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## ZONING ORDINANCE

### PREAMBLE

An Ordinance establishing comprehensive zoning regulations for the City of Eyota, Minnesota, to carry out the intent of the Comprehensive Guide Plan and providing for the administration, enforcement and amendment thereof, in accordance with Minnesota Statute, Section 462.357, Laws of 1965 as amended.

Furthermore, the zoning code is adopted to:

1. Promote and protect the public health, safety and general welfare of the inhabitants of the City of Eyota;
2. Protect and conserve the character and social and economic stability of residential, commercial, industrial, agricultural and other use areas;
3. Secure the most appropriate use of land throughout Eyota;
4. Prevent the overcrowding of the land and undue congestion of population;
5. Provide adequate light and air and reasonable access;
6. Facilitate the provision of public services and facilities;
7. Secure equity among individuals in the use of their property;
8. Promote the safe, rapid, and efficient movement of people and goods;
9. Conserve unique and other natural environmental features and natural processes.
10. Allow for the provision of a safe, adequate supply of housing in suitable residential environments.
11. Encourage energy conservation and the use of renewable energy sources.
12. Carry out the spirit and intent of the Land Use Policies of the City.

## ARTICLE II

### GENERAL PROVISIONS

Section 2.01. COMPLIANCE REQUIRED. It shall be the duty of all architects, contractors, builders and other persons having charge of the erecting, altering, enlarging, repairing, improving or moving of any building or structure, including tents and trailer coaches, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this ordinance; and any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, improving or moving, or in violation of, or in conflict with the terms of this ordinance, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the persons for whom such buildings are erected, repaired, altered, improved or moved in violation hereof and shall be held accountable for such violation.

Section 2.02. VALIDITY (Severability Clause). This ordinance and the various parts, sentences, paragraphs, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid for any reason by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance.

Section 2.03. RELIEF FROM PERSONAL RESPONSIBILITY. Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this ordinance, any claim based upon the performance or the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to Minnesota Statutes 1967, Section 466.02, as amended, and said section does not apply. The City of Eyota shall defend, save harmless and indemnify any of its officers or employees, whether elective or appointed, against any tort claim or demand, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of the zoning ordinance, except as provided in Minnesota Statutes 1967, Section 466.07.

Section 2.04. ORDINANCE CONFORMANCE WITH THE COMPREHENSIVE GUIDE PLAN. The comprehensive guide plan and ordinance shall be in conformance with one another. Where conflicts exist between the comprehensive guide plan and zoning ordinance, the two documents shall be brought into conformance with one another.

Section 2.05. INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of the zoning code shall be held to be minimum requirements. Wherever the zoning code imposes a greater restriction than is imposed or required by other provisions of law or rules or regulations or ordinances, the provisions of the zoning code shall govern.

Section 2.06. INTERPRETATION OF BOUNDARIES. Except where referenced on said map to a street or alley line or other designated line by dimensions shown on said map, the district boundary lines of all districts except the flood fringe and floodway districts shall follow the corporate limits of Eyota, lot lines or the center-lines of streets or alleys rivers or lakes as they existed at the time of the adoption of this ordinance. The limits of the flood fringe and floodway district shall be shown on the zoning map. Where interpretation is needed as to the exact location of the boundaries of any district, the Zoning Administrator shall make the necessary interpretation.

Section 2.07. GUIDELINES FOR USE INTERPRETATIONS. The following conditions shall govern the Zoning Administrator, and the Board of Adjustment on appeals from the Zoning Administrator, in issuing use interpretations.

1. No use interpretation by the Board of Adjustment shall allow the establishment of any use which was previously considered and rejected on an application for amendment.
2. No use interpretation shall permit any use in any district unless evidence shall be presented which demonstrates that it will comply with each use limitation established for the particular district.
3. No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in such district and is more similar to other such uses than to uses permitted or conditionally permitted in a less restrictive district.
4. If the proposed use is more similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a permit for a conditional use permit pursuant to Article XI, Section 11.10, Conditional Uses.
5. Any use permitted pursuant to this section shall fully comply with all requirements and standards imposed by this ordinance.

Section 2.08. EFFECT OF FAVORABLE USE INTERPRETATION. No use interpretation finding a particular use to be permitted or conditionally permitted in a specific district shall authorize the establishment of such use or the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and certificates which may be required by the codes and ordinances of the City of Eyota or other governmental agencies having jurisdiction. These permits and approvals include, but are not limited to, zoning certificates, site planning permits, and building permits.

Section 2.09. ZONING MAP. The zoning map shall be entitled "City of Eyota, Zoning Map", which is hereby adopted by reference at the time of adoption of this ordinance. A certified copy of the map shall be signed and dated by the Mayor and Chairperson of the Planning Commission and maintained in City Hall with all current amendments, so long as this ordinance remains in effect.

Section 2.10. ZONING OF ANNEXED AREA. All territory which may hereafter be annexed to the City of Eyota shall automatically be zoned Low Density Residential (R-I District) until otherwise rezoned. An exception to this provision shall be where the Soil Survey of Olmsted County, Minnesota (U.S.D.A. Soil Conservation Service) indicates that a particular area is listed as having "rare", "occasional" or "frequent" flooding potential. Such areas shall be automatically designated as flood plain management district, in addition to being zoned Low Density Residential (R-I District).

Section 2.11. FEES. There shall be fees established for items in this ordinance as established from time to time by resolution of the City Council.

## ARTICLE III

### DEFINITIONS

Section 3.01. DEFINITION PURPOSE: For the purposes of this ordinance, certain terms or words used herein shall be interpreted and issued under the following guidelines. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word shall is mandatory, the word may is permissive. The words used or occupied includes the words intended, designed, or arranged to be used or occupied. The word lot includes the words plot or parcel. Reference to the Comprehensive Guide Plan shall mean the City of Eyota Land Use Plan or any future land use plan adopted by the City Council.

#### Section 3.02. DEFINITIONS

1. **ACCESSORY USE OR BUILDING:** A use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use of land, principal structure or building.
2. **ALLEY:** Any dedicated public way providing a secondary means of vehicular access to land or structures thereon, which may be located on the opposite property line from the principal street access.
3. **AGRICULTURE:** The use of land for commercial agricultural purposes, including the cultivation of land, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory use shall be secondary to that of normal agricultural activities.
4. **BASEMENT.** That portion of a floor of a building which is wholly or one-half (1/2) or more below the average grade of the ground level adjoining the building.
5. **BOARDING/ROOMING HOUSE:** Any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any provision for cooking or kitchen accommodations within individual rooms, but centrally located.

6. **BUILDABLE AREA.** The portion of a lot remaining after required yards and open space, including buffering and screening, required by this ordinance have been provided.
7. **BUILDING.** Any structure for the shelter, support and enclosure of persons, animals, chattel or property of any kind; and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
8. **BUILDING, EARTH SHELTERED:** A building constructed so that more than fifty (50%) percent of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the state building code standards are satisfied. Partially completed buildings shall not be considered earth sheltered.
9. **BUILDING HEIGHT:** The vertical distance from the average ground level at the front wall of the building to the highest point of the roof.
10. **BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is located.
11. **BOARDER:** An individual other than a member of the family occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services.
12. **CHILD CARE FACILITY:** A State and County licensed private establishment, which for gain or otherwise regularly provides one or more children with care, training, supervision, habitation, rehabilitation or developmental guidance, for periods of less than 24 hours a day, in a dwelling. (All child care facilities shall be licensed under the State of Minnesota Public Welfare Licensing Act.)
13. **CLINIC:** A public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors, dentists, doctors of acting in chiropractor or other providers of medical care licensed by the State and acting in concert and in the same building for the purposes aforesaid.
14. **COMPREHENSIVE GUIDE PLAN:** The long range plan for the desirable use of land in the City of Eyota as officially adopted and as amended from time to time by the City Council.
15. **CONVALESCENT HOME:** A home designed and licensed by the State of Minnesota to provide care for aged or infirm persons requiring personal care or custodial care.

16. DEVELOPMENT: Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining , dredging, filling, grading, paving, excavation, drilling operations or storage of materials or equipment.
17. DWELLING: Any building or portion thereof designed or used as the permanent residence consisting of living/sleeping/kitchen and sanitary facilities. A tent, or travel trailer is not considered a dwelling.
18. DWELLING, FARM: A single family detached or manufactured home dwelling located on a farm which the resident of said dwelling either owns, operates, or is employed thereon.
19. DWELLING, MULTI-FAMILY: A residential building that is designed for three (3) or more dwellings. The number of families in residence shall not exceed the number of dwellings provided.
20. DWELLING, SINGLE-FAMILY ATTACHED: An attached single family dwelling which is attached at one side to only one other single family dwelling.
21. DWELLING, SINGLE FAMILY DETACHED: A detached single family dwelling, other than a manufactured home.
22. DWELLING, TOWNHOUSE: Three (3) or more attached dwellings where each dwelling is divided by a separation wall extending the full height of the building. Each unit is capable of individual access, use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each dwelling.
23. DWELLING, TWO FAMILY: A detached building on a single lot enclosing two (2) dwellings and used exclusively for two (2) families.
24. ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground, surface or overhead transmission or distribution lines or systems that are necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but excluding all buildings except water well pump houses.
25. EXTRACTION. Any removal from the surface of the earth of soil, gravel, stone or other mineral or solid natural matter or made by tunneling or breaking or undermining the surface of the earth for commercial purposes.

- 26. FAMILY: One or more persons related by blood, marriage or adoption, including foster children, or a group of not more than five (5) persons, some or all of whom are not related by blood, marriage or adoption, living together and maintaining a common household.
- 27. FARM: A parcel or parcels the principal use being for purposes of agriculture, including farm dwellings and related structures used for agriculture.
- 28. FEEDLOT: Land or buildings or both intended for confined feeding, breeding, raising or holding of animals, including poultry, and where manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure, and where ten (10) or more animal units are raised and/or held, fed, or bred. For the purposes of this definition, an animal unit shall be the equivalent of the following:

One mature dairy cow	1.4 animal unit
One slaughter steer or heifer	1.0 animal unit
One horse	1.0 animal unit
One swine over 55 pounds	.4 animal unit
One duck	.2 animal unit
One sheep	.1 animal unit
One swine under 55 pounds	.05 animal unit
One turkey	.018 animal unit
One chicken	.01 animal unit

For animals not listed above, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

- 29. FENCE: An artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
- 30. FLOOD PLAIN: The areas adjoining a water course which have been or hereafter may be covered by the regional flood.
- 31. 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 on an average frequency in the magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- 32. GARAGE: Any space or structure or series of structures for the storage of motor vehicles or recreational vehicles for the use by the owner of the property.

33. **GROUND LEVEL, AVERAGE:** Average elevation of the finished grade at the outside building wall that is adjacent to the front yard.
34. **HAZARDOUS MATERIAL:** A solid, liquid or gaseous material that may cause or contribute to serious illness or death, or that poses a substantial threat to human health or to the environment when improperly managed. Hazardous material may be identified by any of four characteristics. The four characteristics are:
- a. **Ignitable:** These materials may pose a fire hazard. Fires may present immediate dangers of heat and smoke and may also spread harmful particles over a wide area;
  - b. **Corrosive:** These materials require special containers because of their characteristic of corroding standard materials. They have an additional characteristic of being able to dissolve toxic compounds;
  - c. **Reactive:** These materials, when handled in a routine manner, may react spontaneously and vigorously with air and/or water. They also may be unstable to shock or heat. They may generate toxic gases or explode;
  - d. **Toxic:** Those materials, when improperly managed, may release toxicants (poisonous material) in sufficient quantities to pose a hazard to human health or to the environment.
35. **HOME OCCUPATION:** Any activity which is conducted within a dwelling and carried out for gain by a resident conducted as an accessory use, clearly incidental and secondary to the principal use, in the resident's dwelling.
36. **HOTEL, MOTEL, TRAVEL COURT:** A commercial establishment comprising a series of attached or detached rental units, with or without eating facilities, used primarily as temporary residences for motorists, tourists or travelers.
37. **KENNELS:** Any building or premises on which three (3) or more domestic animals over two (2) months of age are kept.
38. **LOADING SPACE:** An off-street space on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which has means of access to a public street or alley.
39. **LOT:** A designated parcel, tract or piece of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit.

40. LOT COVERAGE: That part or percentage of the total lot area occupied by buildings and structures, including all accessory buildings or structures.
41. LOT, CORNER: A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or part of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the corner.
42. LOT, DEPTH: The mean horizontal distance between the front and rear lot lines.
43. LOT FRONTAGE: The smallest dimension of a lot abutting on a public street measured along the street line, but it shall not be considered as the ordinary side of a corner lot. Any corner lot shall have only one front yard and all other sides shall be side street side yards.
44. LOT, INTERIOR: A lot other than a corner lot.
45. LOT, THROUGH: A lot having frontage on two (2) parallel or approximately parallel streets. It may be referred to as a double frontage lot.
46. LOT LINE, FRONT: The line separating the lot from the street right-of-way. In the case of Cluster Development, (Sections 5.02(4), and 5.03(4)), a line separating the lot from the street right-of-way or private drive, street or parking area or common open space area.
47. LOT LINE, REAR: The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. Corner lots shall consider the rear lot line an interior side lot line.
48. LOT LINE, SIDE: Any lot line other than a front or rear lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line. Corner lots shall have two (2) interior side lot lines.
49. LOT OF RECORD: A lot which is part of a subdivision plat, the map of which has been legally recorded in the office of the Register of Deeds of Olmsted County, or a lot described by metes and bounds, the deed to which has been legally recorded in the office of the Register of Deeds of Olmsted County. Lots not approved by the City through the subdivision ordinance shall be considered illegal and not lots of record.
50. LOT WIDTH: The distance between the side lot lines measured along a straight line at the minimum required front yard setback line.

51. **MANUFACTURED HOME:** A building transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It shall comply with Minnesota Laws, Chapter 327, Section 327.31 to 327.35.
52. **MANUFACTURED HOME PARK:** Any lot or tract of land upon which three (3) or more occupied manufactured homes are harbored, either with or without charge, and including any building or enclosure intended for use as a part of the equipment of such park.
53. **MANUFACTURED HOME SUBDIVISION:** Any area of land that is subdivided and platted into three (3) or more lots that are used for the placement of manufactured homes that do not comply with Article V, Section 5.02,3(d), Design Criteria for Dwellings.
54. **NON-CONFORMING LOT:** A lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.
55. **NON-CONFORMING STRUCTURE:** A structure that does not comply with the bulk, height or setback regulations of the district in which it is located; this includes structures that do not comply with the regulations of the flood plain district.
56. **NON-CONFORMING USE OF LAND:** Any use of a lot or parcel of land that does not conform to the applicable use regulations of the district in which it is located.
57. **NON-CONFORMING USE OF STRUCTURES:** A use of a structure that does not conform to the applicable use regulations of the district in which it is located.
58. **PARKING SPACE:** A space for the parking of a motor vehicle within a public or private parking area.
59. **PERSON:** Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, Administrator, trustee, receiver or other appointed representative.
60. **PORCH, UNENCLOSED:** An entrance to a building which may include steps, a landing, railings and a roof, but not enclosed either partially or completely above the landing by windows, screens or siding.

61. PUBLIC UTILITY: Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under governmental regulation to the public, electricity, gas, steam, water, sewage, disposal, communication or transportation facilities.
62. RECREATIONAL CAMPING VEHICLE. The words "recreational camping vehicle" shall mean any of the following:
  - a. Travel trailer means a vehicular, portable structure built on a chassis designated to be towed and used as a temporary dwelling for travel, recreational or vacation use.
  - b. Pick-up coach means a structure design to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
  - c. Motor home means a portable, temporary dwelling to be used for travel, recreation, and vacation and constructed as an integral part of a self-propelled vehicle.
  - d. Camping trailer means a folding structure mounted on wheels and designed to be towed and used for travel, recreation and vacation use.
63. RIGHT-OF-WAYS: A corridor of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission, shade trees, or for other special use.
64. SHOPPING CENTER: A development in which one or more principal buildings are located on one or more lots of record that abut one another and the principal building (s) contain two or more servicing, merchandising, leisure uses, or office uses, and where each such use abuts the adjacent use located within the principal building; and the development is under one (1) ownership or management. Shopping centers have common on-site parking, and have a building composition that functions as an architectural unit.
65. SIGN: Any device located outdoors designed to inform or attract the attention of persons on which the sign is located.
66. SIGN, ADVERTISING: A sign located outdoors that directs attention of persons to a business, commodity, service or entertainment not related to the premises where such a sign is located or to which it is affixed.
67. SIGN, BUSINESS: A sign that is limited to identification purposes announcing the proprietor's name, the nature of the business and identifying exclusively the principal use of the premises on which the sign is located.

68. STATE BUILDING CODE: The Minnesota State Building Code, setting forth standards for the construction, addition, modification, and repair of buildings and other structures for the purpose of protecting the health, safety, and general welfare of the public.
69. STREET: A public or private right-of-way approved or accepted by public authority or user, which provides a primary means of public access to abutting property. The term street shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.
70. STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.
71. STRUCTURE ALTERATION: Any changes in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial change in the roof or exterior walls.
72. SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision.
73. SUPERVISED LIVING FACILITY: A facility providing lodging plus supervision, counseling, or rehabilitative services to persons, and licensed as such under the Minnesota State Health Code.
74. SWIMMING POOL: Any private pool, pond, lake or open tank not located within a completely enclosed building and capable of containing water to a depth at any point greater than one and one-half (1 ½) feet.
75. USE: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.
76. USE, CONDITIONAL: A use that would not be appropriate generally but may be allowed upon finding that specific conditions and criteria are met and appropriate restrictions are placed on the lot, structures or use.
77. USE, PERMITTED: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.
78. USE, PRINCIPAL: The primary or predominant use of any lot.

79. USE, TEMPORARY: A use established for a fixed period of time with the intent of discontinuance of such use upon the expiration of the time period.
80. YARD: A required open space on the same lot as the principal building, unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to certain limitations of the zoning ordinance.
81. YARD, FRONT: A required yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the principal building and the front lot line. For through lots, the determination of a front yard shall be determined by the front yard patterns of adjoining lots. For corner lots both yards abutting a street shall be considered front yards.
82. YARD, REAR: A required yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the principal building.
83. YARD, SIDE: A required yard extending from the front lot line to the rear lot line, the width of which is the minimum horizontal distance between the side lot line and the principal building.
84. ZONING ADMINISTRATOR : The designated Zoning Administrator of the City of Eyota, or his/her authorized representative.
85. ZONING CERTIFICATE: A document issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of the zoning code and for the purpose of carrying out and enforcing its provisions.
86. ZONING CODE: The zoning code of the City of Eyota consisting of Eyota Ordinance Number 53.
87. ZONING MAP: A map designating the areas comprising the zoning districts of this ordinance and boundaries of said districts. The map is made a part of this ordinance, being designated as the Official Zoning Map for the City of Eyota with all proper notations, references and other information as shown thereon.

## ARTICLE IV

### USE CATEGORIES AND DISTRICT USES

Section 4.01. USE CATEGORIES. The purpose of this section is to identify and categorize land use types. These use categories shall be used in Table 4.1 Development Regulations--Districts and Uses in the determination of uses permitted, conditionally permitted, or not permitted within the specific zoning districts.

#### 1. Agricultural Uses

- a. General Agriculture: The production of crops, plants, or trees; or the production, keeping, grazing or feeding of livestock for the sale of livestock, or livestock products, or other animals and animal products. This use includes incidental retail sales of products grown or raised on the farm. A farm dwelling (one family, detached or manufactured home) shall be considered a part of this use category.
- b. Animal Services: Activities or establishments that consist of veterinary and related services for livestock, domestic pets and equines including kennels or the housing or boarding of pets and other domestic animals such as stables and breeding services.
- c. Agricultural Services: Activities or establishments engaged in services that support or assist the agricultural community such as soil preparation services, crop services, or farm management services and includes offices and storage areas.
- d. Retail Agricultural: Establishments that are primarily engaged in providing services related to or conducting the sale at retail of horticulture and floriculture products, including nurseries, greenhouses, lawn and garden services, or ornamental shrub and tree services. These enterprises typically produce their own stock, unlike a garden center which imports from other establishments the products it sells at retail.

#### 2. Residential Uses

- a. Single Family, Conventional: One family attached or detached dwellings, townhouses or two family dwellings built singly or as part of a larger subdivision, and supervised living facilities that house six (6) people or fewer.

- b. Multi-Family, Limited: Multi-family dwellings of three (3) or four (4) units developed singly or as part of a larger multifamily development, and supervised living facilities that house up to sixteen (16) people or fewer.
- c. Multi-Family: Multi-family dwellings of five or more units, singly or as part of a larger development, boarding/rooming houses, convalescent homes, and supervised living facilities that house up to twenty-five (25) persons.
- d. Manufactured Home: Manufactured homes as defined in Article III, and located within a subdivision, park, or singly on a separate lot.
- e. Child Care Facility: Consists of only child care facilities as defined in Article 11.

### 3. Servicing, Merchandising, Leisure Uses, Office Uses

- a. Commercial Recreation: Facilities and activities which primarily provide a recreational service, including but not limited to indoor/outdoor private and public for profit sports/recreation clubs and facilities, and camping facilities, but excluding target ranges, shooting or gun clubs.
- b. Public Recreation: Facilities and activities providing or recreational opportunities for the general public by a governmental body, including but not limited to public parks, playgrounds, buildings and grounds, golf courses.
- c. Amusement and Entertainment: Facilities and activities that consist of the retail sale of alcoholic beverages for consumption on the premises, theaters, dance halls and other facilities with live entertainment, bowling alleys, billiard parlors and coin-operated amusement devices.
- d. Transient Amusement Enterprises: Facilities and activities consisting of temporary outdoor amusement enterprises including circuses, carnivals and fairs.
- e. Racing and Track Enterprises: Facilities and activities that consist of outdoor racing with but not limited to horses, cars, motorcycles and dogs, or track facilities for vehicles and animals including motor-cross courses.
- f. Transient Accommodations: Establishments engaged in providing lodging or lodging and meals for the traveling public including hotels, motels, and tourist courts.
- g. Services, Low Impact: Activities involving personal, financial, real estate, insurance, health, legal, or social services and business services that are located solely within a building. Such activities include but are not limited to household product repair services, coin operated laundries, beauty and barber shops, funeral

home, advertising services, collection agencies, banks, doctors offices, clinics, law offices and counseling services.

- h. Services, High Impact: Activities involving personal or business services, repair services, and automotive repair services. Such activities include but are not limited to commercial laundries, linen supply, industrial laundries, outdoor advertising services with outdoor storage, blueprints/ photocopying, cleaning/disinfecting/extermination services, specialized repair shops needing outside storage, equipment and vehicle rental/leasing, parking lots, car washes, bus/taxi depots.
- i. Essential Services: Facilities for telephone lines and minor switching stations, and local service for natural gas lines, electric supply lines, sanitary sewer lines, storm sewer lines, water supply systems.
- j. Membership Organizations: Facilities and activities that consist of organizations operating on a membership basis for the promotion of the interests of the members, including trade organizations, political or labor organizations, and civic, social and fraternal associations, with the primary activities related to membership organization functions, amusement/ entertainment, or services to the general public.
- k. Restaurants: Retail establishments selling, primarily, prepared foods, and secondarily, alcoholic beverages for consumption on the premises; and also lunch counters, refreshment stands and fast-food establishments.
- i. Retail and Convenience Retail Trade: Establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods. Such uses include but are not limited to food, drug, clothing, sporting goods, hardware, paint, glass and wallpaper stores, home improvement establishments, retail nurseries, general merchandise stores, food stores, apparel and accessory stores, furniture stores, home furnishing stores, florists, garden centers, retail butcher shops, variety or specialty stores of a similar character and intensity.
- m. Vehicle/Implement Dealers and Gasoline Service Stations: Retail dealers selling new and used automobiles, trucks, and other self-propelled vehicles, boats, recreational and utility trailers, motor-homes, motorcycles, farm implements, (including showroom and service facilities), and gasoline service stations, and convenience stores that sell gasoline.
- n. Wholesaling, Limited Impact: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers. Such primary activities or incidental activities shall not be conducted outside of the primary

buildings related to the activity. Uses in this category include but are not limited to vehicle parts and supplies, furniture, electrical goods, hardware, plumbing and heating supplies, drugs, apparel, grocery products, alcoholic beverages, meat locker plants and other specialty wholesaling of a similar character and intensity.

- o. Wholesaling, High Impact: Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm or professional business users; or to other wholesalers, and where outdoor storage may be a necessary part of the business. Uses in this category include but are not limited to wholesaling of vehicles, lumber and other construction materials (lumber yards), construction machinery, farm machinery, industrial machinery, transportation equipment, scrap/waste materials, farm-product raw materials and product storage, and other wholesaling of a similar character and intensity. This category will include also all facilities for freight transportation and motor freight warehousing of any type.
- p. Institutional Buildings: Government offices of legislative, judicial, administrative and regulatory activities of federal, state or local governments, local schools, child care centers other than those located in a residential dwelling, churches, and hospitals; excluding structures used for essential services and all activities requiring related outdoor storage areas.

#### 4. Industrial Uses

- a. Construction: Activities and facilities consisting of general building construction or building/road or related maintenance, heavy construction and special trade contractors. Such uses include the fixed place of business, including office space, indoor storage space, and space or yards for storage of vehicles, equipment and supplies.
- b. Research and Testing: Primary activities consisting of research and development laboratories. Such facilities carry on investigations in the natural or physical sciences or engineering and development as an extension of investigation with the objective of creating end products. Such primary uses may include soils testing and engineering, medical research, agricultural research, and activities and facilities of a similar character and intensity.
- c. Heavy Industry: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, establishments that blend materials. Such uses include but are not limited to food and kindred products preparation such as grain milling; lumber and wood products such as sawmills, planing mills or hardwood veneer production and storage; leather tanning and finishing; clay, glass and concrete products production; fabricated metal products such as metal coating or engraving; manufacturing of machinery, equipment; chemical manufacturing; related waste/refuse treatment by such uses,

excluding land fills or dumps; and uses of a similar character and intensity. (Refer to Article VIII, Section 8.12, Dumping and Disposal of Solid or Liquid Waste.)

- d. Light Industry: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, or includes establishments engaged in assembling component parts of manufactured products. Such uses include but are not limited to recycling establishments located completely inside a building, printing, publishing and allied industries; manufacturing of leather products from finished leather; apparel products made from fabrics; furniture and fixtures, mill-work, cabinet and similar wood products production; cut stone and stone products production excluding quarries; manufacture of engineering, laboratory, scientific, or research instruments/equipment, and measuring and controlling instruments; and uses of similar character and intensity.
- e. Transmission and Distribution: Consists of establishments providing to the general public or to other business enterprises; facilities for freight transportation by train or truck; and electricity, gas and other utility system elements including but not limited to electric, gas and other utility substations, transformer stations, pumping stations, regulator stations; and broadcasting towers.
- f. Junkyards: The temporary or continuous above-ground storage of unusable or unlicensed vehicles, construction and farm machinery and equipment, or portions thereof and other similar materials treated in a like manner. This category includes establishments that recycle vehicles, machinery, equipment or materials and stored outside buildings.
- g. Extraction: Extraction of soil, stone, rock, gravel, sand or similar natural products from the ground for commercial purposes.

## 5. Other Uses

- a. Cemeteries: The permanent interment of people or domestic pet animals either above or below ground level.
- b. Signs: Signs that are permanently attached to buildings or having a fixed location on the ground.
- c. Home Occupations: See Article VIII, Section 8.08, Home Occupations and the definition of a home occupation in Article III, Section 3.02.
- d. Hazardous or Toxic Material Storage: See Article VIII, Section 8.25, Hazardous Material Storage.

Section 4.02. DISTRICT REGULATIONS. This table shall indicate what categories of uses as listed in Section 4.01 are permitted outright, permitted under a conditional use permit, or not permitted within each zoning district. The Table shall be used in combination with the Use Categories in Section 4.01 by the Zoning Administrator, Planning Commission and City Council.

TABLE 4.1

DEVELOPMENT REGULATIONS

DISTRICTS AND USES

0 - Outright Use  
 C - Conditional Use  
 Blank - Not Permitted

ZONING DISTRICT

	<u>R-1</u>	<u>R-2</u>	<u>C-1</u>	<u>M-1</u>	<u>AG</u>
<u>AGRICULTURAL USES</u>					
General Agriculture				C	O
Animal Services				C	O
Agricultural Services			C	O	C
Retail Agriculture					O
	<u>R-1</u>	<u>R-2</u>	<u>C-1</u>	<u>M-1</u>	<u>AG</u>
<u>RESIDENTIAL USES</u>					
Single-Family, Conventional	O				
Multi-Family, Limited	C	O			
Multi-Family		O			
Manufactured Home					
Single Home	O				O
Park		C			
Subdivision		C			
Child Care Facility	See Article IV, Section 4.01, (2)(e)				

SERVICING, MERCHANDISING,  
LEISURE USES, OFFICE USES

	<u>R-1</u>	<u>R-2</u>	<u>C-1</u>	<u>M-1</u>	<u>AG</u>
Commercial Recreation			C		C
Public Recreation	O	O	O		O
Amusement/Entertainment			C		
Transient Amusement Enterprise				C	C
Racing/Track Enterprises					C
Transient Accommodations				C	
Services, Low Impact			O		
Services, High Impact			C	O	
Essential Services	O	O	O	O	O
Membership Organizations		C	O		C
Restaurants			O	C	
Retail/Convenience Retail Trade			O		
Vehicle Dealers and Gasoline Service Stations			C	C	
Wholesaling, Limited Impact			C		
Wholesaling, High Impact				C (amended 8/20/11)	
Institutional Buildings	C	C	C	C	C

R-1    R-2    C-1    M-1    AG

INDUSTRIAL USES

Construction			C	C	
Research/Testing				C	
Heavy Industry				C	
Light Industry				C	
Transmission/Distribution				C	C

Section 4.03. SEXUALLY ORIENTED BUSINESSES:

1. A sexually oriented business under this section shall be defined as provided for in the code of ordinances, and specifically the Eyota Sexually Oriented Business Ordinance.
2. Sexually oriented businesses shall be considered conditional uses and may be permitted only within qualifying areas of C-1 Commercial District and M-1 Industrial District.
3. No sexually oriented business may be granted a conditional use permit under this section unless it has applied for and received a license under the Eyota Sexually Oriented Business Ordinance. Application for the sexually oriented business license and a conditional use permit may happen concurrently or a conditional use permit may be granted under this section subject to the applicant receiving a license pursuant to the sexually oriented business ordinance. An applicant for a conditional use permit under this section shall also include a copy of the application for the license under the sexually oriented business ordinance with the application under this article.
4. Location. No sexually oriented business may be located or operated within 1500 feet of:
  1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related activities;
  2. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
  3. A boundary of a residential district as defined in the City of Eyota zoning code;
  4. A public park or recreational area which has been designated for park or recreational activities including but limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;
  5. A public theater,
  6. A shopping center; or
  7. An airport

8. A senior housing facility
  9. A hospital
  10. A medical clinic
  11. A care center
5. Location Near Other Sexually Oriented Businesses. The operation, establishment, substantial establishment, or transfer of ownership or control of a sexually oriented business may not occur within 1500 feet of another sexually oriented business. In addition, there shall not be more than one sexually oriented business within a block front even if said block is greater than 1500 feet in length.
  6. Multiple Uses or Enlargement of Uses. The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business, is prohibited.
  7. Measurement from Certain Uses. For the purpose of subsection (4) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (4). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of the Section. Such distance shall be measured across property lines, regardless of ownership of the property.
  8. Measurement between Sexually Oriented Businesses. For purposes of subsection (5) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
  9. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the City Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.
  10. Following passage, this ordinance shall be effective on publication.

## ARTICLE V

### USE DISTRICTS

Section 5.01. AGRICULTURAL (AG): The intent of this district is to provide for the continuation of certain historically cultivated or pastured agricultural lands and related agricultural activities that will be used for urban land uses in the future. The intent is to apply this district to those areas designated as "Agricultural" in the comprehensive guide plan.

1. Permitted and Conditional Uses. See Table 4.1.
2. Development Requirements:
  - a. Maximum Building Height:
    1. No height restrictions shall be placed on farm or other non-residential buildings or structures. Where farm or other non-residential buildings or structures are located within two hundred (200) feet of a residential zoning district, no building or structure shall have a maximum height of more than fifty-five (55) feet.
    2. Thirty-five (35) feet for residential principal buildings (2½ stories).
  - b. Minimum Lot Area:
    1. Fifteen (15) acres for general agriculture uses.
    2. Two (2) acres for all animal services, agricultural services and retail agriculture uses.
    3. Essential services shall have no required minimum lot area.
    4. Cemeteries: 1/2 acre.
  - c. Maximum Lot Coverage: Non-farm buildings shall cover no more than fifteen (15%) percent of the lot area.
  - d. Minimum Front Yard: The minimum front yard shall be forty- five (45) feet.
  - e. Minimum Rear Yard: A minimum rear yard of fifty (50) feet shall be required.

- f. Minimum Side Yard: Each lot or parcel shall have a total side yard (both yards) of fifty (50) feet, where no side yard shall be less than twenty (20) feet.

3. Use Limitations:

- a. No feedlot shall be permitted on a temporary or permanent basis within this district. (See Article III Sec. 3.02(28) Definitions for a definition of a feedlot.)
- b. The commercial feeding of garbage or offal to swine or other animals, soil surface application of sewage sludge, or open non-contained storage of silage shall not be permitted or conditionally permitted in the agricultural district.
- c. A second farm dwelling, only in the form of a manufactured home, may be permitted on the same lot as the farm dwelling of a farm, but shall house only family members or persons employed on the farm. All minimum Olmsted County Health Department regulations pertaining to the sewage system shall be adhered to or the manufactured home shall meet all City requirements for connecting with the City sewer, and shall be consistent with all other requirements of this ordinance. A conditional use permit shall be required for manufactured homes as a second farm dwelling.
- d. Animal Services are permitted provided no cage or pen housing such animals is located nearer than one hundred (100) feet from any lot line.
- e. One (1) temporary building for the incidental sale of agricultural produce shall be located not less than twenty (20) feet from the front lot line and provided that the required number and spaces for patron parking twenty (20) feet from said front lot line is provided. Two (2) parking spaces on-site shall be provided.

4. Accessory Uses and Structures: Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted. Accessory structures attached to a principal building shall be located in the build-able area of the lot. Other structures shall not be located in the front yard, and shall not be closer than twenty-five (25) feet to any side or rear lot line.

Section 5.02. LOW DENSITY RESIDENTIAL (R-I): The intent of this district is to provide land area for residential uses that are compatible with and of a similar character to single-family residential buildings. The intent is to apply this district to those areas designated as "Low Density Residential" in the comprehensive guide plan.

1. Permitted and Conditional Uses: See Table 4.1.

## 2. Development Requirements:

### a. Maximum Building Height:

1. Thirty (30) feet for principal buildings.
2. Twenty (20) feet for accessory structures.
3. A maximum height of fifty-five (55) feet for institutional buildings may be permitted. Any institutional building with a height of over thirty (30) feet shall provide two (2) feet of additional front and side yard for each additional one (1) foot of height.

### b. Minimum Lot Area for a Principal Building:

1. Single Family Detached: 7200 square feet
2. Single Family, Attached: 6000 square feet per dwelling
3. Two Family Dwelling: 10,000 square feet
4. Supervised Living Facility: 7200 square feet
5. Multi-Family, Limited:
  - 3 unit building - 12,800 square feet
  - 4 unit building - 15,600 square feet
6. Institutional Building: 10,000 square feet. A larger lot may be necessary to accommodate the building and meet yard, parking, loading/unloading area, buffer and screening and maximum lot coverage requirements.
7. Cemeteries: 1/2 acre.

### c. Minimum Lot Frontage:

1. Single Family, Detached and Attached and Supervised Living Facility: Seventy (70) feet
2. Two Family Dwelling, and Multi-Family, Limited: Eighty (80) feet

3. Frontage Modifications: Where curvilinear streets and cul-de-sacs are used in a subdivision or where other unconventional lot shapes are used, a reduction in the lot frontage shall be permitted, provided that: a) the lot width measured at the required minimum front yard setback shall equal the frontage required in this district; and b) the lot width measured at the front lot line shall not be less than forty (40) feet.
- d. Minimum Front Yard: **Measured twenty-five (25) feet from foundation to lot lines** (amended 3/2/06).
- e. Minimum Rear Yard:
  1. **Measured twenty-five (25) feet from foundation to lot lines** (amended 3/2/06).
  2. Accessory structures not attached to the principal building may be erected in the rear yard providing that the eaves and wall of any accessory building shall be placed at least seven and one half (7½) feet from all lot lines.
- f. Minimum Side Yard:
  1. For single family attached and detached, two family dwellings and supervised living facility, a side yard seven and one half (7½) feet **measured from foundation to lot lines** (amended 3/2/06) for both sides.
  2. For multifamily, limited, a minimum total side yard for each lot shall be twenty five (25) feet **measured from foundation to lot lines** (amended 3/2/06) with a minimum of fifteen (15%) percent of the lot frontage provided for each side yard. Parking areas may be located in the side yard; however, all paved areas shall be a minimum of five (5) feet from the side lot line.
  3. Deleted
  4. Accessory structures to the principal building shall be placed at least twenty-five (25) feet from a side street lot line. An accessory building may be erected detached from or attached to the principal building as an integral part thereof, or it may be attached by a breezeway or similar structure. Such accessory buildings shall be located in the build-able area, or in the required rear yard, and shall be placed so that the eaves of the building are at least seven and one half (7½) feet from a lot line.
- g. Maximum Lot Coverage: The maximum lot coverage of all structures shall not exceed fifty (50%) percent of the total lot or development site.

h. Accessory Uses and Structures: Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.

i. Fences in Residential Locations of the City of Eyota:

1. No fence shall be constructed of animal farm wire, gates, or farm post material, (wood or steel). Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair and danger.

2. All wood fences will have a finished surface facing the outer side of its respective residential property.

3. No fence shall be constructed in a utility easement and/or right-of-way.

4. All fences may be constructed adjacent but not beyond the property line of the respective residential property owner.

5. No fence shall be constructed more than eight (8) feet high from the ground. Or more than four (4) feet high in the front yard.

6. All fences shall have at least one external access gate.

j. Individual Lots: Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the homeowner's construction plans, and driveways must be completed within six months of homeowner occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

3. Exceptions and Additions to Standards of Section 5.02:

a. Deleted

b. Location of Multi-Family, Limited buildings in the Low Density Residential District shall be limited to areas with the following characteristics.

1. Meeting the minimum lot area requirements of this district, and provide adequate area for buffering and screening as required under Article VIII, Section 8.23, Buffering and Screening.

2. Abutting less restrictive zoning district boundaries (R-2, C-I, M-I). The multifamily limited building(s) shall not extend more than one hundred (100) feet from the side or rear lot line of the abutting lot which is in the less restrictive zoning district.
  3. Located at the intersections of public streets, and the public streets, shall be either collector or higher level streets as designated in the comprehensive guide plan.
- c. Townhouse style building developments shall be required to be developed under the Cluster Development, Section 5.02(4), or Planned Residential Development (Article VI) provisions of this ordinance.
- d. Design Criteria for Dwellings: All dwellings permitted or conditionally permitted in this district shall meet the following established design criteria:
1. All such dwellings shall be constructed upon a permanent foundation which is located along the entire length of all exterior walls of the dwelling and is approved according to the Uniform Building Code (state building code).
  2. The minimum width of the dwelling shall be twenty-four (24) feet, measured between non-intersecting exterior walls along a straight line perpendicular to both walls. The requirement shall not apply to any additions made subsequent to the original construction of the dwelling.
  3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division).
- e. Child Care Facilities:
1. Child care facilities that care for thirteen (13) or fewer children shall be permitted use within this district.
  2. Deleted.
4. Cluster Development:
- a. Purpose: Development under this provision is optional. The intent of this provision is to promote imagination, diverse, well designed subdivisions which preserve open space, respect the physical qualities and constraints of the land, and reduce the overall development and maintenance costs. Diversity and originality in individual building design shall be encouraged.

- b. The following minimum requirements shall be met by all Cluster Development proposals; however, where site characteristics and area land uses and densities indicate a need, additional requirements may be required by the City Council.
1. Land Area: The minimum size of the development shall be two (2) acres.
  2. Density: Overall density of the development shall not exceed 7.26 dwelling units per acre (that is equal to lot sizes of 6000 square feet). The density shall be a net density (gross density of the development site minus all road right-of-way or private access road area and flood plain as designated in the Flood Boundary and Floodway Map for the City of Eyota).
  3. Modification of Yard and Frontage Requirements: Rear and side yard regulations for this district shall apply to the boundaries of the cluster development subdivision. Front yard requirements for this district shall apply to cluster developments unless the individual dwellings front on a private drive, private street, driveway or parking area which is located within the subdivision. The applicant shall provide adequate reasons for reducing the minimum front yard required in this district. There shall be a minimum separation between all structures (individual detached dwellings or groups of attached dwellings) on adjacent or abutting lots of ten (10) feet unless the City Council determines that there is practical difficulty or adequate design reasons provided by the applicant for reducing the minimum requirement. In no case shall the minimum building separation be less than six (6) feet. Minimum lot frontage as required under Section 5.02(2)(c) may be reduced, and the requirement of lot frontage on a public street may be waived by the City Council; but only where all other provisions of this Section 5.02 are complied with.
  4. Minimum Common Open Space: Each cluster development shall provide accessible, adequate, useable areas for open space and recreation. Where applicable, open space shall include natural features located on the site, including but not limited to, stream beds and banks, natural drainage ways, stands of trees, individual large specimen trees and rock outcroppings.

The minimum amount of common open space within the Cluster Development shall be not less than:

- a.) For single family detached and attached housing units, supervised living facilities, and two family dwellings - seventeen (17%) percent of the gross land area of the development;
- b.) For townhouses and multifamily limited housing units – thirty-four (34%) percent of the gross land area of the development.

Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural features of the site. Land designated as common open space shall be maintained as common open space and may not be separately sold, subdivided or otherwise developed for other than open space uses.

5. Landscaping of Common Open Space: All common open space shall be required to have, as a minimum, one deciduous shade tree per 1600 square feet. Each tree shall be not less than one and one half (1 1/2) inches in diameter at ground level and six (6) feet in height. Only Linden, Norway or Sugar Maple, Thornless Locust, Seedless Ash, Hackberry, Pin Oak or Ginkgo shall be planted. Additional landscaping may be required by the City Council along the site boundary to serve as a buffer, in the common open space and around the housing units based on surrounding land use, site characteristics, site design including common open space design and dwelling unit design.
  6. Private Space: Private open space shall be provided for all townhouse units. This space shall be at least 300 square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six (6) and eight (8) feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four (4) feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing or fencing and landscaping shall be between adjacent private space for separate dwellings, or where the private space is adjacent to parking areas, streets, storage areas, sidewalks, or activity areas creating similar impacts.
  7. Access: Adequate pedestrian and vehicular access shall be provided for each dwelling unit in a cluster development. Minimum parking requirements as provided in Article VIII, Section 8.13, shall be complied with. In no case shall designation of easements for pedestrian or vehicular access be acceptable. Access shall be provided by lot frontage or by private streets, drives, or parking areas and across common open space.
- c. All Cluster Development design shall be reviewed with particular consideration to the following criteria:
1. Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural site features to be preserved.
  2. The usability of common open space intended for recreation shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.

3. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
  4. Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen area devoted to motor vehicle access.
  5. Individual lots, buildings, units, and parking areas shall be situated to avoid the adverse effects of shadows, noise, and traffic on the residents of the site.
- d. Conditional Use: Proposed cluster developments shall be required to be reviewed as a conditional use under Article XI, Section 11.10.

Section 5.03. HIGH DENSITY RESIDENTIAL (R-2): The intent of this district is to provide land area primarily for residential uses of a higher density than the R-1 district, and including manufactured housing singly or in subdivisions/parks; such uses should be compatible to multi-family residential buildings. This district applies to the "High Density Residential" land use designation of the comprehensive guide plan.

1. Permitted and Conditional Uses: See Table 4.1.
2. Development Requirements:
  - a. Maximum Building Height:
    1. Thirty-five (35) feet for all principal buildings of permitted and conditional uses;
    2. For non-residential principal buildings, fifty-five(55) feet, provided that for each one (1) foot of height over thirty-five (35) feet, two (2) feet of additional front, side and rear yard shall be required;
    3. Twenty (20) feet for all accessory structures.
  - b. Maximum Density and Minimum Lot Area:
    1. All residential development, except manufactured houses and supervised living facilities, shall have a minimum of 2178 square feet of land area per dwelling unit or a maximum density of twenty (20) dwelling units per net acre. (Net acreage shall be gross acreage minus that area of public right-of-way and flood plain within the area proposed for development under this district.)

2. Maximum density and minimum lot area: Minimum lot size in manufactured home subdivisions shall be seven thousand two hundred (7200) square feet.
  3. Minimum lot size for supervised living facilities shall be seven thousand two hundred (7,200) square feet.
  4. All other permitted uses or uses permitted by conditional use permit shall provide adequate land area to meet the minimum lot frontage, yard requirements, maximum lot coverage, on-site parking requirements and area necessary for minimum buffering and screening.
- c. Maximum Lot Coverage: The maximum lot coverage of all structures shall not exceed fifty (50%) percent of the total lot or development site.
- d. Minimum Lot Frontage:
1. Residential development: Seventy (70) feet.
  2. Manufactured home subdivisions: Seventy (70) feet.
  3. All other uses permitted or accommodated through conditional use permits: Seventy-five (75) feet.
- e. Minimum Front Yard: Twenty-five (25) feet **measured from foundation to lot lines** (amended 3/2/06).
- f. Minimum Rear Yard:
1. Thirty (30) feet **measured from foundation to lot lines** (amended 3/2/06), except for manufactured homes in manufactured home subdivisions.
  2. Manufactured homes in manufactured home subdivisions: Fifteen (15) feet **measured from outside of wall foundation to lot lines** (amended 3/2/06).
  3. Accessory structures not attached to the principal building may be erected in the rear yard providing that the accessory buildings shall be placed at least seven and one half (7½) **measured from the foundation to lot lines** (amended 3/2/06) feet from lot line.

- g. Minimum Side Yard:
    - 1. Buildings thirty-five (35) feet and under: Seven and one half (7 ½) feet. (See Section 5.03(2) (a) (2)) **measured from the foundation to lot lines** (amended 3/2/06).
    - 2. Non-residential uses with a height of thirty five (35) feet and under: Seven and one half (7 ½) feet **measured from foundation to lot lines** (amended 3/2/06) for both sides.
    - 3. Deleted.
  - h. Open Space: All non-residential uses permitted outright or through a conditional use permit shall provide twenty-five (25%) percent of the gross lot area for unpaved open space. This requirement shall not apply to essential services and cemeteries. Landscaping may be required within the open space area by the City Council, including buffering or screening around the parking area.
  - i. Buffering and Screening: Buffering and screening shall be required as specified in Article VIII, Section 8.23 Buffering and Screening.
  - j. Individual Lots: Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the homeowner's construction plans, and driveways must be completed within six months of homeowner occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.
3. Accessory Uses and Structures: Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.
4. Exceptions and Additions to Standards of Section 5.03:
- a. Zero Lot Line Development: A single family detached dwelling or single-family attached may reduce one side yard to zero when at any location within this district where all of the following conditions are met:
    - 1. The applicant records a covenant and deed restriction on all properties which will abut the zero or common lot line. Said covenants and deed restrictions shall: 1) provide access to the abutting property for the adjacent property owner and/or his/her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property; 2) provide for necessary

encroachments for footings, eaves, and special structures; and 3) provide for restrictions to limit color, material and design of the principal building as to be compatible with the attached building.

2. The zero side yard of a zero lot line dwelling shall not abut a dwelling built to meet the side yard standards of Section 5.03(2)(g). Unless said dwelling is on a corner lot and the dwelling and garage where this applies are a minimum of fifteen (15) feet from the side lot line, and all other requirements of this district are met or exceeded. The zero side yard of a zero lot line dwelling shall not abut the rear yard of any dwelling located on a corner lot.
3. Windows shall be prohibited in the wall that is on the same side as the zero yard.
4. The side yard opposite the zero side yard shall have a minimum width equal to the minimum total side yard, normally required for that dwelling type in this district.
5. No building side wall shall be closer than fifteen (15) feet to the adjacent property building side wall with the exception of accessory structures. Accessory structures shall be no closer than ten (10) feet to the principal building on abutting lots.
6. The wall of the dwelling shall be placed upon said property in a manner not to encroach upon another lot.
7. Water runoff from structure roofs shall not drain onto abutting property but shall be required to drain onto only the lot on which the structure is located.
8. The zero side street side yard, where this applies, shall be opposite the zero side yard.
9. A conditional use permit (Article XI, Section 11.10) shall be required for all zero lot line development, except where proposed within a Planned Residential Development.

## 5. Cluster Development

- a. Purpose: Development under this provision is optional. The intent of this provision is to promote imaginative, diverse, well designed subdivisions which preserve open space, respect the physical qualities and constraints of

the land, and reduce the overall development and maintenance costs. Diversity and originality in individual building design shall be encouraged. Manufactured home parks shall not be permitted to develop under these Cluster Development provisions.

- b. The following minimum requirements shall be met by all Cluster Development proposals; however, additional requirements may be required by the City Council.
  1. Land Area: The minimum size of the development shall be two (2) acres.
  2. Density: Overall density of the development shall not exceed 20 dwelling units per acre. The density shall be a net density (gross density of the development site minus all road right-of-way or private access road area and flood plain as designated in the Flood Boundary and Floodway Map for the City of Eyota.)
  3. Modification of Yard and Frontage Requirements: Rear and side yard regulations for this district shall apply to the boundaries of the cluster development subdivision. Front yard requirements for this district shall apply to cluster development unless the individual dwellings front on a private drive, private street, driveway or parking area which is located within the subdivision. The applicant shall provide adequate reasons for reducing the minimum front yard required in this district. There shall be a minimum separation between all structures on abutting lots of not less than ten (10) feet for buildings of twenty-five (25) feet or less and for each additional eight (8) feet an additional two (2) feet shall be required unless the City Council determines that there is practical difficulty or adequate design reasons provided by the applicant for reducing the minimum requirement. In no case shall the minimum building separation be less than six (6) feet. Minimum lot frontage as required under Section 5.03(2)(d) may be reduced, and the requirement of lot frontage on a public street may be waived by the City Council, but where all other provisions of this Section 5.03 are complied with.
  4. Minimum Common Open Space: Each cluster development shall provide accessible, adequate, useable area for open space and recreation. Where applicable, open space shall include natural features located on the site, including but not limited to stream beds and banks, natural drainage ways, stands of trees, individual large specimen trees and rock outcroppings. The common open space within a Cluster Development must be no less than the total reductions in lot sizes proposed for the given development. Individual lots, buildings, streets, and parking areas shall be designed and situated

minimize alteration of the natural features of the site. Land designated as common open space shall be maintained as common open space and may not be separately sold, subdivided or otherwise developed.

5. Landscaping of Common Open Space: All common open space shall be required to have, as a minimum, one deciduous shade tree per 1600 square feet. Each tree shall not be less than one and one half (1 1/2) inches in diameter at ground level and six (6) feet in height. Only Linden, Norway or Sugar Maple, Thornless Locust, Seedless Ash, Hackberry, Pin Oak or Gingko shall be planted. Additional landscaping may be required by the City Council along the site boundary to serve as a buffer, based on surrounding land use, site characteristics and site design, including common open space design and dwelling unit design.
  6. Access: Adequate pedestrian and vehicular access shall be provided for each dwelling unit in a Cluster Development. Minimum parking requirements as provided in Article VIII, Section 8.13, shall be complied with. In no case shall the designation of easements for pedestrian or vehicular access be acceptable. Access shall be provided by lot frontage or by private streets, drives, or parking areas and across common open space.
- c. All Cluster Development design shall be reviewed with particular consideration to the following criteria:
1. Individual lots, buildings, streets, and parking areas shall be designed and situated to minimize alteration of the natural site features to be preserved.
  2. The usability of common open space intended for recreation shall be determined by the size, shape, topographic and location requirements of the particular purpose proposed for the site.
  3. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
  4. Individual lots, buildings, and units shall be arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen area devoted to motor vehicle access.
  5. Individual lots, buildings, units, and parking areas shall be situated to avoid the adverse effects of shadows, noise, and traffic on the residents of the site.

- d. Conditional Use: Proposed Cluster Development shall be required to be reviewed as a conditional use under Article XI, Section 11.10.

Section 5.04. COMMERCIAL (C-I): The intent of this district is to provide land area for land uses of a service or retail nature and other commercial uses of a similar character and intensity. This district is intended to reflect the "Commercial" designation of the comprehensive guide plan.

1. Permitted and Conditional Uses: See Table 4.1.
2. Development Requirements:
  - a. Maximum Building Height:
    1. Fifty-five (55) feet for all principal structures.
    2. Fifteen (15) feet for all accessory structures.
  - b. Maximum Lot Coverage: One hundred (100%) percent of the net land area of the parcel may be used and covered by principal and accessory buildings. (Net land area is total land area of the parcel minus yard setbacks where required, parking area where required, loading/unloading area where required and buffer or screen areas where required.
  - c. Minimum Lot Area: 2,000 square feet.
  - d. Minimum Front Yard: No minimum front yard is required, with the exception of the following:
    1. A minimum front yard of twenty-five (25) feet **measured from the foundation to the lot line** (amended 3/2/06) shall be required where the lot is adjacent to or abuts an existing residential zoning district, unless divided by a public street.
    2. A minimum front yard of twenty-five (25) feet **measured from the foundation to the lot line** (amended 3/2/06) shall be required where a commercial use front yard abuts a federal, state or county highway, with the exception of the downtown commercial area as identified in the comprehensive guide plan.

e. Minimum Rear Yard:

1. Ten (10) feet **measured from the foundation to the lot line** (amended 3/2/06) for all uses.
2. Where a commercial use is adjacent to or abuts a residential or agricultural zoning district, the minimum rear yard shall be twenty-five (25) feet, **measured from the foundation to the lot line** (amended 3/2/06) unless divided by a public street.

f. Minimum Side Yard:

1. No minimum side yard is required.
2. A commercial lot adjacent to or abutting a residential or agricultural zoning district shall have a minimum side yard of fifteen (15) feet **measured from the foundation to the lot line** (amended 3/2/06) on the side yard adjacent to or abutting these listed districts. The required side yard may be included as part of the area required for buffering and screening.
3. A commercial lot adjacent to or abutting a federal, State or County highway and that is required to have off-street parking shall have a minimum side yard total of twenty-five (25) feet, **measured from the foundation to the lot line**, (amended 3/2/06) with a minimum of ten (10) feet for each side yard **measured from the foundation to the lot line** (amended 3/2/06). Where the federal, State or County highway is the side street, the side yard abutting the highway shall be twenty-five (25) feet.

g. Minimum Lot Frontage:

1. Shall be a minimum of thirty-five (35) feet.
2. Lots required to provide off-street parking and that abut a state or county highway shall have a minimum frontage of not less than fifty (50) feet.

h. Buffering and Screening: Buffering and screening shall be provided as specified in Article VIII, Section 8.23, Buffering and Screening.

- i. Individual Lots: Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the construction plans, and driveways must be completed within six months of occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

### 3. Use Limitations

- a. All commercial activities shall be conducted within a building. Exceptions to this requirement include activities using designated loading/unloading areas, and temporary waste storage. Outdoor display of retail items shall not be permitted on public right-of-way. An establishment that requires outside storage of materials may locate offices or retail operations within this district, but not outdoor storage areas.
- b. No building customarily used for night operation shall be located closer than one hundred (100) feet to any residential district.
- c. Public streets, alleys or parking areas shall not be used for commercial vehicle storage or parking on a temporary or permanent basis.
- d. Storage of Materials: Storage of all materials or machinery related to the use shall be stored in buildings or structures. There shall be no outside storage, with the exception of vehicles used as part of the on-site commercial use. Storage of junk, wrecked vehicles or other waste products shall be enclosed within a building or structure. Waste materials incidental to the principal operation shall be kept in neatly stored containers, screened from public view. The waste materials shall be removed and disposed of in a manner adequate to meet all federal, State of Minnesota and Olmsted County Health Department regulations. No wastes shall be piled on open ground.
- e. Dwelling units (apartments) located above the street level, first floor, in buildings in the downtown commercial area, shall be permitted where adequate on-site parking is available. A maximum of one (1) dwelling unit per lot of record that meets all lot area, frontage and yard requirements shall be permitted.
- f. Gasoline service stations and convenience stores that sell gasoline may be conditionally permitted in this district where the site is adjacent to an arterial or higher level street and where all other requirements of the ordinance are met or exceeded.

- g. Shopping Center: Applicants petitioning for approval of a shopping center shall be required to obtain a conditional use permit in addition to meeting all other requirements of specific commercial uses as specified under this or any other section of this ordinance.
4. Parking Requirements: See Article VIII, General Requirements, Section 8.13, Parking Requirements. Any use on a lot or parcel fronting on or having access to a federal, state or county highway shall be required to have on-site parking, with the exception of commercial uses located in the downtown commercial area as identified in the comprehensive guide plan.
5. Sign Requirements: See Article VIII, Section 8.14, Signs.
6. Accessory Uses and Structures: Accessory structures customarily incidental to any of the permitted uses when located on the same property are permitted.

Section 5.05. INDUSTRIAL (M-I): The intent of this district is to provide land area for land uses of an industrial nature including but not limited to manufacturing, major transportation and communication facilities, utilities, warehousing, wholesaling and uses of a similar character and intensity. The intent is to apply this district to those areas designated as "Industrial" in the comprehensive guide plan.

1. Permitted and Conditional Uses: See Table 4.1.
2. Development Requirements:
  - a. Maximum Building Height:
    1. Within two hundred (200) feet of a residential zoning district, all principal structures or buildings shall have a maximum height of fifty-five (55) feet or less, and all accessory structures shall have a maximum height of twenty-five (25) feet or less. Grain elevators and all necessary structures for the operation of such a facility shall be exempt from this height limitation.
    2. Any lot, parcel or property zoned industrial that is more than two hundred (200) feet from a residential zoning district shall have a maximum height of no more than one hundred and fifty (150) feet.
    3. All grain elevators and the structures necessary for the operation of such a facility shall be permitted to have a maximum building height of one hundred (100) feet in any portion of the industrial district wherein

such facility is located that is less than two hundred (200) feet of a residential zoning district.

- b. Minimum Lot Area: 5,000 square feet. Each parcel, lot or property shall contain sufficient area for the necessary building area, yard requirements, buffer and screen requirements, parking area and loading/unloading requirements. Consideration shall be given to space for future potential for expansion of planned buildings and activities.
- c. Maximum Lot Coverage: One hundred (100%) percent of the area available for building. The area available for building is that area remaining after providing minimum area or more for yard requirements, buffer and screen requirements, parking area and loading/unloading requirements where required.
- d. Minimum Front Yard:
  - 1. Fifteen (15) feet shall be required.
  - 2. Where the industrial zoning district or use is adjacent to or abutting a residential zoning district, a minimum front yard of twenty-five (25) feet shall be required.
  - 3. Where the industrial use or zoning district front yard abuts a federal, state, or county highway, a minimum front yard of twenty-five (25) feet shall be required.
- e. Minimum Rear Yard: No minimum rear yard is required, with the following exceptions:
  - 1. Where an industrial use rear yard is abutting a railroad siding, no minimum rear yard shall be required. However, consideration shall be given to the loading/unloading area needed servicing the railway facilities and to the need for adequate access by employees to and from the industrial buildings. Where access into or from a building is needed or required by the building code on the wall abutting the rear yard adjacent to a railroad siding, a six (6) foot rear yard shall be provided.
  - 2. A minimum rear yard of twenty-five (25) feet shall be required where an industrial zoning district or use is adjacent to or abutting a residential zoning district or a federal, state or county highway.

- f. Minimum Side Yard: A total side yard (both side yards) minimum of thirty (30) feet, and no side yard being less than ten (10) feet.
- g. Minimum Lot Frontage: There shall be a minimum frontage of sixty (60) feet.
- h. Buffering and Screening: Buffering and Screening shall be required as specified in Article VIII, Section 8.23, Buffering and Screening.
- i. Individual Lots: Driveways shall be surfaced with concrete, asphalt, or an approved paving brick block material. Plans for such must be included in the construction plans, and driveways must be completed within six months of occupation. Driveways shall have a maximum grade of 8% within the public right-of-way.

### 3. Use Limitations:

- a. Storage of Materials:
  - 1. The open storage of lumber, coal or other combustible material shall be not less than twenty-five (25) feet from an interior lot line.
  - 2. Open storage of junk, wrecked vehicles to be dismantled, or other similar salvage materials shall be enclosed by an eight (8) foot permanent fence or combination of fence and other structures that entirely blocks the view of the storage area from the public and adjacent property owners located in other than the Industrial district.
  - 3. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view, and at least twenty-five (25) feet from all interior lot lines. The waste materials shall be removed and disposed of in a manner adequate to meet Olmsted County Health Department regulations and applicable Minnesota or federal regulations.
  - 4. No waste material shall be piled on open ground.
  - 5. All industrial uses shall comply with the requirements of Article VIII, Section 8.25, Hazardous Materials Storage.
- b. Parking Requirements: See Article VIII, Section 8.13, Parking Requirements.
- c. Sign Requirements: See Article VIII, Section 8.14, Signs.

- d. Accessory Uses and Structures: Accessory structures and uses customarily incidental to any of the permitted uses when located on the same property are permitted.

Section 5.06 COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES AND TOWERS:

1. Purpose: The City of Eyota acknowledges the legal right of wireless telecommunications providers to do business within the City. The City further acknowledges that, pursuant to federal law, the City's regulations must be nondiscriminatory, must not be based on the health effects of radio frequency emissions and must not prohibit the delivery of telecommunication services. Accordingly, in order to establish uniform, nondiscriminatory, and competitively- neutral regulations that protect the public health, safety and general welfare of the community, these regulations are intended to:
  - a. facilitate the provision of commercial wireless telecommunication services in City of Eyota and surrounding area;
  - b. minimize adverse visual effects of towers through careful design and siting standards;
  - c. avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting and setback requirements;
  - d. require the placement of commercial wireless telecommunication service towers in non-residential zoning districts or alternatively on commercial, industrial, or institutional property and large publicly-owned parcels;
  - e. minimize the total number of existing and new towers needed to serve the community, and maximize the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas.
2. Definitions:
  - a. Antenna-A structure or device used to transmit or receive radio waves for voice, data or video communications, including but not limited to, directional, panel-type antennas, disk-type antennas and omni-directional/whip-type antennas.
  - b. Commercial Mobile Services-Any mobile service (as defined in Title 47 U.S.C. § 153 (n)) that is provided for profit and makes interconnected service available (1) to the public or (2) to such classes of eligible users as to be effectively available

to a substantial portion of the public, as specified by the regulations of the Federal Communications Commission.

- c. Commission-The Planning and Zoning Commission of the City of Eyota.
- d. Equipment Shelter-A structure installed as a part of a PWS Facility for the storage, protection and security of communications equipment associated with one or more antennas and including free-standing buildings and equipment cabinets.
- e. Existing Support Structure-Any existing or proposed free-standing man-made structure capable of supporting antenna, including but not limited to church steeples, buildings, water tanks, smoke stacks, signs, silos, utility poles or similar structures used primarily to support electric or telephone service lines, or other tall non-tower structure.
- f. Existing Tower-Any tower existing within or outside the City on the effective date of this ordinance.
- g. Interconnected Service-Service that is interconnected with the public switched network.
- h. Modification-Any change, addition, deletion or replacement of any antenna, or any change to a PWS Facility approved by the commission pursuant to this Ordinance.
- i. Personal Wireless Services (PWS)-The provision of personal wireless services by commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, which services are regulated by the Federal Communication Commission.
- j. Personal Wireless Service Facility-A facility for the provision of Personal Wireless Service including antennas, supporting masts, towers and other antenna support structures and associated telecommunications equipment cabinets and/or buildings.
- k. PWS Provider-A provider of personal wireless service pursuant to a license issued by the Federal Communication Commission.
- l. Site Compound-An area with minimum dimensions of 50' x 50', which area encompasses all structures installed on a site as a part of a PWS Facility.
- m. Tower-A structure designed to support, or capable of supporting, one or more antennas, including guyed towers, self-supporting lattice or monopole tower, but

specifically excluding Existing Support Structures and any support structure including attachments of 65 feet or less in height that is owned and operated by an amateur radio operator licensed by the Federal Communications Commission, and used exclusively for amateur radio purposes.

- n. Tower Height-The vertical distance measured from the average finished grade at the base of the tower or its foundation to the highest point of the tower including any antennas that extend above the top of the tower.
  - o. Unlicensed Wireless Service-The offering of telecommunication services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined by Title 47 U.S.C. § 303(v)).
  - p. Institutional Property-Land used by a nonprofit, religious or educational organization, such as a church, library, public or private school, hospital or airport. Government owned or operated buildings, structure or land used for a public purpose shall be considered separate from institutional property.
3. Tower and Accessory Structure Height: In any zoning district telecommunications towers shall not exceed 150 feet in height including the tower and attached antennas. All proposed towers and all accessory structures or buildings shall meet the maximum height provisions of the underlying zoning district and Section 8.06. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted on top of other structures or buildings, the combined height of the structure or building and tower must meet the height requirements of the applicable zoning district. Antennas placed on non-telecommunications related structures or buildings shall have a height of not more than 25 feet.
4. Tower and Accessory Structure Setback: Towers shall conform to the setback requirements of the underlying zoning district as determined for area accessory development. Towers located in districts with no height restriction shall be required to meet the setback requirements of Section 5.05.
5. Equipment, Structure or Cabinet Setback:
- a. All Structures of cabinets shall conform to the setback requirements of the underlying zoning districts as specified for area accessory development.
  - b. Under a conditional use permit the Commission must determine, by means of a Design Modification as part of the conditional use application, the structure or cabinet setback and buffering. The Commission must consider the lot size, surrounding land uses, site characteristics such as topography and existing

vegetation, and proximity of dwellings to the proposed accessory structures. The Commission must determine the most appropriate method for buffering structures or cabinets by applying the requirements of Subsection 11 of the Section.

- c. Where fences are used to control unauthorized climbing of towers, the site plan shall conform to the requirements for fence setbacks in Section 8. Fences or walls shall be located between the bufferyards and tower based on the standards of Section 8 (see table 8.1).

6. Towers and Services as the Principal Use: In any residential district, a commercial wireless telecommunications tower may only be permitted when located on institutional or publicly owned property where it maybe an accessory use. Equipment structures or cabinets serving the telecommunications tower on a property may be permitted as regulated by this Section of the ordinance.

7. Tower Design Requirement:

- a. Towers and antennas shall blend in to the surrounding environment through the use of color and camouflaging architectural treatment except where color is dictated by federal or state authorities. Tower color shall be a solid color, not multi-colored, and shall be light blue, light beige or rust colored. Rust color on towers shall be used only on sites where there is a predominance of woodland.
- b. New towers shall be monopole design. Existing towers may be used for the placement of antennas and will not be required to be of a monopole design.
- c. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair when the tower is located on a lot that is within 200 feet of a residential zoning district, a designated residential area on the land use plan, or where residential uses currently exist.
- d. All guyed towers shall have placed on the supporting cables bird diverter devices with a design recommended by the Minnesota Department of Natural Resources.

8. Antenna Co-location:

- a. All commercial wireless telecommunication towers or antennas erected, constructed or located within the City shall comply with the following requirements:
  1. A proposal for a new tower or antennas shall not be approved unless the City finds that the telecommunications equipment planned for the proposed

structure cannot be accommodated on an existing or approved tower or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:

- a. the planned equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower or structure cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost;
  - b. the planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or structure as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost;
  - c. existing or approved towers and structures within the search radius that are 60 feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer;
  - d. other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or structure.
2. Any proposed tower shall be designed (structurally, electrically and in all other respects) to accommodate both the applicant antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
  3. Zoning certificate or conditional use permit applicants must submit in writing a response to paragraph (8)(A)(1),(2). Where an applicant is proposing to locate commercial wireless telecommunications equipment on an existing telecommunications tower this information is not required as part of the application. Where an applicant is proposing to locate commercial wireless telecommunications services on a structure where services now exist this information is not required. However, if a proposed location is within 200 feet of a residential dwelling the applicant shall be required to submit the written information.
9. Antennas Mounted on Existing Structures or Towers: The placement of wireless telecommunication antennas on existing buildings, structures, or towers, and placement of equipment structures or cabinets shall meet the standards of the

underlying zoning district as specified for an area accessory development and the procedural requirements and standards of this Section. A site plan and building plan shall be submitted to the City as part of the zoning certificate.

#### 10. Equipment Buildings or Cabinets:

- a. All buildings, excluding cabinets, accessory to a tower or antenna, or separate from a tower or antenna location shall be:
  1. Constructed of material on the exterior of the building walls and roof similar to the surrounding residential area when located on property within 200 feet of residential zoning districts;
  2. Buffered and screened from adjoining uses as established in Paragraph 11.
- b. Equipment buildings or cabinets shall meet the height limitations as stated in the Section relevant to the zoning district on which located.
- c. Equipment buildings or cabinets equipped with exterior lighting shall meet the following lighting requirements. No more than one light located on the equipment structure shall be permitted when the facility is located within a residential zoning district. The light shall be controlled such that the light is on only during nighttime hours. The light shall illuminate only the equipment structure to which it is attached.

#### 11. Buffering and Screening:

- a. Towers and equipment structures and cabinets shall be buffered and screened from adjoining uses as established in the requirements of the underlying zoning district for Area Accessory Development. See Section 8 of the Zoning ordinance, table 8.1.
- b. Additional landscaping may be required by the Commission as part of a conditional use permit as specified in this Subsection. The added landscaping may be in response to the size of the property used for the telecommunications towers, equipment structures and cabinets, surrounding land uses, proximity of dwellings on adjacent properties to the lot lined, topography, and existing woody vegetation on the property.
- c. The owner/operator of an approved PWS Facility shall be responsible for the maintenance of the site compound, associated landscaping, access driveway and any associated areas of the property used as a part of the PWS Facility.

12. Signs and Advertising: The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

13. Tower Lighting:

a. A tower shall not be illuminated by artificial means and shall not have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers or other illuminating device, except as required by the Federal Aviation Administration, Federal Communications Commission or any state agency. Strobe lights will not be permitted for night time tower lighting. The applicant shall choose from alternative lighting standards supplied by the Federal Aviation Administration, Federal Communications Commission or state agency. The applicant shall submit with their application the required lighting standard specified by these agencies.

b. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

14. Abandoned or Unused Towers: Abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the zoning administrator. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal may be assessed against the property.

As a condition of the Commission's approval of a PWS Facility tower, the owner of the property upon which the PWS Facility tower is located shall be required to submit to the Commission the owner's covenant to undertake the responsibility and cost for the removal of a PWS Facility tower, which covenant shall be made enforceable by the City and recorded as a lien against the property. This lien shall be released after tower removal and final inspection and sign off by the City Administrator or its designee.

15. Public Safety Telecommunication Interference: Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All zoning certificate applications shall include adequate information that will be reviewed by the City and County public safety communications system before a certificate may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City and County at least ten calendar days in advance of changes and allow the City and County to monitor interference levels during the testing process.

16. Additional Submittal Requirements: In addition to the information required elsewhere, applications shall include the following information:

- a. A report from a licensed professional engineer that describes the tower's capacity, including the number and type of antennas that it can accommodate;
- b. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use; and
- c. Information specifically indicating how a tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
- d. The commission may, in its sole discretion engage experts to assist the commission in its review and understanding of the PWS provider's information. The fees for such expert services shall be borne by the applicant.

17. Registration of Commercial Wireless Telecommunication Service and Towers:

- a. Purpose. The purpose of registration under this ordinance is to provide the city with accurate and current information concerning commercial wireless telecommunications services and to assist the city in the administration of this Section of the ordinance. This requirement shall apply to companies that offer or provide services within the City of that own or operate facilities, including but not limited to antennas and towers, within the city.
- b. Registration and Application Requirements. Commercial wireless telecommunications services and tower companies that offer or provide any telecommunications services for a fee directly to the public or have facilities within the city shall register and provide to the city, pursuant to this ordinance the following information:
  - 1. the identity and legal status of the registrant, including affiliates;
  - 2. the name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement;
  - 3. a narrative and map description of registrants existing telecommunications facilities with the city and adjacent townships; and
  - 4. such other information as the city may reasonably require.
- c. This information shall be updated on an annual basis by the companies. The City may request updates of the list whenever a tower or facility is added or removed from service by a company.

Section 5.07 WIND ENERGY GENERATION SYSTEMS (WEGS) (Added 4-20-13)

1. Purpose: It is the public interest and contributes to the protection of the public safety, health, and welfare to regulate the construction or re-erection of any form of wind energy generation systems or similar structures within the city limits of Eyota, Minnesota.
2. Regulations: A person, firm or corporation shall apply for a zoning certificate to erect, construct in place or re-erect a wind energy generation structure system or similar structure for the purpose of wind energy generation. Installation shall be governed by the following:
  - a. Compliance Required: The installation must comply with Section 8.15, Environmental Performance Standards of the Zoning Ordinance #53 of the City of Eyota, Minnesota.
  - b. Site Testing: A person, firm, or corporation may establish a WEGS meteorological tower on a single or multiple parcels of land for up to a period of one year by obtaining a zoning certificate. The purpose of the tower shall be primarily to measure wind speed, direction, and to determine capacity factor and collect related data necessary to determine suitability of the site for the establishment of a WEGS.
  - c. Setback Requirement: All WEGS shall be set back 1.5 times the total height of the wind energy generation system from the property line.
  - d. Setbacks for Accessory Structures and Facilities: Substations, facility buildings and other structures that are part of the WEGS shall meet the setback requirements for the zoning district in which the project is located.
  - e. Tower Construction: All free standing towers shall be of tubular construction, and no guyed towers permitted.
  - f. Height: Free standing towers shall be deemed an accessory structure and shall not exceed the maximum height requirement for an accessory structure in all zoning districts. Roof type structures, or any tower attached in any way to a principal or accessory building, shall be deemed part of that building; and shall be included in calculating the height of that principal building or accessory structure. The height of the building, including the WEGS apparatus shall not exceed the maximum height requirement for the principal building or accessory structure in all zoning districts.

Maximum height requirements for any free standing accessory structure or buildings with an attached WEGS apparatus shall be specified in the zoning district within which it is located as follows:

Residential R-1: Maximum Height:

- 30 feet for principal buildings
- 20 feet for accessory structures
- 55 feet for Institutional buildings

Residential R-2: Maximum Height:

- 35 feet for principal buildings
- 55 feet for non residential principal buildings
- 20 feet for accessory structures

Commercial: Maximum Height:

- 55 feet for principal buildings
- 70 feet for accessory structures

Industrial/Manufacturing M-1: Maximum Height:

- Within 200 feet of a residential zoning district:
  - 55 feet for principal buildings
  - 70 feet for accessory structures

Grain elevators and all necessary structures for the operation of such a facility shall be exempt from this height limitation.

- More than 200 feet from a residential zoning district:
  - 150 feet for principal buildings
  - 150 feet for accessory structures

All grain elevators and the structures necessary for the operation of such a facility: Maximum building height of 100 feet in any portion of the industrial district wherein such facility is located that is less than 200 feet of a residential zoning district.

Agriculture Ag: Maximum Height:

Within 200 feet of a residential zoned district:

35 feet for principal buildings

55 feet for accessory structures

More than 200 feet of a residential zoned district:

35 feet for principal buildings

No restrictions on accessory structures

Structures not included in height of building:

Chimneys, elevator bulk heads, drive-in movie theater screens, stacks, water towers, pumping towers, monuments, cupolas, steeples, radio/TV towers, and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure.

3. Safety Standards:

- a. Automatic Overspeed controls: All wind turbines shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within unit design limits. A professional engineer must certify that the wind turbine is equipped with rotor and overspeed controls.
- b. Blade Clearance: No portion of a utility wind turbine blade of a WEGS shall extend closer to the ground than 30 (thirty) feet. Blade clearance for a non utility WEGS shall be no less than 10 (ten) feet.
- c. Noise: 50 decibels or less measured from the property line.
- d. Decommissioning of WEGS: The applicant and future owners shall ensure those facilities are decommissioned upon the end of project life or facility abandonment. A decommissioning plan shall be submitted with the project application. Decommissioning shall include removal of all structures and electrical transmission components, to a depth of 4 (four) feet, and restoration of the soil and vegetation to avoid temporary or long term soil erosion.

4. Application Requirements: All applicants shall complete a zoning certificate application form and supply all information required on the application.

A site plan to scale detailing the location of the project area boundaries, property lines, leased land, easements on the site, and easements obtained for the project.

A description of the project including but not limited to the number of turbines, rated capacity, height of towers, rotor diameter and height of tower and rotor combined, turbine and tower color, manufactures of the equipment, and schedule/phasing of the project including start-up date, current use and land cover on the project site and on the adjacent parcels as per City of Eyota, Minnesota Land Use Plan.

## ARTICLE VI

### PLANNED RESIDENTIAL DEVELOPMENT

Section 6.01. PURPOSES: The provisions of this Article are intended to provide opportunities for alternative development styles and methods and design flexibility that are in accordance with the provisions and regulations contained herein, the intent of the comprehensive guide plan and the general intent of the districts in which the development is proposed. The provisions of this article provide for an increase in overall dwelling density in return for a higher quality of design and development. Expected attributes from development under these provisions are:

1. Variety in the organization of site elements, housing types and pedestrian/vehicular circulation systems;
2. Higher standards of site and building design through use of trained and experienced professionals in land planning, architecture and landscaping to prepare plans for residential Planned Residential Developments;
3. Preservation and enhancement of desirable natural site characteristics and open space;
4. More efficient and effective use of streets, utilities and public facilities;
5. More usable and suitably located recreation facilities;
6. Provide a variety of quality housing.

Section 6.02. PERMITTED USES. This article shall be applicable and used only for residential development permitted within the residential zoning districts as described within this ordinance. Residential building types, as specified in Article IV, Use Categories and District Uses, shall be permitted in a Planned Residential Development under the applicable residential zoning district regulations. Where a proposed Planned Residential Development is located in two residential zoning districts, residential building types shall be permitted only in the district in which they are permitted under Article V, Sections 5.02 and 5.03, Low Density Residential and High Density Residential. Proposed uses conditionally permitted under this ordinance shall be reviewed within the Planned Residential Development review process and conditionally permitted or not permitted.

Section 6.03. ADMINISTRATIVE REQUIREMENTS:

1. Coordination with Subdivision Ordinance: It is the intent of this ordinance that subdivision review under the Subdivision Ordinance be carried out simultaneously with review under this article of the Zoning Ordinance. The review procedure shall be as specified in Article III, Section 3.1(2) of the Subdivision Ordinance.
2. Preparation of Plans: The applicant is required to have the necessary documents and supporting evidence prepared and endorsed by a qualified professional team consisting of a registered architect, and if the Planned Residential Development requires the subdivision of land and the installation of public site improvements, a registered land surveyor and registered engineer.
3. Effect of Approval: The final plan as approved together with the conditions and restrictions imposed, if any, shall govern and control the use and development of the land involved, provided that general zoning regulations which were applicable to the land prior to approval of the plan and which are not inconsistent with the plan shall continue to be applicable. No zoning permit shall be issued for any structure with the Planned Residential Development unless and until the Zoning Administrator certifies that the planned structure conforms to the provisions of the plan and other applicable zoning requirements.
4. Plan Changes: The Zoning Administrator shall refer all plan changes in use, density and bulk standards, open space and other standards of development to the Planning Commission and City Council following the zone change procedure. Any such changes shall be recorded as amendments to the final plan.
5. Annual Review: The Zoning Administrator shall review each incomplete Planned Residential Development at least once each year and shall make a report, through the Planning Commission, to the City Council on the current construction and site

improvement status of the development. If development is not progressing reasonably well, according to the staging plan or approved schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the City Council finds that the development has not occurred according to the established development schedule or is not otherwise reasonable in the view of the City Council, the Council may initiate rezoning to remove the Planned Residential Development.

Where the Zoning Administrator finds that construction of a Planned Residential Development has not been started after one (1) year from the date of adoption, the City Council shall act to initiate rezoning to remove the Planned Residential Development district, unless the owner or owners provide in writing the reasons for lack of progress. If the Council finds such reasons acceptable, they may extend this time limit to start construction for up to one (1) additional year only.

#### Section 6.04. GENERAL REQUIREMENTS:

1. Ownership: A tract of land to be developed as a Planned Residential Development shall be under the control of a single person, (acting through a corporation) where the person agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the County Recorder.
2. Staging Plan: A staging plan shall be submitted as part of the application at the preliminary plat stage as set forth in the subdivision ordinance, Article III, Procedures for Subdivision of Plats where the Planned Residential Development is proposed to be developed in stages over a period of more than one (1) year. The staging plan shall be part of the final plan submitted for review by the City Council and shall indicate the areas to be developed and the times of the development. The schedule may be modified by the City Council on the showing of good cause by the developer.

If the sequence of construction of various portions of the development is to occur in stages, then the open space recreational facilities, landscaping, and other amenities shall be developed, or committed there to, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the City Council. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved final plan.

#### Section 6.05. STANDARDS OF DEVELOPMENT:

1. Minimum Parcel Size: The minimum total amount of land required for development under this article shall be three (3) acres. The parcel or parcels

proposed for a Planned Residential Development shall not be divided by major roads; the area shall be one contiguous piece.

2. Maximum Lot Coverage. The maximum lot coverage of all structures shall not exceed forty-five (45%) percent of the total lot or development site.
3. Project Density: For both the Low Density Residential (R-1) and High Density Residential (R-2) districts, a density bonus of up to twenty-five (25%) percent may be permitted where all other requirements of this article are complied with. (In the R-1 district, using the density of 7.26 units per acre, a maximum of 1.8 additional housing units per acre may be permitted; and in the R-2 district, using the density of 20 units per acre, a maximum of five (5) additional housing units may be permitted. Where the density figure is not a whole number, it shall be rounded to the nearest whole number.) Where the Planning Commission and City Council find that the proposed Planned Residential Development density is incompatible with the surrounding uses and density, the City Council may require that the maximum project density bonus be modified to less than twenty-five (25%) percent.
4. Open Space Requirements:
  - a. Definition: Open Space shall consist of all land within a Planned Residential Development that is not covered by residential structures or accessory structures, with the exception of structures used for recreational purposes, and not covered by auto areas (roads, parking, loading/unloading areas) and is under private or common (homeowners association) control.
  - b. Purpose: Open Space shall provide for private outdoor space for each dwelling unit; and common open space shall provide for preservation of natural features, increase site and building design flexibility, improve the overall aesthetics of the site, and provide for common recreational space for all residents of the Planned Residential Development.
  - c. Minimum Area: Required total open space shall comprise at least fifty (50%) percent of the total gross area of the proposed development site. Where a Planned Residential Development abuts a city park for one-half (1/2) of the distance of the abutting lot line of the development, but which shall not be less than one hundred (100) feet, the required open space may be reduced to forty-five (45%) percent of the total gross area of the proposed development site.

An adequate amount of open space shall be provided for private open space based on housing type and style and number of units having immediate access to the development grounds.

A minimum of fifty (50%) percent of the required open space shall be designated and identified as common open space to be used for passive or active recreational activities by the development residents.

- d. Dimension: No common open space area shall be less than six hundred twenty-five (625) square feet in area, nor less than twenty (20) feet in its smallest dimension. All common open space areas shall be contiguous to one another or be connected by walkways.
- e. Physical Characteristics: Common open space shall be equitably distributed within the development in relation to the number of dwelling units which will be served.

The common open space shall be useable. This determination shall be made based on slope, wetness and related soils limitations, amount of common open space used for natural drainage-ways, and access.

The remaining portion of the required open space not designated as private or common open space may be improved or may be left in its natural state. Areas devoted to natural or improved flood plain or natural drainage-ways and swales, and those areas encumbered by flowage, or drainage easements may be applied toward satisfying the total open space requirement.

- f. Physical Improvements: Landscaping of the common open space and other non-private open space shall be required and shall include shade trees, evergreen trees and deciduous and evergreen shrubbery all of which are capable of surviving in the southern Minnesota climate. The landscaping shall provide buffering where appropriate, shading of buildings and private and common open space, visual diversity, enhance existing natural features, and improve overall on-site aesthetics. A landscaping plan shall be submitted with other plans at the preliminary and final plat stages. The plan shall indicate plant varieties and numbers of each variety, location and spacing. Landscaping shall be completed in stages along with the construction of dwellings, where the sequence of construction is to occur in stages.

The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

- g. Private Space: Private open space shall be provided for all townhouse dwellings and ground level dwellings with main floor levels within five (5) feet

of ground level for the following dwelling types: multifamily; multifamily limited; single family attached; and two family dwellings. This space shall be at least three hundred (300) square feet in size and made private by fencing or a combination of fencing and appropriate landscaping. All fences shall be between six (6) and eight (8) feet in height and be made of wood, cement block, brick, stone or cement in such a way that the fence is visually solid. Where landscaping is used, no plant material shall be less than four (4) feet in height at the time of planting and shall be a perennial, woody plant material. The location of the fencing or fencing and landscaping shall be along the entire perimeter of the private space, except along the exterior walls of dwellings.

5. Traffic Circulation and Road Improvements: Principal vehicular access points shall be located and designed to permit safe and efficient traffic flow. Local streets within the development shall not be connected to streets outside the development in such a way as to encourage their use by through traffic.

All streets within the Planned Residential Development shall be designed to standards adequate to accommodate their anticipated uses. Public streets shall be developed to city standards. Private streets shall be developed to city standards, with the exception of right-of-way and surface width requirements and minimum radius for cul-de-sacs which may be modified by the City Council where the applicant is able to prove that there will be adequate ingress and egress, adequate off-street parking, safe pedestrian circulation facilities, and that emergency vehicles have adequate access to all structures within the development, and where such modifications are deemed by the City Council as consistent with the public interest.

6. Parking Requirements: Parking requirements, as specified in Article VIII, Section 8.13, shall apply to Planned Residential Developments. Parking areas shall: (1) be screened from adjacent buildings and roads with hedges, dense plantings, trees, earth berms, or walls or fences; (2) be limited in size and shall be landscaped in a manner so as to interrupt the expanse of parking where necessary; (3) be arranged so as to prevent through traffic to other parking areas; and (4) be graded and drained so as to dispose of all surface water without erosion, flooding and other negative effects.

Within the Planned Residential Development there shall be provided a separate area to be used for the storage, indoors or outdoors, of the occupants' recreational vehicles. Parking spaces shall be marked and suitably landscaped so as to be harmonious with the rest of the development.

7. Compatible Development: The Planned Residential Development shall be designed to harmonize the scale, setback and overall mass with existing adjacent residential development. Landscaped buffers, earth berms, and fencing may be required where the City Council finds that the proposed building scale, mass or setback are not compatible with existing adjacent residential development.

## ARTICLE VII

### FLOOD PLAIN MANAGEMENT DISTRICT

Section 7.01. PURPOSE: The flood hazard areas of the City of Eyota are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

1. **Methods Used to Analyze Flood Hazards.** This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
2. **Statement of Purpose.** It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in this Section by provisions contained herein.

Section 7.02. GENERAL PROVISIONS:

1. **Lands to Which Ordinance Applies:** This ordinance shall apply to all lands within the jurisdiction of the City of Eyota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
2. **Establishment of Official Zoning Map:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the City of Eyota prepared by the Federal Insurance Administration dated April 17, 1995, and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated April 17, 1995 therein. The Official Zoning Map shall be on file in the Office of the City Clerk.
3. **Regulatory Flood Protection Elevation:** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

4. Interpretation:
  - a. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
  - b. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100 year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.
5. 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.
6. Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Eyota or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
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.
8. Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.
  - a. Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
  - b. Basement - means any area of a structure, including crawl spaces, having its floor or base sub-grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

- c. Conditional Use - means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- d. 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.
- e. Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- f. Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- g. Flood fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Eyota.
- h. Flood Plain - the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- i. 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.
- j. Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- k. Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- l. Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

- m. Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- n. Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- o. Regulatory Flood Protection Elevation - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- p. Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 7.09 of the ordinance and other similar items.
- q. Variance - means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

## SECTION 7.03 ESTABLISHMENT OF ZONING DISTRICTS

- 1. Districts:
  - a. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 7.02.2.
  - b. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 7.02.2.
  - c. General Flood Plain District. The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map adopted in Section 7.02.2.

2. Compliance: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Section 7.04, 7.05, and 7.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:
  - a. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the provisions of this Ordinance specifically Section 7.09;
  - b. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 7.11; and
  - c. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 7.10 of this Ordinance.

#### SECTION 7.04 FLOODWAY DISTRICT (FW)

1. Permitted Uses:
  - a. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - b. Industrial-commercial loading areas, parking areas, and airport landing strips.
  - c. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
  - d. Residential lawns, gardens, parking areas, and play areas.
2. Standards for Floodway Permitted Uses:
  - a. The use shall have a low flood damage potential.

- b. The use shall be permissible in the underlying zoning district if one exists.
- c. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

3. Conditional Uses:

- a. Structures accessory to the uses listed in 1 above and the uses listed in b-h below.
- b. Extraction and storage of sand, gravel, and other materials.
- c. Marinas, boat rentals, docks, piers, wharves, and water control structures.
- d. Railroads, streets, bridges, utility transmission lines, and pipelines.
- e. Storage yards for equipment, machinery, or materials.
- f. Placement of fill.
- g. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 7.09 of this Ordinance.
- h. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to project agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

4. Standards for Floodway Conditional Uses:

- a. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- b. All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 7.10.4 of this Ordinance.
- c. The Conditional Use shall be permissible in the underlying zoning district if one exists.

d. Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

e. Accessory Structures:

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters. (1) when ever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, (2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
  - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

- (2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.
- f. Storage of Materials and Equipment:
    1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
    2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
  - g. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
  - h. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

#### SECTION 7.05 FLOOD FRINGE DISTRICT (FF)

1. Permitted Uses: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" listed in Section 7.05.2 and the standards for all Flood Fringe "Permitted and Conditional Uses" listed in Section 7.05.5.
2. Standards for Flood Fringe Permitted Uses:
  - a. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

- b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 7.04.e.3.
  - c. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 7.05.1.a of this ordinance.
  - d. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
  - e. The provisions of Section 7.05.5 of this Ordinance shall apply.
3. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 7.05.2.a - b or any use of land that does not comply with the standards in Section 7.05.2.c - d shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 7.05.4 - 5 and 7.10.4 of this Ordinance.
4. Standards for Flood Fringe Conditional Uses:
- a. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:
    - 1. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2. Specific Standards for Above-grade, Enclosed Areas -Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
  - (1) The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
  - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- b. Basements, as defined by Section 7.02.8.a of this Ordinance, shall be subject to the following:
  1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
  2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 7.05.4.c of this Ordinance.
- c. All areas of non residential structures including basements to be placed below the Regulatory Food Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- d. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shore land management ordinance. In the absence of a state approved shore land ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be

prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

e. Storage of Materials and Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

f. The Provisions of Section 7.05.5 of this Ordinance shall also apply.

5. Standards for All Flood Fringe Uses:

- a. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use of occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- b. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
- c. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 705.5.b above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- d. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing

the special flood hazard area designation for certain structures properly elevated on fill above the 100- year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

- e. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- f. Standards for travel trailers and travel vehicles are contained in Section 7.09.3.
- g. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

#### SECTION 7.06 GENERAL FLOOD PLAIN DISTRICT

- 1. Permissible Uses:
  - a. The uses listed in Section 7.04.1 of the Ordinance shall be permitted uses.
  - b. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 7.06.2 below. Section 7.04 shall apply if the proposed use is in the Floodway District and Section 7.05 shall apply if the proposed use is in the Flood Fringe District.
- 2. Procedures for Floodway and Flood Fringe Determinations Within the General Flood Plain District.
  - a. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
    - 1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
  3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- b. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
1. Estimate the peak discharge of the regional flood.
  2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over-bank areas.
  3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- c. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Section 7.04.0 and 7.05.0 of this Ordinance.

## SECTION 7.07 SUBDIVISIONS

1. Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
2. Floodway/Flood Fringe Determinations in the General Flood Plain District: In the General Flood Plain District, applicants shall provide the information required in Section 7.06.2 of this Ordinance to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.
3. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change or special flood hazard area designation will be requested.

## SECTION 7.08 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

1. Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
2. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 7.04.0 and 7.05.0 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
3. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or

eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

## SECTION 7.09 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 7.07.0 this Ordinance.
2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 7.05.0 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 7.05.5.a, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
  - a. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
3. Travel trailers and travel vehicles that do not meet the exemption criteria specified in Section 7.09.3.a below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 7.09.3.c and d below.
  - a. Exemption - Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 7.09.3.b below and further they meet the following criteria:
    1. Have current licenses required for highway use.
    2. Are highway ready meaning on wheels or the internal jacking system, are attached on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- b. Areas Exempted For Placement of Travel/Recreational Vehicles:
    1. Individual lots or parcels of record.
    2. Existing commercial recreational vehicle parks or campgrounds.
    3. Existing condominium type associations.
  - c. Travel trailers and travel vehicles exempted in Section 7.09.3.a lose this exemption when development occurs on the parcel exceeding \$100.00 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 7.04 and 7.05 of this Ordinance.
  - d. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
    1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 7.05.5.a of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.
    2. All new or replacement travel trailers or travel vehicles not meeting the criteria of 1 above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 7.10.4 of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 7.08.3 of this Ordinance.

## SECTION 7.10 ADMINISTRATION

1. Zoning Administrator: A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 7.12 of the Ordinance.
  
2. Permit Requirements:
  - a. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
  
  - b. Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
  
  - c. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.
  
  - d. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
  
  - e. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 7.12 of this Ordinance.

- f. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
- g. Record of First Flood Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or and alterations additions to structures are flood-proofed.

3. Board of Adjustment:

- a. Rules. The Board of Adjustment shall adopt rules for the conduct business and may exercise all of the powers conferred on such Boards by State law.
- b. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.
- c. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
- d. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- e. Decisions. The Board shall arrive at a decision on such appeal or Variance within 75 days. In passing upon an appeal, the Board may, so long as such

action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 7.10.4.f, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 7.12. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

- f. Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.
- g. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

4. Conditional Uses. The Planning Commission shall hear and recommend applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the City Council for consideration.

- a. Hearings. Upon filing with the City Council an application for a Conditional Use Permit, the City Council shall submit by mail to the Commissioner of Natural Resources a copy of the Application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- b. Decisions. The City Council shall arrive at a decision on a Conditional Use within 75 days. In granting a Conditional Use Permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 7.10.4.f, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 7.12. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

- c. Procedures to be followed by the City Council in passing on Conditional Use Permit Applications within all Flood Plain Districts.
  - 1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the City Council for determining the suitability of the particular site for the proposed use:
    - (a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
    - (b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  - 2. Transmit one copy of the information described in subsection 1 to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
  - 3. Based upon the technical evaluation of the designated engineer or expert, the City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- d. Factors Upon Which the Decision of the City Council Shall be Based. In passing upon Conditional Use applications, the City Council shall consider all relevant factors specified in other sections of this Ordinance, and:
  - 1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - 2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
  - 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
  - 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the community.
  6. The requirements of the facility for a waterfront location.
  7. The availability of alternative locations not subject to flooding for the proposed use.
  8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
  10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
  11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  12. Such other factors which are relevant to the purposes of this Ordinance.
- e. Time for Acting on Application. The City Council shall act on an application in the manner described above within 75 days from receiving the application, except that where additional information is required pursuant to 7.10.4.d of this Ordinance. The City Council shall render a written decision within 75 days from the receipt of such additional information.
- f. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the City Council shall attach such conditions to the granting 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:
1. Modification of waste treatment and water supply facilities.
  2. Limitations on period of use, occupancy, and operation.
  3. Imposition of operational controls, sureties, and deed restrictions.
  4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

5. Flood-proofing measures, in accordance with the State Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

#### SECTION 7.11 NON CONFORMING USES

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
  - a. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
  - b. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in c. below.
  - c. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 7.04 or 7.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.
  - d. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.
  - e. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 7.04, 7.05 or 7.06 will apply depending upon whether the

use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.

## SECTION 7.12 PENALTIES FOR VIOLATION

1. 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.
2. Nothing herein contained shall prevent the City of Eyota from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:
  - a. In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
  - b. When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.
  - c. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) permit/development approval within a specified period of time not to exceed 30 days.

- d. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

### SECTION 7.13 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

## ARTICLE VIII

### GENERAL REQUIREMENTS

Section 8.01. CONFORMANCE: The following shall apply equally to all districts except where otherwise stated or where special provisions provide otherwise.

Section 8.02. ACCESSORY BUILDINGS:

1. In any R-2 (High Density Residential), C-I (Commercial), or M-I (Industrial) zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.
2. In the R-I (Low Density Residential) zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously.
  - a. The following accessory uses or structures may be permitted:
    1. Carports or garages for storage of tools, implements, cars, trucks or recreational vehicles, meeting all other requirements of this ordinance;
    2. Workshops that shall be used only for personal use, and not as a home occupation;
    3. Gardening or other horticultural activities for personal use, including the growing of vegetables, ornamental plants, fruit and nut trees, bushes or vines, but where no commercial agricultural uses are carried out.
    4. Recreational uses and structures incidental to residential uses such as swimming pools, tennis courts, patios, porches, cabanas or other similar uses and structures.
  - b. All R-I zoning district lot size and yard requirements for accessory uses or structures shall be complied with.
  - c. All structures permanently affixed to the ground shall be located on the lot in such a way so as to permit the location on the same lot of a principal structure.

- d. All accessory buildings or structures permanently affixed to the ground shall have a maximum total lot coverage that shall not exceed ten (10%) percent of the total lot area.
- e. The lot proposed to be used for the specified accessory uses or structures shall in all cases abut the lot whereon the principal use and building is located, and shall have a common lot line of no less than forty-five (45) feet.

The applicant or property owner shall be required to apply for and obtain a conditional use permit before being permitted to construct a structure or otherwise use the lot.

- 3. All accessory buildings, including storage sheds, that are 120 square feet or less in size shall be required to be permanently anchored to the ground by being attached to appropriate materials located on or below the surface of the ground.

Section 8.03. ACCESSORY BUILDINGS ATTACHED, RESIDENCE DISTRICTS: An accessory building including carports attached to the principal building, on a lot, shall be made structurally a part thereof and shall comply in all respects with the requirements of this ordinance applicable to the principal building. A breezeway, for the purpose of this ordinance, is an attachment between the garage or carport and the principal building and shall be considered a part of the principal building.

Section 8.04. ACCESSORY BUILDINGS DETACHED, RESIDENCE DISTRICTS: All detached accessory buildings shall have a minimum of six (6) feet of separation between building eaves and walls of other accessory buildings or the principal building.

Section 8.05. ACCESSORY BUILDINGS, ATTACHED BUILDINGS: Accessory buildings for single family attached dwellings may be attached to other buildings in the build-able area and/or in the rear yard of a lot, providing the applicant records a covenant and deed restriction on all properties which will abut the common lot line (zero lot line). Said covenants and deed restrictions shall: (1) provide access to the abutting property for the adjacent property owner and/or his/her representative for the purpose of construction, reconstruction, repair and maintenance of either side on the total property; (2) provide for necessary encroachments for footings and eaves for said building; (3) provide for restrictions to limit changes of color, material and design of the accessory building as to be compatible with the attached building.

Section 8.06. STRUCTURES, NOT INCLUDED IN HEIGHT OF BUILDING: Chimneys, elevator bulk heads, drive-in movie theater screens, stacks, water-towers, pumping towers, monuments, cupolas, steeples, radio or television towers, and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located shall not be included in calculating the height of the principal structure.

Section 8.07. NONCONFORMING USES, LOT AND STRUCTURE: Where the districts established by the zoning ordinance contain structures, lots and uses of land and structures which were lawful or nonconforming before this zoning ordinance was passed or amended, but which are prohibited under this ordinance, it is the intent of this ordinance to permit these non-conformities to continue under specified conditions as outlined in the following standards. All non-conformities shall be encouraged to correct to conformity whenever possible.

1. Continuation of Nonconforming Structure or Use: Subject to the provisions of this ordinance, a nonconforming structure or use may be continued and maintained in reasonable repair, but shall not be altered, extended, enlarged or moved, subject to other provisions of this Section. In no case shall an enlargement, extension, or construction increase the nonconformity.
2. Continuation of Nonconforming Lots: Any conforming use or conforming structure on a nonconforming lot may be enlarged, extended, constructed or moved so long as all requirements of the ordinance with the exception of that part addressing the nonconformity.
3. Discontinuance of Nonconforming Use: If a nonconforming use involving a structure is discontinued for a period of twelve (12) consecutive months, or for eighteen (18) months during any three (3) year period further use of the property shall conform to this ordinance. If a nonconforming use is replaced by another use, the new use shall conform to this ordinance.
4. Destruction of Nonconforming Structure: If a nonconforming structure is destroyed by any means to an extent of more than fifty (50%) percent of its current replacement cost (including materials and labor) at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance. If the structure is destroyed to less than fifty (50%) percent of its replacement costs it may be restored to its original condition if said restoration begins within six (6) months from the date the damage occurred otherwise the structure shall be made conforming.

Section 8.08. HOME OCCUPATIONS: Home occupations may be conditionally permitted in order to promote local economic activities consistent with the character of the City, and the neighborhood in which it is proposed to be located. Standards of the zoning district shall apply. The following specific standards shall apply to all home occupations.

1. Said use shall not occupy an area of more than twenty-five (25%) percent of the total first floor area of the dwelling. The home occupation may be located in any part of the dwelling, however in conformance with all building code requirements.
2. The use shall not require any exterior alteration of the dwelling that would cause the premises to differ from its residential character.

3. There shall be no employees who live outside of the dwelling. All employees shall reside within the dwelling in which the home occupation is located.
4. Said use shall not create undue odor, fumes, dust, noise, electrical disturbances, glare, vibrations or other hazards or nuisances noticeable outside of the dwelling.
5. There shall be no outside storage of material or equipment or display of merchandise.
6. A home occupation shall not involve the use of commercial vehicles for delivering of materials to or from the premises.
7. **Delete. (Amended 2-2-13)**
8. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front or rear yard.
9. The use, storage or disposal of hazardous materials as part of a home occupation may be permitted where all other federal, State of Minnesota, County of Olmsted and City of Eyota regulations are met or exceeded. Any person applying for a permit to operate a home occupation shall disclose every and all hazardous materials that may be used, stored or disposed of as part of the operation of the home occupation to the City of Eyota and the Eyota Volunteer Fire Department.

Section 8.09. CLEAR VISION AREAS: A clear vision area shall be maintained on the corners of all property at the intersection of two streets, or a street and a railroad. A clear vision area shall be a triangular shaped area with two (2) sides following lot lines; the clear vision area shall extend along the edge of the road surface or curb for a distance of not less than twenty-five (25) feet. The clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction exceeding 36 inches in height, except for trees with branches and foliage removed to a height of eight (8) feet above the ground, and open wire fencing that does not obscure sight.

Section 8.10. OFF-STREET LOADING: Off-street loading requirements as specified below shall be provided.

1. **Dimensions and Location:** Each loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height and shall be on the same lot as the principal use it serves. Such space may occupy all or any part of any required side or rear yard but shall comply with all buffering and screening requirements as specified in Section 8.24; except the side yard along the side street in the case of a corner lot. In no event shall any part of a required

front yard be occupied by such loading space. Each loading space shall have adequate space for loading and unloading services in order to avoid any interference with public use of the roads, alleys or sidewalks.

2. Requirements:

<u>USE</u>	<u>LOADING SPACES</u>
Multiple-Family (buildings with twenty (20) or more dwelling units)	One (1) loading space per each twenty (20) or more dwelling units)
Motels and Hotels	Under 20,000 square feet in floor area shall require one (1) loading space, over 20,000 square feet one (1) additional loading space.
Schools	One (1) loading space
Convalescent or Nursing Homes	One (1) loading space for each twenty (20) beds.
Servicing, Merchandising, Leisure Uses and Office	For any building of over 5,000 square feet in gross floor uses area, one (1) loading space.
Industrial or Warehousing	Under 10,000 square feet of gross floor area shall require one (1) loading space; over 10,000 square feet shall require one (1) additional loading space per each 20,000 square feet of gross floor area.

Section 8.11. RECREATIONAL VEHICLE PARKING: All recreational camping vehicles, and including, but not limited to, boats and other vehicles that are stored on trailers, and of

a size that prohibits storage in a garage, when parked shall meet the minimum requirements of this section.

1. Residential Districts:

- a. All recreational vehicles shall be required to be parked on-site;
- b. Side yard parking shall be permitted where only one side yard is used for recreational vehicle parking;
- c. Parking shall be on a stable, prepared, weather-resistant surface.
- d. In Cluster Developments and Planned Residential Developments, there shall be provided a separate area to be used for parking, indoors, or outdoors, of the occupants' recreational camping vehicles. Such storage shall have the parking spaces marked and be suitably landscaped so as to be harmonious with the rest of the development.
- e. Deleted

2. Additional Requirements:

- a. In all districts no long-term front yard parking shall be permitted. This requirement shall not apply to commercial establishments that are retail sales establishments for recreational vehicles.
- b. In all districts recreational vehicles may be permitted to be parked in the build-able area to the rear (adjacent to the rear yard) of the principal building on any lot.

Section 8.12. DUMPING AND DISPOSAL OF SOLID OR LIQUID WASTE MATERIAL:

- 1. The use of land for the dumping or disposal of scrap iron, junk, garbage, rubbish, sludge or other refuse or of ashes, slag, or other industrial wastes or by-products is not permitted in any district. The dumping of dirt, sand, rock, or other material excavated from the earth is permitted in any district not within the flood plain management district, provided the surface of such material is graded within four (4) months of the initiated dumping activities and in a manner preventing the collection of stagnant water and which leaves the ground surface in a stable condition suitable for growing of turf, and that will not be subject to erosion, and is usable for other land uses permitted in the district.
- 2. No discharge at any point into any public sewer, or stream, or into the ground except in accord with federal or state pollution control standards, or City of Eyota,

Ordinance #40, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements shall occur.

3. Where hazardous wastes covered by State of Minnesota and federal regulations are produced, stored or otherwise located on a site, the hazardous wastes shall be stored and disposed of in a manner that meets all state and federal hazardous waste disposal regulations.
4. No open burning of liquid waste material shall be permitted within City limits.

Section 8.13. PARKING REQUIREMENTS: The following off-street parking requirements shall be provided for each use listed in this section, unless otherwise specified.

1. Location of Parking Facilities:
  - a. Single family, conventional and Multi-family, limited uses shall have provided parking stalls on the same lot as the dwelling and may occupy all or part of any required side or rear yard but shall not be located in the front yard, except on an established driveway that is not located between the principal building, except a garage or porch, and the front lot line.
  - b. Multi-family uses shall have off-street parking on lands owned by the owner of the building and land and located within two hundred (200) feet of the building they are intended to serve.
  - c. In any non-residence district, off-street parking may occupy that part of front yard to within seven (7) feet of the front lot line and in the case of corner lot that part of a side street side yard to within seven (7) feet of the side street lot line. This said seven (7) feet of front or side street side yard shall be suitably landscaped with shade trees, deciduous and evergreen bushes or hedges and grasses or other material to control surface water runoff from the paved and landscaped area. A landscaping plan shall be included as part of the information required in the application for a zoning permit. In no case shall off-street parking be permitted within the clear-vision areas. (See Section 8.09).
  - d. There shall be adequate provisions for ingress and egress to all parking areas or lots. Said access drive shall not be less than eight (8) feet in width in the case of single family conventional, multifamily limited, and multifamily residential uses, and not less than eighteen (18) feet in width for commercial and industrial uses; provided, however, that one-way access drives for nonresidential uses may be reduced to not less than ten (10) feet in width.

All parking areas for more than four (4) vehicles shall be designed so no vehicle must back out onto any highway, street or road. All parking lot aisles (the drives between opposite parking spaces) shall be a minimum of twenty four (24) feet in width.

- e. Necessary curbs or other protection against damage to abutting properties, roads, and sidewalks shall be provided and maintained. Necessary curbs and other structures shall be provided at all ingress and egress areas to clearly delineate such areas.
- f. All parking spaces for uses other than single family (attached and detached) dwellings shall be nine and one-half (9 1/2) feet in width and eighteen (18) feet in length, and shall be clearly marked.
- g. It shall be the responsibility of the owner of the principal use or of the property to insure that the parking area is neat and maintained in a safe condition.
- h. When calculations for required parking spaces result in a requirement of a fractional space, any fraction of less than one-half (1/2) shall be disregarded, and fractions of one-half (1/2) or more shall require one (1) parking space.
- i. Shopping centers shall have off-street parking on the same lot or lots on which the principal building(s) are located and shall meet the minimum requirements listed below.
- j. Artificial lighting which may be provided shall be deflected so as not to shine directly onto adjoining dwellings or other types of living units and so as not to create a hazard to public use of a street or road.

2. Required Parking Spaces:

USE

PARKING SPACES

Single family conventional and multifamily, limited

Two (2) parking spaces per dwelling unit.

Multi-Family

One and one-half (1 1/2) parking spaces per dwelling unit.

Boarding/Rooming House	One (1) parking space for every two (2) living units.
Hotels and Motels	One (1) parking space per guest room and two (2) parking spaces for employees.
Retail Commercial and Shopping Centers	One (1) parking space per two hundred (200) square feet of gross floor area.
Restaurants	One (1) parking space for every four (4) seats and one (1) parking space for every two (2) employees.
Offices, Banks and Public Administration	One (1) parking space for every four hundred (400) square feet of gross floor area.
Furniture Store, Plumbing Supply, Wholesale Store, Laundry, Motor Vehicle Sales Showroom, or Similar large uses.	One (1) parking space for every eight hundred (800) square feet of gross floor area.
Bowling Alley	Two (2) parking spaces for each bowling lane.
<u>USE</u>	<u>PARKING SPACES</u>
Service Station Car Washes, & Car Repair	Five (5) parking spaces per stall or repair bay.
Funeral Home	One (1) parking space for every five (5) seats, or fifty (50) square feet of floor area in public portions of the building.
All other Commercial	One (1) parking space for every three hundred (300) square

feet of gross floor area.

Schools, Nurseries  
and Day Care Centers

One (1) parking space for every two (2) employees, and for high schools, one (1) additional parking space for each ten (10) students.

Nursing or Convalescent  
Homes

One (1) parking space for every four (4) beds.

Library

One (1) parking space for every five hundred (500) square feet of gross floor area.

Lodges and Meeting Halls  
(no fixed seating)

One (1) parking space for every five (5) persons, based on the maximum capacity of the building.

Churches and Auditoriums  
(with fixed seating)

One (1) for every five (5) seats or ten (10) feet of bench seat or pew space.

Industrial/Warehousing

One (1) parking space for every two (2) employees of the largest work shift.

### 3. Additional Standards:

- a. Buffers or screening shall be required for all parking areas used by commercial or industrial uses that are adjacent to or abutting a residential district. (See Section 8.23, Buffering and Screening.)
- b. Residential uses located above a commercial use in a commercial district shall be required to have one (1) off-street parking space for each dwelling unit with zero (0) to two (2) bedrooms and for dwelling units with three (3) or more bedrooms, there shall be required one (1) parking space for each two (2) additional bedrooms.

4. Exceptions:

- a. For all existing and new permitted commercial uses located in the downtown commercial area, as identified by the Land Use Plan 2000, and the Eyota comprehensive guide plan no off-street parking shall be required.

**Section 8.14. SIGNS: (Amended 2-2-13)**

1. General Definitions: The following words and terms, when used in this Section 8.14 shall have the following meanings, unless the context clearly indicates otherwise:
  - a. ABANDONED SIGN means any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.
  - b. AWNING/CANOPY means any sign that is part of or attached to an awning or canopy, made of fabric, plastic, or structural protective cover over a door or entrance.
  - c. BUILDING SIGN means any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed on the exterior of a building.
  - d. COMMERCIAL SIGN means speech advertising a business, profession, commodity, service or entertainment.
  - e. ELECTRONIC MESSAGE SIGN means a programmable display sign that has the capability to present text and/or symbolic imagery in motion and in a variety of colors.
  - f. EXTERIOR SIGN means a sign which is located on the exterior of a building which is visible from a public street or adjoining property.
  - g. FREESTANDING SIGN means any sign which has supporting framework that is placed on or anchored in, the ground and which is independent from any building or other structure.
  - h. GRADE means the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.
  - i. HEIGHT OF SIGN means the vertical distance measured from the base of the sign structure at grade to the top of the highest attached component of the sign.
  - j. ILLUMINATED SIGN means any sign which contains an element designed to emanate artificial light internally or externally.
  - k. INTERIOR SIGN means a sign which is located within the interior of any building, including signs attached to interior window panes or glass whether visible from the

outside or not, or within an enclosed and screened exterior space not visible from a public street or adjoining property and does not create a public nuisance.

- l. LEGALLY ESTABLISHED NONCONFORMING SIGN means any sign and its sign structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was not lawfully erected shall be deemed to be an illegal sign.
- m. MONUMENT SIGN means a freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.
- n. NON-COMMERCIAL SPEECH is the dissemination of messages not classified as commercial speech which includes, but is not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- o. OFF-PREMISE SIGN is a sign containing commercial speech which directs the attention of the public to a business, activity conducted, or product sold or offered at a site not on the same premises where such sign is located. For purposes of this definition, an easement or other appurtenance to a site shall be considered to be outside of such location where the business, activity conducted or location where a product is sold or offered, and any sign located or proposed to be located in such easement or other appurtenance shall be considered an off-premise sign.
- p. ON-PREMISE SIGN is a sign which identifies or advertises an establishment, person, activity, goods, products or services located on the premises where the sign is installed.
- q. PORTABLE SIGN means any sign which is manifestly designed to be transported, either by a vehicle or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground.
- r. PRINCIPAL BUILDING means the building in which the principal use of the site is conducted. A site with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses under the zoning ordinance shall not be considered principal buildings for purposes of this ordinance.
- s. PYLON SIGN means a freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above grade by pole(s) or beam(s) and with the area below the sign face open.
- t. ROOF LINE means the upper-most edge of the roof or in the case of an extended façade or parapet, the upper-most height of said façade or parapet.
- u. SIGN means any letter, word or symbol, poster, picture, statuary, banner, flag, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, inflatable device reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
- v. SIGN STRUCTURE means any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign above or below ground.

- w. SITE means a plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.
- x. TEMPORARY SIGN means a banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard, inflatable device, or other like materials that identify symbols or messages related to the use or event, and intended to be displayed for no more than thirty (30) days.
- y. TOTAL SITE SIGNAGE means the maximum permitted combined area of all freestanding and building signs allowed on a specific property.
- z. WINDOW SIGN means any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed on the exterior panes or glass of a window.

2. Purpose and Intent: It is not the purpose or intent of this ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. Rather, the purpose and intent of this chapter is as follows:

- a. To provide a quality sign ordinance that promotes greater flexibility and business growth within the community.
- b. To maintain, enhance and improve the aesthetic environment of the City.
- c. To improve the visual appearance of the City while providing for effective means of communication.
- d. To provide for fair and consistent enforcement of the sign regulations set forth herein under the ordinance of the City.

3. Permit Requirements: No exterior or freestanding sign shall be erected, altered, reconstructed, maintained or moved in the City without first securing a sign permit from the City. The message contained on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit except or unless it contains obscene language or actions or to determine commercial or non-commercial content. An application for a sign permit shall be in writing addressed to the Zoning Administrator and shall contain the following information.

- a. The name, phone number and addresses of the owner of the display structure and property.
- b. The address at which the sign is to be erected.
- c. The legal description of the site at which the sign is to be erected, and the street on which the sign will front.
- d. A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and placement of the sign.
- e. Type of sign for which a permit is requested.
- f. If the proposed sign is located adjacent to the right-of-way of state trunk highway, the application shall be accompanied by proof that the application has obtained a permit from the Minnesota Department of Transportation for the sign.

If a sign permit is denied, the Zoning Administrator shall prepare a written notice within ten (10) days of its decision, describing the applicant's appeal rights under Section 10.01 of Zoning Ordinance #53 and send it by certified mail, return requested, to the applicant.

4. Exemptions:

A. The following kind of sign shall not require a sign permit:

- (1) Changing of the display surface on a painted or printed sign only. This shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
- (2) A sign six square feet or less in size.
- (3) A governmental sign which supports the principal use. Governmental signs are authorized by the city, county or other governmental agency, the State of Minnesota, or the United States for: street direction, destination, hazardous condition or traffic control purposes.
- (4) A directional sign. Signs on private property without commercial messages to give directions such as entrance, exit, or street numbers.
- (5) Display of a governmental or religious flag does not need a permit. The Zoning Administrator, in its discretion, may require large or numerous governmental flags or religious flags maintained on a single site to be subject to the permit required by Section 8.14 of this ordinance. Any flagpole used may not exceed a height of thirty (30) feet above grade. A flag that is neither a governmental or religious flag is considered a sign subject to the requirements of obtaining a sign permit under the terms of this ordinance, unless otherwise exempt because of its size.
- (6) A warning sign exclusively devoted to warning the public of dangerous conditions and unusual hazards on a site are permitted. Warning signs may not exceed three (3) square feet in size unless otherwise required by law.
- (7) A temporary sign.
- (8) An interior sign.

B. Compliance with other provisions of law. An exemption from the requirement of obtaining of a permit shall not relieve the owner of a sign from the responsibility to otherwise comply with any other provisions of this ordinance, or any other law or ordinance regulating the same the use of property or maintenance of a sign.

5. Fees: The fee charged for issuance of a sign permit shall be established by resolution of the Council.

6. Special Event Signs: Signs used on a temporary basis for a community event sponsored by a not-for-profit organization may be permitted at the discretion of the Zoning Administrator.

7. Setbacks: No portion of a permanent freestanding sign, whether above or below grade, shall be located closer than two (2) feet from a property line or boundary of an easement.
  
8. Area: The message area within the sign frame shall be used to calculate the square footage of the sign. If letters or graphics are mounted directly on a wall or fascia or in such a way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the border formed around such letters or graphics. Each surface used to display a message or to attract attention shall be measured as a separate sign and shall be calculated in determining the overall square footage of the sign.
  
9. Illumination: External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property. Visible means capable of being seen by a person of normal vision (whether legible or not) without visual aid.
  
10. Electronic Message Signs:
  - a. Such signs may be used only to advertise activities conducted on the premises or to present public service information.
  - b. Segmented messages must be displayed for not less than one-half (1/2) second.
  - c. Signs having animation or video are only permitted by Conditional Use Permit.
  - d. Electronic signs are not permitted within seventy-five (75) feet of a residential district lot line.
  - e. Dimmer Control. Electronic Message Signs must have an automatic dimmer control such as a photocell or other ambient light sensing mechanism that automatically adjusts the sign's brightness in direct correlation with the natural ambient light conditions.
  - f. Brightness. Electronic Message Signs shall not exceed 0.3 foot candles above ambient light. Such measurements shall be taken using a foot candle (Lux) meter at a preset distance depending on sign area, measured as follows:

Area of Sign Square Feet	Measurement Distance (ft.)	Area of Sign Square Feet	Measurement Distance (ft.)
10	32	55	74
15	39	60	77
20	45	65	81
25	50	70	84
30	55	75	87
35	59	80	89
40	63	85	92
45	67	90	95
50	71	95	97
			100 - 100

11. Non-Commercial Speech: Notwithstanding any other provisions of this ordinance, all signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen weeks prior to any special election until ten (10) days following the special election. Non-commercial speech signs are allowed throughout the year in all zoning districts if they are in compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

12. Unauthorized Signs: Any of the following is an unauthorized sign.

- a. Any sign, signal, marking or device which falsely appears to be or is an imitation of, or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- b. A sign that is painted, attached or in any other manner attached to a tree, rock, or similar natural surface; or attached to a public utility pole, bridge, tower, or similar public structure.
- c. A sign that moves mechanically.
- d. A sign that displays obscene language or activities.
- e. A sign that obstruct a window, door, fire escape, stairway or opening essential to the provision of light, air, ingress or egress from any building.

13. Permitted Signs By District:

NOTE: For all permitted signs in all districts listed in: 13.A., 13.B., and 13.C.: Building façade calculations are non-cumulative. Each building face is independent of all others when calculating the maximum square footage of the total site signage allowed.

A. Residential Districts: Within residential zoning districts, R-1 (Single Family Low Density Residential District), R-2 (Multi-family High Density Residential District), and Ag (Agricultural District) a sign is permitted per site as follows:

- (1) R-1 General Rule. One (1) building sign, and two (2) temporary signs. The total site signage for all signs, permanent or temporary, shall not exceed twenty-four (24) square feet or ten percent (10%) of the area of the front face of the building on the site. Illuminated signs, monument signs and pylon signs are not allowed.
- (2) R-2 General Rule. Schools, Religious Facilities, Ag and Institutional uses located in residential districts. Special Provisions. One (1) monument sign, one (1) building sign, and two (2) temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed twenty percent (20%) of the area of any two faces of the building on the site. The height of the monument sign may not exceed fifteen (15) feet above grade externally. Illuminated signs if

used, shall be shielded from view, be focused upon the sign to avoid stray lighting, and shall be directed away from adjacent residential areas.

B. Commercial Districts (C-1): Within commercial zoning districts, a sign is permitted as on a site as follows. Refer to Commercial District Map at the end of Section 8.14

- (1) Northwest Commercial District. One (1) freestanding sign (either monument or pylon), three (3) building signs, one (1) window sign, and two (2) temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed twenty percent (20%) of each building façade that faces a public street on the site. A pylon sign may not exceed forty (40) feet in height.
- (2) Highway Commercial District (within four hundred (400) feet of a highway). One (1) freestanding sign (either monument or pylon), three (3) building signs, one (1) window sign, and two (2) temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed twenty percent (20%) of each building façade that faces a public street on the site. A pylon sign may not exceed forty (40) feet in height.
- (3) Downtown Commercial District. Two (2) building signs, one (1) window sign, and two (2) temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed thirty percent (30%) of each building façade that faces a public street on the site.

C. Industrial/Manufacturing Districts (M-1): A sign is permitted on a site as follows: One (1) freestanding sign (either monument or pylon), two (2) building signs, and two (2) temporary signs. The total site signage for all signs, temporary or permanent, shall not exceed twenty percent (20%) of each building façade that faces a public street on the site. A freestanding sign may not exceed forty (40) feet in height.

#### 14. General Requirements:

- a. Where feasible, a sign should be constructed of weather resistant durable material.
- b. A sign shall conform to the latest edition of the applicable building and electrical codes.
- c. All structural components of a sign must remain safe and secure during the period of use.
- d. A sign may not be located so as obstruct a fire escape or other form of emergency egress from a structure.
- e. The site on which any site is located shall be maintained in a clean and sanitary condition. It shall be free from weeds, rubbish, and flammable material.
- f. Both the property owner of the site on which a sign is placed and the person who owns the sign structure are each deemed to be fully responsible for the

condition and the maintenance of the sign, and the area of the site adjacent to the sign.

15. Non-Conforming Sign: Compliance. It is recognized that signs exist within the zoning districts which were lawful before this ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance that a nonconforming sign shall not be enlarged upon, expanded or extended, nor be used as grounds for adding to a site another sign or use prohibited elsewhere in the same district. It is further the intent of this ordinance to permit legal nonconforming signs existing on the effective date of this ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed, subject however, to the following provisions:
- a. No sign shall be enlarged or altered in a way which increases its nonconformity;
  - b. If a sign or sign structure be destroyed by any means to an extent greater than fifty percent (50%) of its replacement cost and no building permit has been applied for within 180 days of when the sign or structure was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance; and any structure remaining shall be completely removed;
  - c. If a sign or sign structure is moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved;
  - d. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located.
  - e. When a building loses its nonconforming status all signs devoted to the building shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the building.
16. Repairs: Any sign located in the City which may now be or hereafter become, out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this ordinance shall be removed or otherwise properly secured in accordance with the terms of this ordinance by the owners thereof or by the owners of the site on which said sign shall stand, upon receipt of proper notice so to do, given by the Zoning Administrator. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this ordinance and upon a permit issued by the Zoning Administrator.
18. Removal: In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the site on which the sign is located, to remove or repair said sign within sixty (60) days after receiving notice from the Zoning Administrator the sign may be removed by the City and the expense of removal shall be assessed to the owner of the site or billed to the owner of the sign.

**SEE: PDF MAP: Zoning Ordinance #53, 8.14 Commercial District Map**

Section 8.15. ENVIRONMENTAL PERFORMANCE STANDARDS:

1. Compliance Required: No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosion, or other hazard; noise; vibration; smoke, dust, fumes, odors or other forms of air pollution; heat; glare; liquid or solid wastes or other substance, condition or element in such a manner, or in such amount, as to adversely affect the surrounding area or adjoining premises; provided that any use permitted or not expressly prohibited by the zoning code may be undertaken and maintained if it conforms to the regulations of this section.
2. Use Restrictions: All commercial and industrial uses shall be subject to, the performance standards.
3. Enforcement: The Zoning Administrator shall investigate any purported violation of performance standards and if there are reasonable grounds for the same, shall serve the owner with a written notice of violation thereof. Where the State of Minnesota environmental regulations address a purported violation, the Zoning Administrator may report the same to the Minnesota Pollution Control Agency or any other responsible state agency. If it should become necessary for the City to employ the services of any qualified expert to advise in establishing a violation, the fee shall be paid by the violator if said violation is established, otherwise it shall be paid by the City.
4. Performance Standards:
  - a. Fire and Explosion Hazards: All activities involving, and all storage of flammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry or commercial use and that meet or surpass all minimum building code requirements. Burning of waste materials in open fires shall be prohibited at any time. The relevant provisions of state and county laws and regulations shall also apply.
  - b. Noise: All sound sources, including nonconforming uses, shall comply with the state noise regulations, as administered by the Pollution Control Agency.
  - c. Vibration: No vibration shall be permitted which is discernible without instruments at the property line of said use.

- d. Smoke: No emission shall be permitted at any point, from any chimney, or otherwise, of visible smoke greater than twenty (20%) percent opacity for any measured time or a forty (40%) percent opacity for any four (4) minutes per one (1) hour time period for existing uses and not greater than twenty (20%) percent opacity for any measured times for new uses. Opacity should be measured using U.S.E.P.A Method 9. All Minnesota Pollution Control Agency regulations shall be met or exceeded.
- e. Dust, Fumes, Vapors and Gases: The emission of dust, dirt, fly ash, fumes, vapors or gases which can cause any damage to human health, to animals, to vegetation, or to property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission, is herewith prohibited. All Minnesota Pollution Control Agency regulations shall be met or exceeded.
- f. Odor: No use other than agriculture related activities shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. All applicable Minnesota Pollution Control Agency regulations shall be met or exceeded.
- g. Glare: No use shall produce a strong, dazzling light or a reflection of a strong, dazzling light beyond its lot lines.
- h. Heat: No use shall produce heat perceptible with instruments beyond its lot lines.
- i. Liquid or Solid Wastes: Refer to Section 8.12, Dumping and Disposal of Solid or Liquid Waste Material.

**Section 8.16. TEMPORARY STORAGE:** In residential districts, all lots shall be maintained and kept in a reasonably clear and neat condition. Vehicles which are partially dismantled or do not have a valid state license, and other material or objects which would detract from the open space character of the yard or are a potential health hazard, shall not be stored more than ten (10) days in a front yard or side street side yard in all residential districts, subject to Recreational Vehicle Parking, Section 8.11.

**Section 8.17. LOT LIMITATIONS:** Any platted parcel, lot, or area of land recorded in the County Recorder's Office shall have no more than one (1) principal use located thereon.

**Section 8.18. MANUFACTURED HOME PARK REGULATIONS:** Manufactured homes in all manufactured home parks shall comply with the applicable State of Minnesota laws and regulations on manufactured housing and manufactured home parks. These regulations are intended to provide for manufactured home parks that are designed and improved for a desirable residential environment.

1. Park Size: A manufactured home park shall contain not less than twenty (20) lots for manufactured homes.
2. Building Height: Building height within a mobile home park shall be limited by the regulations of the R-2 (High Density Residential) district.
3. Uses permitted within the park shall include only manufactured homes, storm shelters, recreational facilities, and accessory uses to the manufactured homes.
4. Yard Requirements:
  - a. An open area shall be provided on each manufactured home lot to insure privacy, adequate natural light, and ventilation to the home and to provide sufficient area for outdoor uses essential to the manufactured home. The minimum lot area shall be seven thousand two hundred (7200) square feet. The maximum lot coverage for the manufactured home, carport, garage, breezeway, or accessory structures shall be fifty (50%) percent.
  - b. Manufactured homes shall be no closer than twenty-five (25) feet to adjacent manufactured homes in the side yard area, and not less than twenty-five (25) feet in the rear yard area. A front yard of twenty (20) feet shall be required between the paved roadway and manufactured home. Each lot shall be clearly defined by permanent markers located in the ground.
  - c. No manufactured home shall be located closer than fifty (50) feet to the right-of-way line of T.H. 14 and C.S.A.H. 7, and twenty-five (25) feet from all other public highways. A manufactured home shall be located no closer to the park boundary than twenty (20) feet.
5. Site Improvements:
  - a. Off-street parking spaces shall be provided to minimize the disruption of traffic movement. Driveway area shall not be located on the lot and of such size that the remaining open space area of each lot be substantially reduced in size. Each lot shall be required to have one (1) off-street parking space.
  - b. Streets shall be provided within the park. The internal street system shall provide convenient and safe circulation and access to each lot. These streets shall be private streets.

The minimum street width (pavement surface) shall be as follows:

Local Street \*

Traffic

<u>Direction</u>	<u>One Side</u>	<u>Both Sides</u>	<u>No Parking**</u>
One Way	17'	25'	10'
Two Way	26'	34'	20'

- \* Travel lanes shall be nine (9) feet in width and parking lanes eight (8) feet in width.
- \*\* Where no parking on-street is permitted, proper signing shall be required to indicate that no parking is permitted. Where no parking is permitted on-street, additional off-street parking shall be required at one (1) additional parking space per lot.
- c. Streets shall be paved to city construction standards for surface and subsurface materials and construction methods. Streets shall be maintained in good condition.
- d. The ground surface of all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk of erosion or flooding of lots within the park or to lands adjoining or in the vicinity of the manufactured home park.
- e. No manufactured home shall be erected on a lot except upon a manufactured home pad that shall meet all applicable Uniform Building Code (City building code) standards. Each pad shall have a minimum dimension equal to the dimensions of the manufactured home to be placed on the lot.
- f. A buffer shall be provided and located along all exterior boundary lot lines not bordering local streets. A buffer shall be required along exterior boundary lot lines that are abutting a county, state or federal highway (See Section 8.23, Buffering and Screening).
- g. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division) and consistent with the City building code.

- h. There shall be provided within each manufactured home park suitable storm shelter facilities constructed completely below ground level and outside all floodplain or flood prone areas to accommodate the following numbers of people:

Shelter Space (No. of People)=0.75 x No. of Units x 2.5 People/Unit.

Shelter Space (No. of People) x 4 square feet = Total Space (floor area) of Storm Shelter.

- i. A municipal sanitary sewer and municipal water system shall be installed in accordance with city specifications. Each manufactured home lot shall be equipped with a public water outlet, a public sewer, a telephone outlet, an electrical outlet, a natural gas outlet, and a cable TV outlet, all to be placed underground. Fire hydrants shall be located in accordance with generally accepted practices as determined by the City Council.
- j. Trash and garbage disposal shall be in common disposal areas with adequately sized bins in a walled or fenced area, and be located within one hundred fifty (150) feet of each lot, and meet all Olmsted County Health Department regulations. Individual garbage cans shall not be permitted.

6. Manufactured Home and Lot Improvements:

- a. One carport or garage and one utility shed shall be permitted on a manufactured home lot. Each manufactured home may have a breezeway, constructed independently of the mobile home.
- b. Recreational vehicles, other than snowmobiles and small watercraft and similar vehicles, shall be required to be parked in an area designated for such use on the manufactured home park plan. No on-street parking of recreational vehicles shall be permitted.
- c. Any mobile home or manufactured home to replace an existing home must be no older than seven (7) years from date of its placement according to date of manufacture, and shall be inspected to meet building code regulations of State, County, and City.

7. Permit Required: A conditional use permit shall be required including site design review, and approval granted prior to the development and operation of a manufactured home park.

Section 8.19. MANUFACTURED HOME SUBDIVISION: Manufactured home subdivisions shall comply with the adopted subdivision ordinance for the City of Eyota.

1. Subdivision Size: A manufactured home subdivision shall contain not less than fifteen (15) lots.
2. Manufactured home subdivisions shall be required to meet all requirements of the R-2 zoning district. Subdivisions shall be required to have a minimum lot size of seven thousand two hundred (7200) square feet.
3. All manufactured homes shall be equipped with an anchoring system approved by the Minnesota Department of Administration (Building Code Division) and consistent with the City Building Code.
4. Manufactured homes shall be the exclusive dwelling type permitted within the subdivision.

Section 8.20. RECREATIONAL CAMPING VEHICLE PARKS AND CAMPGROUNDS:  
The following requirements shall apply to travel trailer and motor home parks and campgrounds in addition to all other zoning district regulations:

1. The park shall abut a paved public highway or street and have safe access onto such public roadway.
2. A buffer shall be required along the entire property boundary perimeter as specified in Section 8.23, Buffering and Screening.
3. Each travel trailer parking site or camping site shall be within two hundred (200) feet of a community building which shall provide separate toilet facilities for each sex. Drinking water outlets shall be provided throughout the park or campground.
4. Interior streets or paths for safe vehicle circulation shall be constructed in a manner so as to be usable during any time of the year and kept in a dust-free condition. Recreational travel trailer or other recreational vehicle parking areas shall be similarly constructed so as to be usable and dust-free during any time of year.
5. The park shall be graded and equipped to drain all surface water in a safe and efficient manner without risk of erosion or flooding of lands adjoining or in the vicinity of the park. All surface area, excluding paved areas, shall be required to maintain vegetative cover of grasses, herbs or similar vegetative material on the entire park.
6. Proper waste disposal methods shall be used that meet Olmsted County Department of Health standards and State Department of Health standards.

7. The applicant shall be required to provide an accurate scaled drawing of the design of the planned park or campground. Information on all requirements of this ordinance shall be included on the application by the applicant.
8. All State of Minnesota laws and regulations and Olmsted County Department of Health regulations shall be complied with.

Section 8.21. COMMON OPEN SPACE OWNERSHIP: At the time of development review the City of Eyota shall not require dedication of common open space or otherwise obtain such open space unless the City determines that a public purpose will be served by providing open space within the area of the City under development review, where common open space has been proposed as part of a development. Common open space shall remain in private ownership unless the City Council determines that it is in the best interest of the City to obtain the open space and make it available to the public.

Section 8.22. OWNERSHIP AND MAINTENANCE OF COMMON IMPROVEMENTS: All developments involving common open space area and other common improvements shall meet the requirements herein set forth, and no development application shall be approved until compliance with this section is established.

1. The applicant or developer shall provide for and establish a nonprofit organization or other legal entity under the laws of Minnesota for the ownership, care and maintenance of common landscaped areas, recreational areas, private streets, parking lots or other commonly owned facilities.
2. Such organization shall be created by covenants and restrictions running with the land and shall be composed of all persons having ownership within the development. Such organization shall be responsible for the perpetuation, maintenance and function of all common lands, uses and facilities.
3. If the common areas are deeded to a homeowner's association, the proposed documents governing the association shall be filed with the Zoning Administrator. Such documents shall meet the following requirements:
  - a. The homeowner's association must be established before any residences are sold.
  - b. Membership in the association must be mandatory for each residence owner.
  - c. Common area restrictions must be permanent and not for a period of years.
  - d. The homeowner's association must be made responsible for liability insurance, taxes and maintenance of recreational and other facilities.

- e. The association must have the power to levy assessments which can become a lien on individual premises for the purpose of paying the cost of operating and maintaining common facilities.
  - f. The governing board of any such association shall consist of at least three (3) members who shall be owners of property in the development.
4. All lands and improvements shall be described and identified as to location, size, use and control in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land.
  5. Such restrictive covenant and organization shall continue in effect so as to control the availability of the facilities and land thereby provided, to maintain the land and facilities for their intended function on, and to protect the development from additional and unplanned densities of use. Such organization shall not be dissolved, nor shall such organization dispose of any common open space by sale or otherwise, except to an organization conceived and organized to own and maintain the common open space, without first offering to dedicate the same to the city or other appropriate governmental agency.
  6. **Open Space Maintenance Guarantee:** In the event the organization established to own and maintain common open spaces, recreational areas, communally owned facilities and private streets, or any successor organization, shall at any time fail to maintain the common facilities in responsible order and condition in accordance with the approved plan, the City Council may cause written notice to be served upon such organization or upon the owners of property in the development setting forth the manner in which the common facilities have failed to be maintained in reasonable condition. The notice shall include the demand that the deficiencies noted be cured within thirty (30) days thereafter and shall state the date and place of a hearing to be held within fourteen (14) days of the notice.

At the time of hearing, the City Council may modify the terms of the original notice as to deficiencies and may extend the time within which the same may be cured. If the deficiencies set forth in the original notice or modifications are not cured within the time set, the City Council, in order to preserve the taxable values of properties within the development and to prevent the common facilities from becoming a public nuisance, may enter upon such common facilities and maintain the same for a period of six (6) months. Such entry and maintenance shall not vest in the public any right to use the common facilities not dedicated to public use. Before expiration of such six (6) months, the City Council shall, upon its own initiative or upon the written request of the organization therefore responsible for maintenance, call a public hearing and give notice of such hearing to the organization responsible for maintenance or the property owners of the development. At such hearing, the organization responsible for maintenance and/or the residents of the development may show cause why maintenance by the

City should not be continued for a succeeding six (6) months. If the City Council determines that it is not necessary for the City to continue such maintenance, the City shall cease such maintenance at the time established by the City Council. Otherwise the City shall continue maintenance for the next succeeding six (6) months subject to a similar hearing and determination at the end of each six (6) months thereafter.

The cost of maintenance by the City shall be a lien against the common facilities of the development and the private properties within the development. The City Council shall have the right to make assessments against properties in the development on the same basis that the organization responsible for maintenance of the facilities could make such assessments. Any unpaid assessment shall be a lien against the property responsible for the same, enforceable the same as a mortgage against such property. The City may further foreclose its lien on the common facility by certifying the same to the County Treasurer for collection as in the case of collection of general property taxes.

### Section 8.23. BUFFERING AND SCREENING:

1. Purpose: Buffering and screening serves to soften the outline of buildings, to screen glare and noise, and to create a visual and/or physical barrier between conflicting land uses. Buffering and screening are required between specified lots in different zoning districts and between land developments and along existing streets. The extent of buffering and screening required shall be determined by the type of use proposed and the adjacent uses and/or zoning surrounding the proposed development. The impact of the proposed use on adjoining properties is the basis for establishing buffering and screening standards.
2. Required Buffering and Screening: All buffering and screening required by this ordinance shall conform to the regulations set forth in this section of the ordinance. Buffering and screening that conforms to the requirements of this Section shall be required as specified in Table 8.1, or Section 8.24(4)(a-d). The applicant proposing the new land use, rezoning or major structural change or expansion shall be responsible for meeting the requirements of this section of the ordinance.
3. Determination of Buffering and Screening Class: Table 8.1 specifies the buffering and screening that shall be required. For each property boundary, the applicant shall determine the existing adjacent land use or zoning where the parcel is vacant or the existing land use is nonconforming. Then, the applicant shall match the proposed land use, whether the land is currently vacant or there is an existing use that is proposing a major structural change or expansion, with the identified adjacent land uses. The letter indicates the buffer class. After determining the buffer class from Table 8.1, the applicant shall select a planting option from Table 8.2.

A major structural change or expansion, for the purposes of this section of the ordinance, shall be considered to be an expansion of the existing building floor area or land area used of forty (40%) percent or more.

TABLE 8.1

EXISTING ADJACENT LAND USE/ZONING

Proposed Land Use/Rezoning Major Structural Changes <u>Expansion</u>	<u>Agricultural</u>	<u>Low Density Residential</u>	<u>High Density Residential</u>	<u>Commercial (Downtown, Other)</u>	<u>Industrial</u>
Agricultural	-	-	-	-	-
Low Density Residential	-	-	B	A	C
High Density Residential	-	B	-	A	C
Commercial Downtown	-	A	A	-	A
Other	-	B	B	-	A
Industrial	-	D	D	-	-

1. See Planting Options (Table 8.2) for a description of the class options.
2. Where a street or alley is located between the proposed and adjacent land uses, the required class (A-D) shall be reduced to the next less restrictive class, such as from Class C to Class B, except industrial uses which shall be required to use the same classes as indicated on Table 8.1
3. Special Planting Option Requirements:
  - a. Buffering and screening shall be required to be located along the perimeter of all parking areas of nonresidential uses located in the High Density Residential (R-2) district. The buffering and screening planting option required shall be Class B.

- b. Buffering and screening shall be required around the perimeter of manufactured home parks: a) where adjacent to Low Density Residential areas, shall require a Class C planting option; and b) where adjacent to High Density Residential areas, shall require a Class B planting option. For travel trailer parks and campgrounds, the buffering and screening planting option shall be Class C.
  - c. Buffering and screening shall be required around the perimeter of parking areas serving multifamily, limited uses located in the Low Density Residential (R-I) district. The buffering and screening planting required shall be one deciduous canopy tree per forty (40) feet, and one under-story tree per forty (40) feet, or a hedge planted on three (3) foot centers and meeting all other requirements of this section.
  - d. Low or high density residential uses proposed for development adjacent to arterial streets, as designated in the comprehensive guide plan or railroad right-of-way, shall be required to provide buffering and screening to the level specified in Planting Options, Class B.
  - e. Where a railroad right-of-way is located between the proposed industrial and adjacent residential uses/zoning no buffer or screening shall be required adjacent to the railroad right-of-way.
4. Planting Options: The options below indicate the amount of plant material and fencing that is required. Unless specified, plantings are not required to be aligned on property or right-of-way boundaries, but may be sited on any portion of the property for buffering and screening purposes. The Planning Commission and City Council may permit staggering or grouping of plant materials if a satisfactory buffer is achieved. Determination of the total number of plants shall be made by dividing the dimensions of the area where buffering and screening is required by the specifications given in Table 8.2.

TABLE 8.2

PLANTING OPTIONS

<u>Class</u>	<u>Option</u>
A	(1) 10 feet wide with one (1) hedgerow on lot line (plants on 3 foot centers), and one (1) canopy tree per 50 feet.
	(2) 7 feet wide with 6 foot high fencing on lot line, and one (1) canopy tree per 50 feet.
B	(1) 10 feet wide with one (1) deciduous canopy tree per 50 feet, and one (1) shrub per 4 feet.
	(2) 15 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) under-story tree per 40 feet.
	(3) 20 feet wide with one (1) deciduous canopy tree per 40 feet, and one (1) under-story tree per 50 feet.
	(4) 20 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous tree per 80 feet.
C	(1) 10 feet wide with one (1) canopy tree per 40 feet, one (1) under-story tree per 20 feet, one (1) shrub per 15 feet, and 6 foot high fencing on lot line.
	(2) 15 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous canopy tree per 40 feet, one (1) under-story tree per 30 feet, and one (1) shrub per 20 feet.
	(3) 20 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous canopy tree per 50 feet, one (1) under-story tree per 40 feet, and one (1) shrub per 30 feet.
	(4) 25 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous canopy tree per 60 feet, and one (1) under-story tree per 40 feet.

<u>Class</u>	<u>Option</u>
D	<p>(1) 25 feet wide with one (1) deciduous canopy tree per 60 feet, one (1) coniferous tree per 40 feet, one (1) under-story tree per 50 feet, and one (1) hedge on boundary (hedge plants on 3 foot centers).</p> <p>(2) 25 feet wide with one (1) deciduous canopy tree per 60 feet, one (1) coniferous canopy tree per 30 feet, and one (1) berm averaging 4 feet in height.</p> <p>(3) 30 feet wide with one (1) deciduous canopy tree per 60 feet, one (1) coniferous canopy tree per 50 feet, one (1) under-story tree per 30 feet.</p> <p>(4) 20 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous tree per 30 feet, one (1) under-story tree per 40 feet, and one (1) coniferous shrub per 10 feet or one (1) deciduous shrub per 5 feet.</p> <p>(5) 10 feet wide with one (1) deciduous canopy tree per 40 feet, one (1) coniferous canopy tree per 40 feet, one (1) under-story tree per 30 feet, one (1) shrub per 10 feet, and 6 foot high fencing on lot line.</p>
	<p>1. All shrubs shall be planted in groupings of shrubs or shrubs and under-story trees. Shrubs may be evergreen or deciduous unless otherwise specified.</p> <p>2. Fencing shall be visually solid and constructed of wood that is weather resistant and permanently anchored in the ground.</p>

6. General Requirements:

- a. Existing Buffer: All existing deciduous and coniferous trees larger than two (2) inches in diameter, six (6) inches above ground level, and/or six (6) feet in height may be considered to contribute to the required buffering and screening. Where the amount of existing plant material of that size or greater equals or contributes to the required number of plants under the appropriate class, an equivalent reduction may be taken in the number and type of required plants. In all cases, existing plant material of the diameter and height shall be preserved in any buffer yard except clearance is required to insure adequate sight distance. Any removal shall, where feasible, involve relocation rather than clearing.

- b. The buffer-yard may be coterminous with required front, side, or rear yards and in case of conflict the larger yard requirements shall apply.
- c. All buffering and screening areas shall be maintained and kept clean of all debris, rubbish, weeds and tall grass in conformance with existing regulations.
- d. No structure, manufacturing or processing activity, or storage of materials shall be permitted in the buffering and screening areas; however, parking of passenger automobiles shall be permitted in the portion of the buffering and screening area exclusive of the exterior fifteen (15) feet adjacent to the lot line, or if the required linear width is less than fifteen (15) feet, than the required linear width shall apply.
- e. The buffering and screening areas shall be located on the outer perimeter of the lot, extending to the property line except when there exists a utility easement, in which case the buffering and screening area shall be measured from the inner boundary of the utility easement. No buffer-yard shall be located on any portion of an existing or dedicated public or private street right-of-way.
- f. Plant Materials:
  - 1. By this ordinance, canopy trees (deciduous or coniferous) shall be considered to be trees that when full-grown will attain a height of over thirty (30) feet in height; under-story trees shall be considered to be trees that when full grown attain a height of between ten (10) and thirty (30) feet; shrubs shall be considered to be woody perennial plants that when full grown attain a height of between three (3) and fifteen (15) feet.
  - 2. Minimum size:
 

Canopy tree	deciduous conifers	1 1/2 - 1 3/4" in diameter 6 - 8 feet in height
Under-story tree		1 1/2 - 1 3/4" in diameter
Shrub	deciduous and coniferous	2 - 4 feet in height

3. Plant materials shall be permanently maintained and any plant material which does not live shall be replaced within one (1) year. All plant material shall be native to Minnesota or have been known to be able to survive and grow in the southeast Minnesota climate. All planting material shall meet the standards of the American Association of Nurserymen.
4. Planting design: It is encouraged that plant materials in buffering and screening areas be planted in natural clusters that will give privacy but will not block views or vistas. The exception shall be commercial or industrial uses bordering residential uses. Here a dense, visual screen is encouraged.
5. Prior to the issuance of any zoning permit, complete plans showing the arrangement of all buffering and screening areas; the placement, species and size of all plant materials; and the placement, size, materials and type of all fences to be placed in such buffering and screening areas shall be reviewed by the Zoning Administrator to ascertain that the plans are in conformance with the terms of this ordinance.

#### Section 8.24. EARTH-SHELTERED BUILDING REQUIREMENTS:

1. Purpose: Earth-sheltered buildings located either below the existing average ground level on a sloping lot or above the existing average ground level prior to construction and covered over fifty (50%) percent of the building by earth, create different development opportunities and problems on a site-by-site basis. Due to major differences between above-grade housing and earth-sheltered buildings, the potential for soil erosion and slope failure and increased storm water runoff from the development site, development of earth-sheltered buildings shall be reviewed on a site basis as a conditional use (Article XI, Section 11.10) and be required to comply with the following standards:
2. Minimum Requirements:
  - a. A landscaping plan shall be required. The purpose of landscaping shall be to insure maximum compatibility with adjacent above ground housing and to insure that no soil erosion occurs following the completion of the building. The landscaping plan shall be a part of the application and shall be approved, approved with conditions, or denied.
  - b. Following the completion of all construction activities, no soil erosion shall occur. All soil surface laid bare during construction shall be immediately mulched and seeded to prevent erosion. Additional methods of erosion control may be required by the City Council where it is found that mulching

and seeding will not be sufficient. Where construction is completed after or before the growing season ends or begins, steps shall be taken by the property owner to protect against all soil erosion and shall be required to seed all bare ground at the beginning of the next growing season.

- c. Where earth sheltered buildings are developed on a naturally occurring sloped site, the applicant shall evaluate the potential for slope failure. Earth-sheltered buildings located on sloping sites shall not be the cause of slope failure.
- d. All surface water (storm water) runoff shall be controlled on-site by proper grading, landscaping and permanent soil cover.
- e. Earth-sheltered buildings shall be required to meet all minimum requirements of the zoning district in which located. Computations for yard area shall be made from the exterior surface of the building. (The exterior surface shall be the surface opposite from the building wall and ceiling/roof interior surface.)
- f. Maximum lot coverage requirements of the district in which located shall apply only to above-grade buildings and shall cover not more than fifteen (15%) percent of the total lot area.

Section 8.25. HAZARDOUS MATERIAL STORAGE:

- 1. Purpose: Hazardous materials or materials that may become hazardous if improperly treated, burned or otherwise treated so as to create a hazardous substance are specifically addressed within this section of the ordinance. A potential exists, however small, that such materials, if improperly treated or stored and resulting in an accident, will affect the health and safety of a portion of or all of the residents of the City of Eyota. This section shall specify minimum standards of operation and related requirements to protect the public health, safety and welfare.
- 2. Minimum Requirements:
  - a. Industrial and commercial establishments and the buildings, structures and land used by such establishments shall be required to comply with all requirements in the State Building Code (City building code) that may provide protection against accidents and the results of accidents or improper treatment of actual or potential hazardous materials.

- b. Storage areas for actual or potentially hazardous materials shall be protected from unauthorized or forced entry. Storage areas shall be fenced and locked or buildings and structures shall be locked or otherwise protected from unauthorized entry.
- c. Property, buildings or structures on which actual or potential hazardous materials are stored shall be required to control potential runoff of substances in the case of an accident.
- d. All industrial or commercial establishments handling actual or potential hazardous materials shall be required to report to the Eyota Volunteer Fire Department and Olmsted County Sheriff's Department on a periodic basis, and at least one (1) time each year, the actual or potential hazardous materials to be located on this property. This requirement should allow the fire department and sheriff's department to react to accidents in a timely fashion and in a manner that will protect to the fullest extent possible fire and police personnel and citizens of Eyota.
- e. The City Council may require that concentrations of actual or potential hazardous materials in storage be limited to safe levels where, if accidents occur or materials are improperly managed, the impact of hazardous materials will be minimal to the surrounding properties and permit safety personnel to control such impacts.
- f. A conditional use permit shall be required of any proposed land use where any actual or potential hazardous materials will be used in operations of the establishment or stored for sale or other use.
- g. Gas/service stations shall be exempt under this section of the ordinance. However, such uses shall be required to meet state laws and regulations and all other requirements of this ordinance, including Section 8.12, Dumping and Disposal of Solid or Liquid Waste Material.
- h. All related Minnesota and federal laws and regulations addressing a hazardous material shall be complied with.

Section 8.35. PRIVATE SWIMMING POOLS. No swimming pool shall be allowed in any residential district unless it complies with the following requirements:

1. The pool is not operated as a business or private club, except when allowed as a permitted home occupation.
  
2. It shall not be located in any required front or required side yard, and shall not be closer than ten (10) feet to any property line of the property on which it is located. Pump and filter installations for pools shall not be closer than twenty (20) feet to any property line.
  - a. For a below grade swimming pool, the pool or the property upon which said pool is located, shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool area, said fence to be at least six (6) feet in height. Wooden fences with boards placed vertically shall not have any opening wider than four (4) inches per opening and wooden fences with boards placed horizontally shall not have any opening wider than one (1) inch per opening.
  - b. Gates installed for access to the property or pool area shall be equipped with an automatic closing and latching device to protect against uncontrolled access to the property.
  - c. For an above grade swimming pool, the pool shall be equipped with an automatically retractable ladder, a retractable ladder, or a removable ladder or shall be fenced. Said ladder to be removed or retracted when said pool is not being attended.
  - d. If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced.
  - e. It shall be the responsibility of the property owner upon where said pool is located to maintain all fences, gates and closure devices in good operating condition.
  - f. Failure to maintain fences, failure to have gates closed, or failure to either remove or retract the ladder access to the pool shall constitute a violation of the Zoning Ordinance and therefore be subject to the penalties contained therein.
  
3. Swimming pools shall be considered to be structures for purposes of regulations limiting lot coverage.

## ARTICLE IX

### AMENDMENTS

Section 9.01. PROCEDURE FOR AMENDING: The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

The Planning Commission shall consider each petition and, after determination of the adequacy of the content of the petition and supplemental data, set a date and prepare the proposed amendment for public hearing; as required by Minnesota Statutes 462.357, Subdivision 3. At least ten (10) days notice of the time and place of such hearing shall be published in a local newspaper. The Planning Commission shall notify by mail all property owners within three hundred fifty (350) feet of the property in question at least ten (10) days prior to the date of the public hearing. Failure of any property owner or occupant to receive such notice shall not invalidate the proceedings.

The public hearing shall be held within thirty (30) days after determination of the adequacy of the petition and supplemental data, and a recommendation shall be submitted to the City Council within one hundred and twenty (120) days from the determination of the adequacy of the petition and supplemental data. The Planning Commission may recommend modification of a proposed amendment as it affects the comprehensive guide plan and regulations of the city and as it reflects the interest of adjacent property and of the community as a whole.

The City Council shall make disposition of the recommendation within forty-five (45) days from receipt of the recommendations from the Planning Commission.

Section 9.02. VOTE REQUIRED FOR AMENDMENTS: As required by Minnesota Statutes 462.357, Subdivision 2, amendments to the text of this ordinance shall be by passage upon a three-fourths (3/4) vote of the full City Council.

Section 9.03. PETITIONS PREVIOUSLY DENIED: A period of not less than one (1) year is required between presentation to the Planning Commission of the same petitions for a change or amendment applying to a specific piece of property where prior petition was denied unless there has been a substantial change of facts.

Section 9.04. MAP AMENDMENTS: If, in accordance with this Article, changes are made in the district boundaries or other information portrayed on the zoning map, such changes shall be entered on the zoning map within thirty (30) days after the amendment has been approved by the City Council, together with a copy of the application and related written material submitted, gathered or developed for consideration of the application for amendment of the zoning map, and which shall be kept as a public record by the Zoning Administrator.

## ARTICLE X

### BOARD OF ADJUSTMENT

Section 10.01. POWERS AND DUTIES: The City Council shall serve as the Board of Adjustment and shall act upon all questions as they may arise in the administration of this ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. Such appeal may be taken by any person aggrieved or by any officer, department, board, or commission of the City of Eyota.

Such appeal shall be taken in such time as prescribed under Section 10.03 of this Article by filing with the Board of Adjustment a notice of appeal specifying the grounds thereon. All appeals shall be properly filed with the Board of Adjustment. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and decide the same within a reasonable time. The Board of Adjustment may, so long as such action is in conformity with the terms of the ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Administrator from whom the appeal was taken and may issue or direct the issuance of a permit. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

The reason for the board's decision shall be stated in written findings. Any aggrieved person shall have the right to appeal to the district court for Olmsted County. The Board of Adjustment shall have power to vary or adapt the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow or shallow lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other cases except as specifically described in Section 10.02.

Section 10.02. VARIANCES:

1. Definition: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the lot and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

2. No variance in the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless it finds evidence that all the following facts and conditions exist:
  - a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
  - b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return shall not be deemed sufficient reason to warrant a variance.
  - c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this ordinance or the public interest and welfare.
  - d. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
  - e. That the variance requested is the minimum variance which would alleviate the hardship.
  - f. No variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area.
3. In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this ordinance for the property in the district where the affected person's land is located. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts, shall be considered grounds for the issuance of a variance.
4. The Board of Adjustment shall make findings that all of the requirements of Section 10.02 (2) (a-f) have been met by the applicant for a variance, and shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the property.

5. Inadequate access to direct sunlight for solar energy systems shall be considered undue hardship. All portions of this section and the ordinance shall be complied with.

Section 10.03. PROCEDURE: Within thirty (30) days after receipt of filing of a request for a variance or an appeal from an administrative order or determination, the Board of Adjustment shall hold a public hearing thereon and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of such hearing shall be published in the official newspaper of the City of Eyota at least ten (10) days prior to the date of hearing. In addition, notice of such hearing shall be mailed not less than ten (10) days before the date of hearing to the person or persons who filed the appeal or request and, in the case of a request for a variance, to each owner of property situated wholly or partly within three hundred fifty (350) feet of the property to which the appeal or variance relates. A map containing the names and addresses of property owners within three hundred fifty (350) feet of the property whereon the variance is requested shall be submitted with and made a part of the application for variance by the Zoning Administrator.

The Planning Commission shall review and report its findings on each appeal or petition that is scheduled before the Board of Adjustment. The Planning Commission shall report to the Board of Adjustment within forty-five (45) days of receipt of the appeal or petition.

Within forty-five (45) days or less after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.

For all variances to the Flood Plain Management District requirements, the Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Section 10.04. REQUIRED EXHIBITS: Following exhibits shall be required for all Board of Adjustment proceedings:

1. A completed application form. For variance requests the application in whatever form shall include all required information as listed in Section 10.02 (2) (a-f). For all other appeals the applicant shall state the ground upon which the appeal is based and furthermore shall state the particular kind of relief the applicant is seeking.
2. An accurate boundary survey and site plan.

## Article XI

### ADMINISTRATION AND ENFORCEMENT

Section 11.01. ENFORCEMENT: The provisions of this ordinance shall be administered and enforced by the Zoning Administrator designated by the City Council or his/her authorized representative.

Section 11.02. ADMINISTRATIVE COMPLIANCE: The Zoning Administrator shall examine all applications for zoning certificates required for construction, alteration, repair, enlargement; and the proposed use shall comply with the provisions of this ordinance and shall endorse thereon the date of his/her approval. Any permit or license issued in conflict with the provisions of this ordinance shall be null and void and of no affect whatsoever.

Section 11.03. ADMINISTRATIVE ACTION FOR VIOLATIONS: If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Section 11.04. VIOLATIONS: Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or sign hereafter erected or maintained, or land use made or permitted in violation of this ordinance, is hereby declared unlawful. In the event of a violation or threatened violation of this ordinance or other official control adopted under Minnesota Statutes 394.21 to 394.37, in addition to other remedies, the City Council or their designee may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations, and it shall be the duty of the Zoning Administrator to institute such actions.

Section 11.05. PENALTIES: Any person, firm, corporation or entity who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction, be punished by a fine of not more than \$500.00, or the maximum fine; or sentenced to imprisonment for a specified term not more than ninety (90) days.

Each day that a violation is committed or permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this ordinance, and the City may pursue, by appropriate actions or proceedings, any or all additional other remedies.

Section 11.06. COMPLAINTS REGARDING VIOLATIONS: Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, investigate in a timely fashion, and take action thereon as provided by this ordinance. The person filing the complaint may remain anonymous if the person so chooses and specifically makes such a request to the Zoning Administrator.

Section 11.07. ZONING CERTIFICATE: It shall be unlawful to initiate construction, conversions, or whole or partial alterations or enlargements in the use or structure, or other changes as covered by the requirements of this ordinance until a zoning certificate shall have been issued by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this ordinance; or unless he receives a written order from the Board of Adjustment in the form of an appeal or variance as provided by this ordinance.

All applications for zoning certificates shall be accompanied by a certificate of survey for new buildings or a legal description and plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed uses of the building or alteration; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

One copy of the zoning certificate/plans shall be submitted to the Olmsted County Public Works Department at the time of filing for a building permit. One copy of the plans shall be returned to the applicant by the Zoning Administrator after he/she shall have marked such copy either as approved or disapproved and attested to same by his/her signature on such copy. The original of the certificate/plans, similarly marked, shall be retained by the Zoning Administrator.

The Zoning Administrator shall maintain a record of all zoning certificates, and a copy shall be furnished upon request to any person.

Failure to obtain a zoning certificate shall be a violation of this ordinance and punishable under Section 11.05 of this ordinance.

Section 11.08. EXPIRATION OF ZONING CERTIFICATE: If the work described in any zoning certificate has not begun within 90 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected.

If the work described in any zoning certificate has not been substantially completed within 180 days of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning certificate has been obtained.

Section 11.09. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND ZONING CERTIFICATIONS: Zoning certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Section 11.05 hereof.

Section 11.10. CONDITIONAL USES: CONDITIONS GOVERNING APPLICATIONS, PROCEDURES:

1. Definition and Purpose: A conditional use is a use that is permitted within the applicable zoning district but which may be or could become incompatible under certain conditions with adjacent uses or generally with other uses within the appropriate zoning district. As a result a special review shall be required before the land maybe used for the specified purpose and maybe permitted with appropriate site design, public review and conditions on the use of the property or lot under consideration.
2. Procedures: Because of their peculiar characteristics, certain uses may have an adverse effect on a neighborhood, on the use and enjoyment of adjoining property, or on public services and facilities. Therefore, the procedure shall be the same procedure as outlined in Article IX, Section 9.01, Procedure for Amending. Proposed Cluster Developments and Planned Residential Developments shall be processed under the subdivision platting procedures as required by the subdivision ordinance.
3. Requirements: The Planning Commission may require preliminary architectural drawings and sketches on all buildings or groups of buildings showing front, side and rear elevations of the proposed building, structure or other improvements. An accurate property description, a site design plan showing existing or proposed buildings, streets, access, parking spaces and signs, and landscaping and screening plans where necessary shall be required to be submitted along with the application form.

For Cluster Development the application shall include all required information established in the subdivision ordinance for subdivision plat approval for residential development. Also required shall be a statement by a registered engineer/surveyor setting forth the gross land area, the net land area (gross area minus all right-of-way and flood plain area), the maximum number of lots and dwellings or building size allowable, the total number of lots and dwellings in the proposed development, the minimum lot area, the total area of common open space where required, the location of buildings and dimensions, and the location, dimension and numbers of parking spaces

and area, loading area and on-site roads (public and private). The common open space shall be located and boundaries drawn on a map of the site to indicate the size and access thereto.

Site design plans shall be considered in an endeavor to ascertain that such buildings, structures, and other improvements shall be so designed and constructed that they will not be detrimental to or endanger the public health, safety and general welfare.

Before any use shall issue, the Planning Commission and City Council shall include findings of fact and shall set forth the reasons for the recommendation, specifying in detail why the conditional use would or would not be in the public interest, whether it is in compliance with the comprehensive guide plan, and other specified factors.

4. Standards: The Planning Commission shall recommend a conditional use permit and the City Council order the issuance of such permit only if it finds that such use at the proposed location:
  - a. Will be harmonious with the general and applicable specific policies of the comprehensive guide plan of the city and this ordinance;
  - b. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area and will not change the essential character of that area;
  - c. Will not be hazardous, unhealthy or unsafe to existing or future neighboring uses;
  - d. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;
  - e. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
  - f. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of or offensive traffic, noise, smoke, fumes, dust, glare, vibrations, odors or other pollutants;
  - g. Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;

- h. Will not result in the destruction, loss or damage of a natural, scenic, or historic feature/structure of major importance;
  - i. Shall conform to specific standards of this ordinance applicable to the particular use and location.
  - j. Will be compatible with surrounding buildings, circulation, open space, landscaping, parking, and compatible with existing natural topography, natural water courses, vegetation, exposure to sunlight and wind, and views.
5. Conditions: In recommending or approving any conditional use permit, the Planning Commission and the Council may impose conditions which it considers necessary to meet the standards of this ordinance and to protect the best interests of the surrounding area or the city as a whole. Such conditions as are imposed shall bind any successors and shall not be affected by an subsequent transfer of ownership. Violation of any such condition is a violation of this ordinance. These conditions may include but are not limited to the following:
- a. 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;
  - b. Off-street parking and loading areas where required with particular attention to the related noise, glare, or odor effects on nearby property;
  - c. Refuse and service areas, with particular attention to ingress and egress;
  - d. Utilities, with reference to location, availability, and compatibility;
  - e. Fencing, screening, landscaping or other facilities to protect or buffer abutting or adjacent property;
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, and compatibility and harmony with properties in the district;
  - g. Required yards and other open space;
  - h. Hours of operation of all or portions of a particular use;

6. Review of Earth Sheltered Buildings: In reviewing a proposal for a earth sheltered building, the following additional information shall be provided by the applicant, and the Planning Commission and City Council shall make a determination on the adequacy of the applicant's proposal based on the following factors. All provisions of Section 8.24, Earth Sheltered Building Requirements, shall be complied with:
  - a. Soil conditions shall be identified;
  - b. Proper safeguards for erosion control on-site;
  - c. On-site slope conditions prior to development and proposed slopes after building construction is completed;
  - d. Surface water (storm water) runoff control;
  - e. Compatibility with adjacent above-grade dwellings including proposed landscaping.
7. Application for changes in the conditions or site design plan of an approved conditional use permit shall be required. The City Council may approve, disapprove or approve with conditions the application. Approval of the changes by the City Council shall be granted before on-site changes or development are permitted. A public hearing before the City Council shall be held where a public hearing was required for approval of the original proposal and application.
8. Denial for Noncompliance: If the Planning Commission recommends denial of a conditional use permit or the Council orders such denial, it shall include in its recommendations or determination findings as to the ways in which the proposed use does not comply with the standards required by this ordinance.
9. Expiration: If substantial construction has not taken place within 90 days after the date of a conditional use permit, the permit is void except that, on application, the City Council, after receiving the recommendation of the Planning Commission, may extend the permit for an additional period not to exceed six (6) months. A conditional use permit authorizes only the conditional use specified in the permit and expires if, for any reason, the authorized use ceases for more than one (1) year.

Revised April, 2013