet over such land or right-of-way, is less than 9 feet above the ground level or has an area exceeding 16 square feet, except that signs on & faces of any marquee or awning and not projecting more than 2 inches there from may extend over such land or right-of-way not more than 2 inches beyond the edge of such marquee or awning. This Part does not apply to signs posted by duly constituted public authorities in the performance of their public duties.

**10.113. General Provisions.**

Subdivision 1. Non-Conforming Lot, Use or Structure. After the adoption of this Ordinance, land or structures or the uses of land or structures that would be prohibited under the regulations for the district in which they are located shall be considered as nonconforming. It is the intent of this Ordinance to permit these nonconforming uses to continue provided they conform to the following provisions:

1. The order of classification of uses from most restrictive or highest to least restrictive or lowest, for the purposes of this Ordinance shall be as follows:
  - A. (S) Shoreland Overlay District
  - B. (F) General Flood Plain Overlay Dist
  - C. (A-1) General Agricultural District
  - D. (R-1) Single Family Residential District
  - E. (R-2) General Residential District
  - F. (B-1) Central Business District
  - G. (B-2) Highway Business District
  - H. (I) Industrial District
2. The substitution of a nonconforming use within a structure, or structure and premises for another nonconforming use within the same structure, or structure and premises in combination, may be permitted only when such substituted use is of a same or more restrictive classification provided that the Board, after public notice and hearing, deems the proposed use to be no more harmful to the district in question than the existing conforming use. In permitting such nonconforming use substitution, the Board may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance. In no case shall such nonconforming use substitution be construed to alter the intent of this Ordinance.
3. A nonconforming use of a structure, or structure and premises in combination may not be extended, except that the extension of use to any portion of a building, which portion is at the time of the adoption of this Ordinance, primarily arranged, constructed, or designed for such specific nonconforming use, shall not be deemed to be an extension of a nonconforming structure, or structure and premises in combination.
4. When a nonconforming use of a structure, or structure and premises in combination, is in fact, discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. A reasonable interim, however, between tenants or occupants shall not be construed to mean discontinuance, or abandonment.

5. No existing structure, or structure and premises in combination, devoted to a nonconforming use shall be, constructed reconstructed, or structurally altered, nor shall the structure, or structure and premises in combination be enlarged except in changing the nonconforming use of the structure, or structure and premises in combination, to a use permitted, under the provisions of this Ordinance, in the district in which said use is located.
  6. An existing structure or structure and premises in combination, devoted to a nonconforming use, which has been damaged by fire, explosion, tornado, earthquake or similar non-controllable cause to an extent of more than sixty (60) percent of its fair market value immediately prior to damage, shall not be rebuilt, altered or repaired except in so far as such structure or structure and premises in combination, is subject to and in conformance with all of the provisions of this Ordinance applicable to the district in question.
  7. Nothing in this Ordinance shall prevent the structural alteration of a structure, or structure and premises in combination, which has been declared unsafe by the City Engineer, provided that the structure and premises in combination is in no way enlarged or expanded.
  8. The foregoing provisions of this Part shall also apply to nonconforming uses in districts hereafter changed.
  9. Where a structure exists on a lot of record and the nonconformance results from inadequate setback or setbacks said structure may be expanded and maintained as if no nonconformance existed, provided that any expansion of the structure complies with Section 10.110. of this Ordinance.
- Subdivision 2. Corner Visibility. On a corner lot in any residential district, no planting, structure, sign, fence, wall or obstruction to vision between the range of three (3) feet and eight (8) feet in height measured from the center line of the street shall be placed or maintained within the triangular area formed by the intersection street right-of-way lines and a straight line connecting points on said street right-of-way line each of which is thirty-five (35) feet distance from the point of intersection.
- Subdivision 3. Group Projects. In the case of two (2) or more buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of the terms of this Ordinance may be varied by the Board in a manner that will be in harmony with the character of the neighborhood and district provided:
1. Such uses are limited to those permitted within the zoning district in which the project is located;

2. The overall intensity of land use is no higher, and the standard of open space is not lower than that permitted in the district in which the project is located;
3. The distance of every building from the nearest property line shall meet the front, side, and rear yard requirements of the district in which the project is located;
4. If the property lies within or abuts upon a residential district and is to be used for a nonresidential purpose, there shall be a buffer strip at least ten (10) feet in width, densely planted with vegetation, along the rear and/or side lot lines abutting the residential properties. No such buffer shall however, extend nearer to a street right-of-way line than the established building setback line of the adjoining residential lot.
5. All off-street parking requirements shall comply with the provisions of this Ordinance.

Subdivision 4. Vehicular Access. Where, in the judgment of the Zoning Inspector, the public good shall be served, such official may require that the developer of any proposed use within any District prepare a plot plan showing contemplated means of egress and ingress onto a public street; said plan thereafter bearing the approval or disapproval of the Council prior to the issuance of a zoning permit.

Subdivision 5. Water Supply and Sewer Systems.

1. Private Wells.
  - A. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
  - B. Private wells may be used for a primary domestic water source only when a public water source is not reasonably available.
2. Private Septic System.
  - A. Any premises used for human occupancy must be provided with an adequate method of sewage treatment.
  - B. Private septic systems are allowed in the A-1 District and may be allowed as conditional uses in the B2, and I Districts. In all cases private septic systems shall be discontinued within one year after public sewer service becomes available. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual

Sewage Treatment Systems Standards, Chapter 7080”, a copy of which is hereby adopted by reference and declared to be a part of this Ordinance.

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

Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope;
4. The existence of lowlands, local surface depressions, and rock outcrops;

- D. Nonconforming sewage treatment systems in the Shoreland Overlay District shall be regulated and upgraded in accordance with Section 10.110., Subdivision 16, Number 3 of this Ordinance.

Subdivision 6. Street Classifications. Other than those streets specifically designated otherwise here, all streets within the City are hereby classified as local streets.

1. Collector Streets. The following streets are classified as collector streets:

- A. Main Street from Railroad Street to Garfield Street.
- B. Railroad Street from Lake Street to Division Street.
- C. Lake Street from Cottage Avenue to Garfield Street.
- D. Cottage Avenue from Lake Street to Division Street

2. Major Streets. The following streets are classified as major streets:

- A. State Highway 271.
- B. County State-Aid Highway 17.

#### **10.114. Subdivision Regulations.**

Subdivision 1. General Provisions. After the effective date of this Ordinance no subdivision or lot created after said effective date shall be sold, and no permit shall be issued for construction of any structure or sewage treatment system or use of

said subdivision or lot unless the subdivision or lot is created in compliance with the terms of this Ordinance. Furthermore, the Lincoln County Recorder shall not record any transfer of property which does not comply with the provisions of this Ordinance.

1. Required Subdivision Platting. All subdivisions which result in the creation of one or more lots of five (5) acres or less in size exclusive of street right-of-way shall be created by a subdivision plat unless specifically exempted in this Section. Before any plat shall have validity, it shall be approved by the Council according to procedures established in this Ordinance and recorded in the Office of the Lincoln County Recorder.
2. Subdivision Types. For the purpose of this Ordinance, there are three types of subdivisions insofar as approval procedures and plat specifications are concerned.
  - A. Subdivisions which are specifically exempted from platting requirements by this Ordinance.
  - B. A minor subdivision is a subdivision created from a contiguous parcel or tract of land all of which is owned by the subdivider, and which contains less than five (5) lots one or more of which are five (5) acres or less in size. A minor subdivision does not include land dedicated for street purposes other than street widening, and does not consist solely of lots exempted from platting requirements.
  - C. A major subdivision is any other subdivision.
3. Exemptions from Subdivision Regulations. The following shall constitute the only exemptions from the requirements to prepare and file a plat when subdividing land. These exemptions do not constitute an exemption from any other provisions of this Ordinance.
  - A. Any subdivision which does not result in a lot of five (5) acres or less in size and does not include land dedicated for street purposes other than street widening.
  - B. Any subdivision created solely for the purpose of transferring interest in a utility right-of-way or for enlarging a street or road right-of-way by transfer to a governmental body.
  - C. A farm may be subdivided to separate one existing farmstead from the surrounding crop or pasture land for the purpose of financing or sale provided that the smallest resulting lot is two and one-half (2.5) or more acres in size.

Subdivision 2. General Conditions. All subdivisions shall be subject to the following general conditions.

1. Existing and Proposed Development. Subdivision plans shall take existing, proposed and planned land use, developments and public improvements into consideration.
2. Street Alignment and Arrangement. The alignment, arrangement extension and projection of streets within a subdivision shall take existing and proposed street patterns into consideration.
3. Access. Every lot within a subdivision shall front on a public street or road dedicated to the exclusive use of the abutting property owners.
4. Land Suitability. Each lot created through subdivision shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the Administrator shall consider susceptibility to flooding, existence of wetlands, soil conditions, erosion potential, topography, water supply and sewage treatment, near-shore aquatic conditions, fish and wildlife habitat, presence of significant historic sites, and any other feature of the land which may affect the health, safety, and welfare of future residents of the proposed subdivision or of the City.
5. Consistency With Other Controls. Subdivision shall conform to all provisions of this Ordinance, and with any other federal, state or local regulations which apply. A subdivision shall not be approved where a later variance from one or more of the provisions of this Ordinance would be required to use the lots for their intended purpose. Reasonable assurances shall be provided that a water supply and that a sewer system can be provided in conformance which Section 10.113, Subdivision 5 of this Ordinance. Lots which require use of sewage holding tanks shall not be approved.

Subdivision 3. Plat Specifications. Final plats shall be required for all subdivisions, and preliminary plats shall be required for all major subdivisions and may be required for minor subdivisions.

1. Preliminary Plat Specifications. A preliminary plat shall be drawn at a scale of 1 inch equals 200 feet or larger; shall be plainly marked "Preliminary Plat"; and shall include, show or be accompanied by the following information:
  - A. Date, graphic scale, north arrow, proposed name of the subdivision; and the names, addresses and telephone numbers of the land owner, sub dividers and contact persons involved with the plat.
  - B. Legal description of the property proposed for subdivision, and a key map showing the general location within the City.

- C. Approximate dimensions and total area of the proposed subdivision.
- D. Location and names of the adjacent subdivisions, and property owners.
- E. Location and dimensions of all existing and pending easements and rights-of-way within and adjacent to the proposed subdivision.
- F. Location of all property lines, section and quarter-section line, structures, drives, wooded area, wetlands, utilities, and other significant natural or man-made features within the proposed subdivision.
- G. The surface water features required to be shown on plats in Minnesota Statutes 505.02 Subdivision 1 as it is amended from time to time.
- H. A line or contour representing the Ordinary High Water Level the “toe” and the “top” of bluffs, and minimum building setbacks from all public waters.
- I. The delineation of any floodplain boundaries.
- J. Existing and proposed topographic information at two (2) foot contour intervals. One (1) foot contour intervals may be required by the Administrator when appropriate.
- K. The design of the proposed subdivision showing streets, blocks, lots, utilities, easements, common areas, park and lake access dedications, surface drainage patterns, and other relevant features.
- L. Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alteration; and proposed methods for controlling storm water runoff and erosion, both during and after Construction.
- M. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot. Current existing sources and field investigations such as soil borings, and percolation tests shall be used as needed. The location of all on-site tests will be noted.
- N. Where private sewage treatment systems are proposed, the type of system proposed shall be specified and detailed information concerning the suitability will be provided.
- O. Written and signed statements explaining how and when the subdivider proposes to finance and install all required improvement and statements

from all appropriate public utilities and units of government concerning the availability of services and the suitability of proposed easements and rights-of-way.

- P. Such written reports and supplemental maps as are necessary to fully explain and describe the design and development of the proposed subdivision.
2. Final Plat Specifications. The final plat shall be drawn in conformance with applicable State Statutes, and shall include or be accompanied by the following information:
- A. Boundary lines of all lots together with a systematic method of numbering to identify all lots and blocks.
  - B. All easements provided by the subdivider and all existing easements together with their dimensions and purpose.
  - C. All survey monuments, benchmarks and property corners discovered or established and set as part of the survey.
  - D. The accurate outline, dimensions, and purposes of all land offered for dedication or reserved for public use, and land reserved for the common use of the property owners within the subdivision.
  - E. An affidavit of ownership showing fee simple title and encumbrances and liens, and certificate of dedication and all land intended for public use, signed by the owner(s) and all other parties having the mortgage or lien interest in the property.
  - F. Receipts showing that all taxes are paid.
  - G. Certification from any Public body requiring specific improvements as a condition of approval that the subdivider has provided acceptable plans and guarantees that the improvements will be made.
  - H. Certificates of approval to be completed by appropriate officials.
3. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for the management of storm water and significant wetlands.
4. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for non-riparian lots within the subdivision shall meet or exceed the sizing criteria in Section 10.110, Subdivision 8.

Subdivision 4. Design Standards.

1. General. The location, alignment, and right-of-way width of all proposed streets shall conform to generally accepted standards established and approved by the City.
2. Blocks. The dimension of blocks shall be consistent with generally accepted design practices, the characteristics of the land, and access requirements.
3. Lots. Lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, and all lots shall comply with the provisions of this Ordinance.
  - A. The size, shape, orientation, and Suitability of every lot shall be subject to the approval of the Council for the type of development and use contemplated.
  - B. Lot sizes shall conform to the provisions of this Ordinance, and have unrestricted access to a road.
  - C. Double frontage lots shall be prohibited except the Council may require said lots where it is essential to provide separation of land uses or to restrict access to certain streets.
  - D. Remnants of land which are below the minimum lot size shall be added to adjacent lots or street rights-of-way rather than allow to remain as an unusable outlot or parcel unless the owner can show a specific plan for the future use of such remnants.
4. Easements. Easements shall be provided for utility placement as required by the utility provider and approved by the Council. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way of sufficient size to allow for future drainage improvements. At a minimum, storm water easements and drainage rights-of-way shall include the entire floodway located within the subdivision. The Council shall determine the extent of all easements, rights-of-way and floodway boundaries within any subdivision.
5. Natural Features. In the subdivision of land, due regard shall be shown to all natural features which if preserved will add attractiveness and stability to the proposed development.

Subdivision 5. Improvements.

1. General. Before a final plat is approved by the Council, the subdivider of the land covered by said plat shall execute and submit to the Council an agreement, which shall be binding on his and their heirs, personal representatives and assigns, that he shall cause no private construction to be made on said platted area or file or cause to be filed any application for budding permits for such construction until all improvements required under this Ordinance have been made or arranged for in a manner specified herein.
2. Street Improvements. Streets shall be constructed in accordance with the standards and specification established by the Council.
3. Utilities. All utilities shall be installed according to plans and specifications approved by the Council.
4. Other Improvements. The following improvements shall be required in all subdivisions.
  - A. Monumentation. All subdivision boundary corners, and block corners shall be marked with permanent steel monuments, and the following additional monumentation shall be required:
    1. All lot corners shall be marked with metal pins not less than one-half (1/2) inch in diameter and twenty-four (24) inches long, and driven flush or below the finished grade.
    2. All section corners and other existing survey monuments recovered shall be noted and accurately described.
    3. The surveyor shall certify on the final plat that all monuments and pins have been properly installed.
    4. Copies of all survey notes and information shall be delivered to the Council upon approval of the final plat
  - B. Other Improvements. The Council may, as a condition of approving a plat, require additional improvements.

### **10.115. Administration.**

#### **Subdivision 1. Zoning Administrator.**

1. Appointment. The City Council shall appoint a Zoning Administrator, who shall administer and enforce the provisions of this Ordinance. The City Council may authorize the Administrator to appoint such assistant Zoning Administrators as are necessary and to designate their powers and duties within the limits of this Ordinance. The Zoning Administrator may also serve in some other capacity as

an employee or appointed officer of the City of Hendricks and shall receive such compensation as the Council may, from time to time determine.

2. Powers and Duties. The Administrator shall have the following powers and duties, and may delegate them to Assistant Administrators.
  - A. To receive and review applications for permits, and issue permits only if such permit request is in full conformance with the provisions of this Ordinance. The Zoning Administrator shall have no power to vary or waive ordinance requirements.
  - B. To receive and review application for requests for action by the Zoning Board of Appeals, City Planning Commission, or the City Council; and provide such information, data and testimony as may be necessary for action taken.
  - C. To make inspections to discover violations and check for compliance with this Ordinance. If violations of this Ordinance are discovered the Administrator shall notify the violator(s) and take such other steps as are necessary to correct the violation.
  - D. To maintain official maps and records of all actions regarding the provisions of this Ordinance.
  - E. To assist the public in complying with and understanding their responsibilities and rights under this Ordinance.
3. Special Zoning Orders Book and Maps. The Zoning Administrator shall keep in his/her office, a book, to be known as the Special Zoning Orders Book, in which he/she shall list, with a brief description, all official decisions of the Zoning Board of Appeals. Each item or decision shall be assigned a number when entered. The Zoning Administrator shall also keep a map or maps of the City to be known as the special zoning orders map to indicate the locations affected by the items in the book. The special zoning orders book and map shall be open to public inspection.

#### Subdivision 2. Zoning Board of Appeals

1. Membership. There is hereby created a Zoning Board of Appeals consisting of three (3) members appointed by the City Council.
2. Rules of Procedures. Two (2) members of the Board constitute a quorum and a majority vote of all members is necessary for any decision of the Board. The Board shall elect one of its members as chairman and appoint a secretary who may but need not be one of its members. Subject to the provisions of this Ordinance, the Board may adopt rules necessary to the conduct of its affairs. The chairman or

in his/her absence, the acting chairman, may administer oaths to witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Board shall keep records of its examinations and other official actions.

3. Powers and Duties. The Board shall have the power and duty of hearing and deciding appeals and requests in the following cases.
  - A. Appeals. Appeals where it is alleged that there is an error in any order, requirements, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance. An appeal for administrative review may be taken to the Board by any person affected by a decision of the Zoning Administrator. Such an appeal shall be made by filing a notice of appeal specifying the grounds thereof with the Board within 30 days after the decision. If the appeal is not made by the owner of the property, which is the subject matter of the decision appealed, the notice shall not be so filed until after it has been served upon such owner either in person or by mail. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal for an administrative review or a variance stays all proceedings, in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In that case, the proceedings shall not be stayed other than by a restraining order granted by a court of competent jurisdiction.
  - B. Variances. To act on requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.
  - C. To decide such other issues as are specifically defined in this Ordinance.
4. Variances. An application for a variance may occur where the applicant determines that by reason of exceptional circumstances, strict enforcement of the provisions of this Ordinance would cause an unnecessary hardship.
  - A. Application and Hearing Procedures. The following application and hearing process shall be followed in applying for and deciding requests for a variance.
    1. A person desiring a variance shall contact the Zoning Administrator and obtain an application form for a variance.

2. A public notice that a specific variance will be considered at the next scheduled meeting of the Zoning Board of Appeals shall be placed in the official newspaper at least ten (10) days before the public hearing. The notice of said hearing shall consist of a legal property description, and a description of the request. In addition, a written notification of the hearing shall be mailed at least ten (10) days prior to all owners of land within 100 feet of the boundary of the property in question.
3. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this Ordinance.
4. Prior to granting the hearing on a proposed variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits. The Zoning Administrator shall notify the appropriate DNR Commissioner of all proposed variances within the Shoreland Overlay District at least fifteen (15) days prior to the public hearing.
5. The decision to approve or disapprove the granting of a variance shall be made no later than sixty (60) days from the date that the Zoning Administrator receives the completed application provided that an extension of time may be granted with the written concurrence of the applicant.
6. The Zoning Board of Appeals must find the following four conditions present and they must be sustained with evidence presented by the applicant before a variance can be approved:
  - (a) The property cannot be put to a reasonable use under the conditions allowed by this Ordinance;
  - (b) The conditions causing the hardships are unique to the property and were not created by the landowner or subdivider;
  - (c) The granting of the variance will not essentially alter the character of the locality; and
  - (d) The granting of the variance is consistent with the provisions of this Ordinance.

- B. Granting of Variances. Variances may only be granted in accordance with Minnesota Statutes, Chapter 462 (as it is amended from time to time), as

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

- C. Decisions Within the Shoreland Overlay District. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, a notification of the approved variance shall be sent to the appropriate DNR Commissioner together with the Zoning Board of Appeals summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
  - D. Existing Developments. For existing developments the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system or hook-up to the City Sewer System.
5. Appeals and Other issues. Appeals of the decisions of the Zoning Administrator shall be heard by the Zoning Board of Appeals provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the Zoning Administrator. The following procedure shall be followed:
- A. Application. The person requesting a hearing shall apply for a Zoning Board of Appeals hearing on forms provided by the Zoning Administrator.
  - B. Notice of Hearing. The Zoning Board of Appeals shall, within thirty (30) days after receipt of the completed application, schedule a hearing and make a decision within sixty (60) days of receipt of the completed application.
    - 1. At least ten (10) days prior to the hearing a notice shall be published in the official newspaper.

2. The Zoning Board of Appeals shall make a decision within ten (10) days of the public bearing, and shall base their decision on the provisions of this Ordinance.

C. Appeal of Decision of Zoning Board of Appeals

1. Appeal to City Council. Appeals of the decisions by the Zoning Board of Appeals shall be heard by the City Council. The person making the appeal must file an application for hearing within ten (10) days after the decision to be appealed is taken by the Zoning Board of Appeals. The procedure, then, for appeal to the City Council shall be the same as for appeals to the Zoning Board of Appeals set out at paragraphs A and B above.
2. Discretionary Review by City Council. Any member of the City Council may initiate City Council review of any decision or action by the Zoning Board of Appeal the same as if an appeal were made, provided that the City Council member shall notify the Zoning Administrator within ten (10) days after the Zoning Appeals Board decision is taken.
3. Decision Final. Any decision or action by the Zoning Board of Appeals shall be final unless properly appealed to the City Council or properly called for discretionary review at the initiation of a City Council member according to the procedures set out above.

Subdivision 3. City Planning Commission.

1. Membership. There is hereby created a City Planning Commission consisting of five (5) members. Said members shall be the Mayor and Council for the City of Hendricks.
2. Term of Appointment. Each Planning Commission member shall be appointed by the City Council for a two-year term. All terms shall start on January 1st. In the event that a member resigns or dies, the position shall be filled by the individual who replaces the City Council position.
3. Powers and Duties of the Planning Commission. The Planning Commission shall be responsible for planning the physical development of the City and recommending appropriate action to the Council. The Commission shall hold hearings and make recommendations to the Council on the adoption and amendment of this Ordinance, the approval of preliminary plats, and perform other duties as may be directed by this Ordinance or the Council.

4. Proceedings of the Planning Commission. The Planning Commission may adopt rules necessary to conduct its affairs. The Commission shall keep minutes of their proceedings, which shall be a public record and be available to any person upon request.
5. Reimbursement and Per Diem. The City Council may by resolution, authorize Planning Commission members to be reimbursed for expenses incurred while performing Planning Commission duties and be paid a per them for attending City Planning Commission meetings.
6. Zoning Ordinances: Public Hearings. No zoning ordinance or amendment thereto shall be adopted by the Council until a public hearing has been held thereon by the Commission upon notice as provided in M.S. 462.357 Subdivision 3 as it is amended from time to time.
7. Subdivisions. Any preliminary plat submitted to the Council for approval shall, prior to final approval, be referred to the Planning Commission for review and recommendation. Any preliminary plat so referred shall be returned to the Council by the Commission within sixty (60) days from the day that the preliminary plat was originally submitted, and if the Commission fails to report within such period, said preliminary plat is deemed to have satisfied the requirements of this Part.

Subdivision 4. Permits.

1. Permits Required. A Permit shall only be issued for those uses and purposes identified and allowed in this Ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system or hook-up to the city sewer system will be provided. Permits shall be secured prior to:
  - A. The construction or placement of any structure or additions (including such related activities as construction of decks and signs), within the jurisdiction of this Ordinance unless specifically exempted by the provisions of this Ordinance.
  - B. The change of use of a building, accessory structure or land within the jurisdiction of this Ordinance.
  - C. The placement of fill, or excavation or removal of materials within the Shoreland as provided for in this Ordinance. Existing public roads under the control of a unit of government may be maintained and improved without any permit being required under the provisions of this Ordinance.

- D. The installation of new wells; and the installation or alteration of sewage treatment systems.
  - E. Other actions as specified in this Ordinance.
2. State and Federal Permits. Prior to granting a permit, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
  3. Permits for Structure Additions. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system as determined by this Ordinance shall be reconstructed or replaced in accordance with the provisions of this Ordinance.
  4. Validity. A permit issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance. If construction has not been completed within one year after the permit has been issued, the permit may be extended in instances where reasonably diligent construction could not complete the proposed structure. Any permit based on any material false statement in the application or supporting documents is absolutely void ab initio and shall be revoked. No permit shall remain valid if the use or structure it authorizes becomes nonconforming.
  5. Certificate of Compliance. The Zoning Administrator shall issue a Certificate of Compliance for each activity requiring a permit as specified in this Ordinance. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided by this Ordinance.
- Subdivision 5. Conditional Use Permits. A Conditional Use Permit may only be issued for those conditional uses specifically identified in this Ordinance.
1. Purpose. The purpose of a Conditional Use Permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health, and safety. In making this determination, whether or not a condition use is to be allowed, the City must consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite for further consideration in determining the effect of the use on the general welfare, public health, and safety.
  2. Information Requirement. The information required as applicable for a Conditional Use Permit request consists of the following items, and shall be submitted when requested by the City:

- A. Site Development Plan. The Plan is to include all buildings on lots including both existing and proposed structures; location of buildings within 100 feet of the exterior boundaries of the property in question; curb cuts, driveways, and number of parking spaces; vehicular circulation; architectural elevations; and location and types of proposed fights.
  - B. Dimension Plan. The Plan is to include lot dimensions and area; "typical" floor and room plans; setbacks of all buildings on the property and proposed setbacks; and sanitary sewer and water plan with estimated daily use.
  - C. Grading Plan. The Plan is to include existing contours; proposed grading elevations; drainage configuration; storm sewer basins and invert elevations; spot elevations; and proposed road profiles.
  - D. Landscape Plan. The Plan is to include existing and proposed location of trees, their type, diameter, and which trees are to be removed; and the location and material used for all screening devices.
  - E. Legal description of property under consideration.
  - F. Proof of ownership of the land for which the Conditional Use Permit is requested.
3. Application and Hearing Procedures. The following application and hearing process shall be followed in applying for and deciding requests for a Conditional Use Permit.
    - A. A person desiring a Conditional Use Permit shall contact the Zoning Administrator and obtain an application form for a Conditional Use Permit.
      1. Evaluation Criteria. A thorough evaluation of any affected public waters, the topography, vegetation and sod conditions on the site; and the existing neighborhood shall be made to ensure:
        - (a) The use or activity shall not involve any activity that adversely affects the general welfare of the Community.
        - (b) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
        - (c) The visibility of structures and other facilities as viewed from public waters is limited;

- (d) The site has adequate water supply and sewage treatment facilities; and
  - (e) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
- (a) Increased setback from the ordinary high water level;
  - (b) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted;
  - (c) Special provisions for the location, design, and use of structures, sewage treatment system, watercraft launching and docking areas, and vehicle parking areas;
  - (d) Ingress and egress to property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control and access in case of fire or other catastrophe;
  - (e) Off-street parking and loading areas where required, with particular attention to the items in (d) above and the economic, noise, glare, or odor effects of the conditional use on nearby property;
  - (f) Refuse and service areas, with particular reference to the items in (d) and (e) above;
  - (g) Utilities, with reference to location, availability, and compatibility,
  - (h) Diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby properties;

- (i) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (j) Required yards and other open space;
  - (k) General compatibility with adjacent and other property in the district.
- B. The application form is completed by the applicant and submitted, together with all required and necessary information, to the Zoning Administrator for review and comment. When the application has been completed and reviewed, the Zoning Administrator at the direction of the City Council schedules a public hearing and notifies the applicant of the place, time and purpose of the public hearing. Notice of said hearing shall consist of the legal property description, and description of the request published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be made at least ten days prior to all owners of land within 100 feet of the boundary of the property in question.
- C. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth in this Part.
- D. After the public bearing has been set, the Zoning Administrator shall prepare reports where appropriate, and provide general assistance on the action to the City Council. Additionally, the Zoning Administrator shall refer the application to other local, State and special units of government where appropriate and when required.
- E. Prior to approval or disapproval of a Conditional Use Permit, the Council shall determine that the proposed development and/or use meets the following criteria:
  - 1. Is expressly identified in the Ordinance.
  - 2. Conforms to conditions enumerated in the Ordinance.
  - 3. Is not injurious to the use and enjoyment of the uses already permitted in the area.
  - 4. Does not impede the normal and orderly development and improvement of the surrounding vacant property.

5. Has or will have adequate utilities, access roads, drainage, and other necessary facilities.
  6. Assure that adequate measures will be taken to prevent offensive odor, fumes, dust and noise so that none of these will constitute a public nuisance.
  7. Prior to granting a Conditional Use Permit, the Zoning Administrator and the Council shall determine that the applicant has obtained all necessary State and Federal permits.
- F. A copy of all notices for any public hearing for a Conditional Use Permit within the shoreland boundaries shall be forwarded to the DNR Commissioner within ten (10) days prior to such action.
- G. Based upon the testimony at the public hearing and the possible effect on the surrounding area the City Council shall either approve, approve with conditions, or disapprove the Conditional Use Permit within thirty (30) days of receipt of a completed application, or within thirty (30) days after the public hearing. Approval of a Conditional Use Permit shall require passage by a three-fifths vote of the City council.
- H. If granted, a copy of the Conditional Use Permit shall be filed with the County Recorder's Office.
- I. Whenever an application for a Conditional Use Permits has been considered and denied by the City Council, a similar application for a Conditional Use Permit affecting substantially the same property shall not be considered again for at least six (6) months from the date of its denial.
4. Lapse of Conditional Use Permit by Non-Use. Whenever within one (1) year after granting a Conditional Use Permit, the use as permitted shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before expiration of the original Conditional Use Permit. There shall be no charge for the filing of such petition. The request for extension shall state the facts showing a good faith attempt to complete or utilize the use permitted in the Conditional Use Permit.

Subdivision 6. Administration of Subdivision Regulations.

1. General. The following procedures shall be followed in the administration of this Ordinance and no real property within the jurisdiction of this Ordinance shall be subdivided or offered for sale, or a plat recorded until the requirements of this

Ordinance have been met. Plans of condominiums and/or group homes shall be presented and reviewed in the same manner as other plats.

2. Pre-Application Meeting. Prior to the submission of any plat of subdivision of any land the subdivider shall discuss the proposed subdivision with the Planning Commission. The provisions of this Ordinance and zoning regulations shall be discussed. If the proposed subdivision qualifies as a minor subdivision as deemed in Section 10.114, Subdivision 1, the specification and procedures applicable to a preliminary plat shall be reviewed and the Commission may waive any or all such requirements when appropriate.
3. Preliminary Plat. A Preliminary Plat shall be required for all major subdivisions and may be required for minor subdivisions. The subdivider shall submit six (6) copies of the preliminary Plat together with all required supporting documents to the City Clerk-Administrator. Said preliminary plat shall be accompanied by a fee of fifty (\$50) dollars plus five (\$5) dollars for each acre within the proposed subdivision.
  - A. The Clerk-Administrator shall forward the preliminary plat to the Planning Commission. The Commission shall review the preliminary plat and if all required information is present the Commission shall set a public hearing date no less than fifteen (15) nor more than forty five (45) days in the future. The Commission may also refer the plat to their technical advisors for review. A decision on the plat must come within 60 days from the time the plat was received by the Clerk-Administrator.
  - B. The Planning Commission shall hold a public hearing on the proposed preliminary plat and the Clerk-Administrator shall have notice of such hearing published in the official paper at least ten (10) days prior to the hearing
  - C. The Planning Commission shall act on the preliminary plat within sixty (60) days of receipt of the application by the Clerk-Administrator unless the subdivider requests a delay of the decision to prepare additional information or amend the plat. The Commission shall transmit their decision together with any conditions attached thereto and the reasons for approval or disapproval to the Council.
  - D. After the Council receives the decision of the Planning Commission, the Council shall act to approve or disapprove the preliminary plat within a reasonable time.
  - E. The approval of the preliminary plat by the Council is revocable and does not constitute final approval or acceptance of the subdivision or

authorization to proceed with the construction of improvements within the subdivision.

- F. Approval of a preliminary plat expires whenever a one (1) year period elapses without a final plat being submitted against it.
4. Final Plat Approval. The final plat in form and number required by Minnesota Statutes together with four (4) paper copies, one reproducible copy and supplemental data and documents, and an Abstract of Title, Registered Property Certificate, or both certified within the preceding thirty (30) days, shall be filed with the City Clerk-Administrator. The plats required for filing shall bear the fully executed certificate of the subdivider and surveyor. The supplementary documents shall be in final form and shall be fully executed by the subdivider at the time of such filing.
- A. The Clerk-Administrator shall forward copies of the final plat and supporting documents to the appropriate city officials and the Council.
- B. Upon receipt and review of the reports of the appropriate city officials; and a finding by the Council that the Final Plat is consistent with the Preliminary Plat and in conformity with the provisions of this Ordinance and Minnesota Statutes, and after payment of all required plat review fees, the Council shall adopt an approving resolution which shall also authorize and direct the City Clerk-Administrator to certify its approval on the plat.
- C. An approving resolution shall become void ninety (90) days after adoption, unless the final plat is recorded in the office of the Lincoln County Recorder.
- D. The review fee for a final plat shall be fifty (\$50) dollars.

Subdivision 7. Amendment.

1. In General. This Ordinance may be amended by following the procedure specified in this Part.
2. Initiation. An amendment may be initiated by the Council, or by the petition of not less than 50 percent of the property owners in the area to be rezoned.
3. Amendment Procedure.
- A. Petition for Amendment. Initiation of an amendment by a property owner or owners shall be accompanied by a petition or application filed with the Zoning Administrator containing at a minimum, the following information:

1. Legal description of the property to be rezoned;
  2. Mailing addresses of the owner or owners;
  3. A description of the existing use and zoning designation of the property,
  4. A description of the proposed use and zoning designation of the property,
  5. If the petition is for a change in any regulations of this Ordinance it shall state the change proposed and the reasons therefore.
- B. Hearings. Upon receipt of a completed petition or application, or upon decision by the Council to propose a zoning amendment two (2) public hearings shall be held. The first public hearing shall be held by the Planning Commission, within 45 days of the Council's receipt of a petition or application from the Zoning Administrator. The Zoning Administrator shall refer all completed petitions or applications to the Council at the first regular council meeting after their receipt. The second hearing shall be held by the Council, within 30 days of the date of the first hearing. Additional hearings and extensions of time between hearings may be granted by the Council if requested by the petitioners. The Council shall take final action on the request at the second hearing or such subsequent hearings as are requested and approved.
- C. Publication and Notice.
1. Notice shall be published in the legal newspaper at least 10 days prior to all public hearings.
  2. If the petition or application is for a change in zoning district designation for a specific property or properties, all owners of record of the property to be rezoned and the property within 350 feet shall be notified by mail at least 10 days in advance of the time and place of all public hearings.
- D. Effective Date. Amendments shall become effective after adoption by the Council, and upon publication in the legal newspaper and filing with the Lincoln County Recorders Office.

Subdivision 8. Notifications to the Department of Natural Resources.

1. Copies of all notices of any public hearings to consider subdivisions, variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner of the Department of Natural Resources or the

Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider preliminary or final plats shall include copies of the proposed plats.

2. A copy of approved amendments and plats, and final decisions granting variances or conditional uses under this Ordinance shall be sent to the Commissioner of the Department of Natural Resources or the Commissioner's designated representative and postmarked within ten days of final action.
3. All notices and official mailings to the Department of Natural Resources shall be sent to the address and person specified in writing by the Commissioner or his representative.

Subdivision 10. Fees. The Council may, by resolution, adopt such fees as it may deem necessary for the administration of the provisions of this Ordinance.

#### **10.116. Violations, Penalties, and Criminal and Civil Actions.**

Subdivision 1. Violations. Failure to comply with any provision of this Ordinance shall constitute a violation of this Ordinance punishable as specified in Section 10.116. of this Ordinance. Violations include the making of a false statement in any document required to be submitted under the provisions of the Ordinance and failure to comply with any of the requirements of the Ordinance, including violations of conditions and safeguards established in connection with grants of variances or Conditional Use Permits. Violations of this Ordinance may occur regardless of whether or not a permit is required for a regulated activity. Each day that a violation continues shall constitute a separate violation.

Subdivision 2. Penalties. Any person violating this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine or by imprisonment or both as set by State Statutes. Each day that a violation continues shall constitute a separate offence.

Subdivision 3. Criminal and Civil Actions. A criminal or civil action may be commenced by the City simultaneously or separately.

#### **10.117 New Main Construction**

Subdivision 1. Construction. When a connection requires installation of new water or sewer main, the construction of such main shall only be done by the City or such contractor(s) as may be retained by the City.

Subdivision 2. Costs. The applicant for a permit shall pay to the City all the engineering, construction, legal, site restoration, and other costs pertaining to the construction of new water, sanitary sewer, or storm sewer main.

Provided however, the City Council may, by majority vote, determine for the City to pay an amount up to, but not more than:

- A. 50% of the costs of new water main.
- B. 50% of the costs of new sanitary sewer main.
- C. 50% of the costs of new storm sewer main.

Subdivision 3. Assessment. Costs associated with the construction of new water, sanitary sewer, or storm sewer main may be assessed against the benefited properties in the same manner as other special assessments and under terms set by the City Council.