

City of Motley
Land Use and Subdivision Ordinance
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SECTION I - TITLE

This Ordinance shall be referred to and cited as the Motley Land Use, Zoning and Subdivision Ordinance, except herein where it shall be cited as the "Ordinance".

Updates. The following updates have been made to this Ordinance since its adoption on June 10th, 2003:

- January 12, 2004 - Amendment to Section 3.2, and 5.6 (3)
- December 13, 2004 - Amendment to Section 5.6 and 5.3 (6)
- December 13, 2004 - Amendment to Section 9.3 (1A)
- December 13, 2004 - Amendment to Sections 5.2 (5), 5.6 (6), and 5.7 (7)
- December 13, 2004 - Amendment to Sections 5.3 (6), 5.4 (6), 5.5 and 5.6
- January 1, 2005 - Amendment to Section 5.2 (5)
- January 11, 2005 - Amendment to Section 5.3 (5)
- January 11, 2005 - Amendment to Section 5.5 (6)
- January 11, 2005 - Amendment to Section 5.6 (6)
- January 11, 2005 - Amendment to Section 5.7 (6)
- January 11, 2005 - Addition to Section 5.3 (6)
- January 11, 2005 - Addition to Section 5.4 (6)
- January 11, 2005 - Addition to Section 5.7 (7)
- January 11, 2005 - Addition to all zones except Section 5.5
- January 11, 2005 - Amendment to Section 9.3 (1A)
- March 23, 2005 - Amendment to Section 5.6 (6)
- April 11, 2005 - Amendment to Section 5.5 (3)
- August 23, 2005 - Amendment to Section 5.5
- August 23, 2005 - Amendment to Section 5.6
- August 23, 2005 - Addition to Section 3.2
- August 23, 2005 - Addition to Section 7.6
- August 23, 2005 - Amendment to Section 4.4 (2 & 3)
- July 24, 2007 - Amendment to Section 4.4 (7)
- August 12, 2008 – Addition to Section 5.5 (2)
- September 23, 2008 – Addition of Section 7.7
- September 23, 2008 – Amendments to Section 3.2
- April 28, 2009 – Addition to Section 3.2 and of Section 5.10 and 5.11; Amendments to Section 5
- March 9, 2010 – Amendments to Sections 4.3 (1-5), 4.4 (1-6), Additions to Sections 9.5 (3, I-L), 9.6 (5), 9.7 (8) and 9.10.
- September 9, 2012 – Amendments to Section 9.3. (1).

SECTION II - INTENT AND PURPOSE

This Ordinance is established pursuant to the authority granted by Minnesota Statutes, in particular the Municipal Planning Act, Minnesota Statutes 1983 Sections 462.351 to 461.364, the Municipal Shoreland Act, Minnesota Statutes 1973 Section 379, Minnesota Statutes 1980 Sections 462.351 to 462.364, The Land Subdivision and Condominiums Acts, Chapters 462, 505, 515, 515A and 515B and Policies in Minnesota Statutes, Section 105,115 and 116, the City of Motley Flood Plain Management Ordinance 1989 and any Amendments thereto.

2.1 This Ordinance is adopted for the purpose of:

- (1) Protecting the public health, safety, comfort, convenience and general welfare.

- (2) Inaugurating and effectuating the goals of the Comprehensive Plan.
- (3) Promoting order in development by dividing the area of the City into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land.
- (4) Conserving the natural and scenic beauty and attractiveness of the City, for the health and welfare of the public.
- (5) Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.
- (6) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment and City Council under this ordinance.

SECTION III - RULES AND DEFINITIONS

3.1 RULES

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The masculine gender includes the feminine gender and the neuter gender.
3. The singular includes the plural and the plural includes the singular.
4. The present tense includes the past and future tenses and the future includes the present.
5. The word “may” is permissive. The word “shall” is mandatory. Mandatory compliance with the Ordinance shall allow for variances thereto.
6. All horizontal and vertical measured distances shall be expressed to the nearest tenth of a foot and its metric equivalent, unless specifically stated otherwise.
7. The words “lot,” “plot,” “piece” and “parcel” of land are interchangeable.
8. The words “used for,” shall include the phrases “arranged for,” “designed for,” “intended for,” “improved for,” “maintained for,” and “occupied for.”

3.2 DEFINITIONS

The following words shall be defined as follows for the purpose of this Ordinance:

1. **Abandoned Building.** A building as defined hereinafter on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard in the opinion of the Zoning Administrator.
2. **Abandoned Motor Vehicle.** A motor vehicle as defined in Minnesota Statutes Chapter 169.01 that (a) has remained on public property in an inoperable condition for more than 48 hours, or (b) has remained on private property for more than 48 hours without the permission of the owner, or (c) has remained on private property for more than thirty days and is inoperable or is unlicensed unless kept in a garage or other storage structure.
3. **Abutting.** Making direct contact with or immediately bordering.
4. **Accessory Structure:** A building or other structure that is supportive, secondary and subordinate in use and/or size to the principle structure on the same parcel or lot which, because of the nature of its use, can reasonably be located at or greater than minimum structure setbacks. Includes all structures not considered the principle structure

including, but not limited to, T.V. towers antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs, detached garages, sheds, guest quarters and boathouses.

5. **Accessory Use.** A use naturally and normally incident and subordinate to the main use of the premises.
6. **Addition.** A physical enlargement of an existing structure.
7. **Adjacent.** In close proximity to or neighboring, not necessarily abutting.
8. **Adult Book and/or Media Store.** An establishment which has a substantial portion (25% of utilized floor area) of its stock in trade or stock on display books, magazines, films, videotapes, or other media which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
9. **Adult Cabaret.** An establishment which provides dancing or other live entertainment, and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
10. **Adult Establishment.** Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.
11. **Adult Hotel or Motel.** Adult Hotel or Motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
12. **Adult Mini-Motion Picture Theater.**
 - a) A theater in an enclosed building, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - b) Any business which presents motion pictures, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.
13. **Adult Motion Picture Arcade.** Any place wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
14. **Adult Motion Picture Theater.** A theater in an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.
15. **Adult Novelty Business.** A business which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

16. **Adult Use.** Any of the adult activities and businesses described above constitute "Adult Oriented Businesses" which are subject to the regulation of this Ordinance.
17. **Agent.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of the Ordinance, including but not limited to realtors, contractors or attorneys.
18. **Agricultural Use.** The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses used for packing, treating or storing the product, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
19. **Airport.** Any premises used or intended for use for the landing and taking off of aircraft including any structures used or intended for use for aircraft services.
20. **Alteration.** A change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or by moving from one location to another, of a building or a structure.
21. **Animals, Domestic.** Common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.
22. **Animals, Food.** Fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.
23. **Animals, Wild.** Animals, such as wolves, tigers, lions and snakes, that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.
24. **Animal Boarding Facility.** An establishment that houses animals, other than those belonging to the occupant, overnight or over an extended period of time.
25. **Animal Grooming Establishment.** An establishment principally engaged in grooming animals in which overnight boarding is prohibited.
26. **Animal Husbandry.** The care or breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (more than three) for the occupants of a property.
27. **Animal Unit.** A unit of measure based on the approximate production of wastes from 1000 pounds of live weight of poultry or animals.

Animal Units

One (1) slaughter weight steer or heifer	1
One (1) mature dairy cow or horse	1.4
One (1) swine over 55 pounds	0.4
One (1) sheep	0.1
One (1) goose	0.1
One (1) duck	0.05
One (1) turkey	0.18
One (1) chicken	0.1

28. **Apartment.** A room or suite of rooms that is designed for, intended for, or occupied as a residence by a family or individual, and is equipped with sanitary facilities.
29. **Appeal.** An application for the review of an order, requirement, decision, determination or interpretation of this Ordinance made by an administrative officer in the application and/or enforcement of this Ordinance.
30. **Architectural Projection.** A non-functional or ornamental feature on a building or other structure that does not extend to, or from, the ground.
31. **Artist's Studio.** A fine arts workshop of a painter, sculptor, potter, weaver, carver, jeweler, photographer or other similar art that requires artistic skill, where the public is received or where the artist is engaging in retail sales. Not generally utilitarian, related to personal hygiene or adornment.

32. **Attached.** Two buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.
33. **Attorney.** The attorney duly appointed by the Council to represent the City of Motley.
34. **Auto Salvage Yard.** A lot or yard where four or more motor vehicles are stored while parts are removed, where crushing occurs or where storage pending crushing may occur.
35. **Auto Trip.** Transport in a vehicle that includes both an arrival and a departure from a location.
36. **Balcony.** Same as a deck.
37. **Bathroom.** A room containing a shower or bathtub or a sink and toilet.
38. **Basement.** The space below the first story of a structure which is greater than four (4) feet in height.
39. **Bed and Breakfast Dwelling.** A dwelling, single family, licensed through the Morrison County Public Health Services, where, for compensation, meals and lodging are provided for three or more unrelated persons, but not exceed eight persons. The owner of the parcel must live on the premises.
40. **Bedroom.** A portion of a dwelling unit intended to be used for sleeping purposes, which may contain closets and may have access to a bathroom.
41. **Billboards.** A commercial sign which directs attention to a business, activity, service, entertainment or a product not exclusively related to the premises or property where such sign is located.
42. **Block.** An area of land bounded by streets, exterior boundary lines and/or bodies of water.
43. **Bluff.** A topographic feature such as a hill, cliff or embankment having all of the following characteristics:
 - A. Part or all of the feature is located in a shoreland area.
 - B. The slope rises at least twenty-five (25) feet above the ordinary high water mark of the water body.
 - C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet above the ordinary high water level averages thirty (30) percent or greater.
 - D. The slope must drain towards the water body.
 - E. An area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff.
44. **Bluff Impact Zone.** A bluff and the land located within twenty (20) feet inland from the top of the bluff.
45. **Boat Access.** A ramp, road or other conveyance on a residential lot which allows the launching and removal of a boat with a vehicle and trailer.
46. **Boat House.** A structure designed and used solely for the storage of boats or boating equipment.
47. **Boarding House.** Same as Bed and Breakfast dwelling.
48. **Board of Adjustment.** The Board, appointed by the City Council, to hear appeals from actions of the Zoning Administrator, and variance requests.
49. **Breezeway.** A covered or enclosed walkway that physically connects two or more buildings or structures. Shall not materially connect the two or more buildings or structures.
50. **Buildable Area.** Any site, lot, parcel or any portion thereof that does not contain designated flood plain, wetlands or areas in excess of twenty-five (25) percent slope.
51. **Building.** Any structure used or intended for storage, shelter or occupancy.
52. **Building Height.** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is greater.

53. **Building Line.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
54. **Building Permit.** A permit authorizing an Applicant under this Code to undertake construction or other development activity.
55. **Campground.** Any area, whether publicly or privately owned, consisting of designated campsites with appropriate facilities and management services designed for temporary occupation by tents or recreational vehicles.
56. **Camping.** Habitation of a temporary structure.
57. **Campsite.** A parcel within a resort or campground designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle.
58. **Cemetery, Unplatted.** Any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minnesota Statutes, Chapter 307.08.
59. **Child Care, Center.** A facility that is maintained, for the whole or part of the day, for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term shall not include any facility licensed as a foster care home or any facility defined as a Child Care, Family Home.
60. **Child Care, Family Home.** A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a child care provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.
61. **Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship and related community activities.
62. **City Clerk.** The appointed person responsible for administration of the City affairs.
63. **City Council.** The duly elected governing body of the City.
64. **City Sewer or Water System.** A system of municipally maintained utilities, approved by the State, and serving more than one building or property.
65. **Commercial Use.** The principle use of land or buildings for the sale, lease, rental, trade of products, goods or services.
66. **Commissioner.** The Commissioner of the Department of Natural Resources.
67. **Community Park.** A park designed to provide recreational opportunities to serve the entire community.
68. **Comprehensive Plan.** Also referred to as Community Plan. A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City and its environs and may include, but is not limited to, the following items: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution.
69. **Conditional Use.** A land use or development as defined by the Ordinance that would not be appropriate without restriction, but may specifically be allowed without restrictions of conditions as determined by the Planning Commission and the Council upon a finding that (a) the use or development is an appropriate conditional land use in the land use zone, (b) the use or development, with conditions, conforms to the comprehensive land use plan, (c) the use, with conditions, is compatible with the existing neighborhood and (d) the use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the City.
70. **Condominium Ownership or Common Interest Community.** A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a

condominium plan or common interest community in accordance with Minnesota Statutes 1980, Chapter 515A or 515B or subsequent revisions.

71. **Contiguous.** The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered contiguous where separated by rights-of-way, rivers or streams.
72. **Controlled Access Lot.** Any lot which is designated for the exclusive use by non-riparian landowners within a subdivision as a means to gain access to a lake, river or stream.
73. **Council.** The City Council, as established by State Law.
74. **Crawl Space.** The space below the first story of a structure not more than four feet high and not intended for human habitation.
75. **Cul-de-sac.** A short local street terminating in a vehicular turnaround.
76. **Deck.** An uncovered, unscreened structure or on grade patio not including on-grade walks four (4) feet wide or less.
77. **Dock.** A platform extending water ward from the shoreline intended for ingress and egress for moored watercraft or to provide access to water for swimming, fishing or other water orientated activities.
78. **Dormitory.** A building, or portion thereof, providing group sleeping accommodations in one room, with shared bath and toilet facilities.
79. **Duplex, Triplex or Quad.** A structure on a single lot having two, three or four dwelling units respectively being attached by common walls, and each being equipped with separate sleeping, cooking, eating, living and sanitation facilities.
80. **Dwelling, Guest Quarters.** A structure, not for sale or lease, used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on the lot. Any accessory structure with kitchen or bathroom facilities shall be considered a dwelling, guest quarters.
81. **Dwelling, Multi-Family.** Two or more dwelling units attached together by any point including duplexes, triplexes, townhouses and multi-level units regardless of type of ownership.
82. **Dwelling, Single Family.** A dwelling unit totally separated from any other dwelling unit.
83. **Dwelling, Townhouse.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.
84. **Dwelling Site.** A designated location for residential use by one or more persons using temporary or movable shelter including camping and recreational vehicle sites.
85. **Dwelling Unit.** A structure or portion of a structure or other shelter designed as a short or long term living quarters for one or more persons including rental or time share accommodations such as a motel, hotel resort rooms and resort cabins.
86. **Dwelling Width.** The smallest horizontal dimension of the major portion of a dwelling.
87. **Earth Tone.** A shade of color that, when viewed from a distance, is indistinguishable from the colors of the surrounding landscape.
88. **Engineer.** The Engineer duly appointed by the Council to perform technical services for the City of Motley.
89. **Exterior Storage.** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.
90. **Extractive Use.** The use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.

91. **Family.** An individual, or two or more persons related by blood, marriage, adoption, or a relationship legally recognized in Minnesota, or not more than five unrelated persons maintaining a common household.
92. **Fence.** A constructed barrier, including berms, intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view, or to perform any similar function.
93. **Filling.** The act of depositing any clean earthen material.
94. **Final Floor Plan.** A drawing prepared by a Registered Architect, Registered Engineer, or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.
95. **Final Condominium Plat.** A drawing prepared by a Registered Architect, Registered Engineer or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.
96. **Final Plat.** A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by the Subdivision Ordinance to be presented to the Planning Commission and the City Council for approval, and which, if approved, may be duly filed with the County Recorder.
97. **Floodplain.** The areas adjoining a water course, intermittent or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100 year storm).
98. **Floodway.** The channel of the water course and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood (100 year chance of occurrence.)
99. **Footprint.** The horizontal extent to which a structure covers the ground plane as represented in a plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.
100. **Forest Land Conversion.** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.
101. **Foundation.** A concrete, concrete block or treated wood portion of a structure which totally encloses the perimeter of the structure, supports the bearing loads of the super-structure and penetrates the ground to provide frost protection.
102. **Frontage.** The uninterrupted front boundary line of a lot, or the length of such line, that abuts on a street or protected water.
103. **Garage, Attached.** A part of the principle structure which shall not exceed 1,280 square feet that is designed and used by the occupants of the principle structure for the storage of not more than four (4) motor vehicles.
104. **Garage, Detached.** An accessory structure not attached to the principle structure on the property designed and used for the storage of not more than four (4) motor vehicles.
105. **Gas Station.** Any building, structure, premises, enclosure, or other place within the city where a container, tank, either portable or stationary, containing in quantities exceeding one hundred (100) gallons either carbon bisulfide, gasoline, naphtha, benzol, hydrocarbon, liquefied petroleum, acetone, kerosene, turpentine, diesel fuel, or other inflammable liquids having a flash point below one hundred sixty five degrees Fahrenheit (165°F) are kept or located for the purpose of selling, offering for sale or otherwise using or distributing any such liquids therefrom, except where such inflammable liquids are kept or sold for medicinal purposes only.
106. **Gazebo.** A freestanding accessory structure with no kitchen, sleeping, sanitary facilities or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.
107. **Grading.** The movement of dirt, by mechanical means, so as to alter the existing topography of a property.

- 108. Green Space.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to park, vegetative buffer, and tree coverage or water courses.
- 109. Group Care Facilities.** A facility which provides residential services for individuals that are handicapped, aged, disabled or undergoing rehabilitation. This includes uses such as homes for the physically handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.
- 110. Hardship, Undue.** The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property and were not created by the landowner, and a variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if reasonable use exists under the terms of the Ordinance.
- 111. Home Occupation.** A use of commercial nature conducted by an occupant entirely within the dwelling or accessory buildings which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the residential character thereof.
- 112. Home Occupation, Type I.** A home occupation, the commercial nature of which involves providing a service to a limited number of people who are predominantly acquaintances. Generates less than ten auto trips per week. No employees beyond owner. No signage or other advertising done either on or off-site. Would include businesses that are similar in nature to tutoring or music lessons performed on an individual basis.
- 113. Home Occupation, Type II.** A home occupation, the commercial nature of which involves providing a service to people or organizations that do not receive the service at the property from which it is being provided. Generates less than twenty-five auto trips per week, including deliveries and employees. No more than two employees, in addition to the owner, working on site. No signage done either on or off-site. Would include businesses that are similar in nature to telephone sales, consulting, or web design.
- 114. Home Occupation, Type III.** A home occupation, the commercial nature of which involves providing a service or product to people or organizations within the home. Generates less than sixty auto trips per week, including deliveries. No more than two employees, in addition to the owner working on site. May include on-site signage. May include retail sales of items manufactured on-site. Would include businesses that are similar in nature to chiropractic service, artist studio or craft shop.
- 115. Home Occupation, Type IV.** A home occupation, the commercial nature of which involves providing a service or product to people or organizations off site. Generates less than sixty auto trips per week, including deliveries. All employees do the majority of their work off-site. May include on-site storage or warehousing of work related materials. Would include businesses that are similar in nature to lawn care services and off-site sandblasting services.
- 116. Hotel.** A building containing three (3) or more individual rooms, without kitchens, used for overnight lodging by the general public on a short-term basis for a fee, with or without meals, and which has common reservation and cleaning services, combined utilities, and on-site management and reception services.
- 117. House of Worship.** Same as church.
- 118. Impervious Surface.** The horizontal area of buildings, patios, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of stormwater, including gravel drives and parking.

- 119. Industrial Use.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.
- 120. Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a continuous path, strip row or block.
- 121. Interval Ownership.** Form of ownership of real property, condominium land or space further defined by a reoccurring time interval, resulting in more than one owner of the same property, also known as "timeshare".
- 122. Junk Yard.** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or more automobiles without current licenses constitute a junk yard. Such use shall not include putrid wastes such as garbage.
- 123. Lake Classification.** The formal classification provided by the Department of Natural Resources for each body of public waters within the City.
- 124. Landscaping.** Plantings such as trees, grass, shrubs, and decorative timbers, arbors, rocks and water displays.
- 125. Leaseback by Owner.** An arrangement between an owner of property and a leasing agent or resort to promote and operate the property for rental purposes.
- 126. Licensed Engineer.** A person licensed as a professional engineer by the State of Minnesota.
- 127. Licensed Surveyor.** A person licensed as a professional surveyor by the State of Minnesota.
- 128. Litter.** Waste materials including but not limited to, cans, bottles, plastic and paper wrappings or containers.
- 129. Lot.** A parcel, piece or portion of land described by metes and bounds, registered land survey, auditor's plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.
- 130. Lot Area.** The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.
- 131. Lot, Corner.** A lot situated at the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.
- 132. Lot, Front.** The boundary of a lot which abuts on a public right of way, or if a corner lot, the shortest of the two boundaries. If the lot abuts public water, the lake side shall be considered the lot front.
- 133. Lot Line.** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.
- 134. Lot, Pre-existing.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.
- 135. Lot Tier Depth.** The lot depth of a normal lot conforming to the shoreland requirements; General Development Lake first tier - 200 feet, second and additional tiers - 267 feet; Recreational Development Lake - 267 feet, Natural Environmental Lake - 400 feet.
- 136. Lot Tiers.** Successive strips of land parallel with the ordinary high-water line, each one tier depth wide, and extending across the parcel.
- 137. Lot Width.** The shortest distance between lot lines measured at the midpoint of the building line.

- 138.Maintenance.** The normal upkeep of a structure including the replacement of windows, siding, roofs, nonbearing walls or interior remodeling that does not expand the footprint of the existing structure, add volume to the usable living space or intensify a non-conforming use.
- 139.Manufactured Home.** A structure, transportable in one or more sections, which, when erected on site, is a minimum of 640 square feet, is built on a permanent foundation, contains the heating, plumbing and electrical systems within and meets the requirements of the Uniform Building Code.
- 140.Manufacturing.** Making or processing raw materials into a finished product.
- 141.Marina.** A dock or set of docks on a single parcel that contains more than three slips or more slips than first tier dwelling units, whichever is greater.
- 142.Mature Tree.** A living tree greater than four (4) inches in diameter.
- 143.Metes and Bounds.** A method of property description utilizing directions and distances commencing from and terminating at an identifiable point.
- 144.Mobile Home.** A factory-built dwelling designed intrinsically as a trailer.
- 145.Motel.** A building containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with parking space reserved for each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests.
- 146.Multi-Level Dwelling.** A type of multi-family housing consisting of dwelling units stacked one above the other, creating a party floor or floors between units.
- 147.Natural Drainage way.** All land surface areas which, by nature of their contour or configuration, collect, store and channel surface or runoff water.
- 148.Neighborhood.** The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.
- 149.Non-conforming.** The building, structure or land lawfully existing prior to and not in conformance with the provisions of this ordinance.
- 150.Nuisance.** By authority and direction of Minnesota Statute, 1980, Section 412.221, Subdivision 23 and 24; and Section 429.31, Subdivision 8; and Section 145.22 and 145.23, nuisance is anything that interferes with the use or enjoyment of property, endangers personal health or public safety, or is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses.
- 151.Nursery.** A business growing and selling trees, flowering or decorative plants and shrubs.
- 152.Nursing Home.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.
- 153.Off-street parking.** A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and used for the parking of vehicles.
- 154.Open District.** A zoning district defined by natural features to be unsuitable for any dwelling and unsuitable for any other development except in accordance with the conditional use permit process. Corresponds to the DNR Special Protection District.
- 155.Open Storage:** Storage of material outside of a building.
- 156.Ordinary High Water Mark.** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- 157.Owner.** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land and/or building.
- 158.Parking lot.** An off-street, ground-level open area that provides temporary storage for motor vehicles with a paved or all-weather surface.¹
- 159.Parking Space.** A 10 foot by 20 foot site off public right of way, maintained and sized to accommodate the parking of one automobile.
- 160.Party Wall or Floor.** A common wall which divides two independent dwelling units or businesses.
- 161.Permitted Use.** A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issued by the Zoning Administrator.
- 162.Pet.** An animal commonly associated with human habitation, not considered under animal units and not raised for production of income.
- 163.Planned Unit Development (P.U.D.).** A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases, and mix of structure types and land uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.
- 164.Planned Unit Developments, Commercial.** Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service oriented activities.
- 165.Planned Unit Development, Residential.** Residential Planned Unit Development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort.
- 166.Planning Commission.** The body duly appointed by the City Council to determine the development of the City and make recommendations to the City Council on comprehensive plans, zoning district boundaries, conditional use permits, subdivision of land and capital improvements.
- 167.Porch.** A covered platform attached to a structure with or without screening material, canvas or blind material, or regular pane glass intended for weather and insect protection. Contains no kitchen, permanent sleeping areas, or sanitary facilities. Treated the same as a deck for setback requirements.
- 168.Porch, Enclosed.** A covered platform attached to a structure with more permanent enclosures than those described in “porch”. If the enclosed porch contains any sleeping area, kitchen, laundry, sanitary facilities, heat, insulation, air conditioning, or considered in the opinion of the Planning Commission as a 3 season porch due to construction, it is an addition to the home, requiring a permit and subject to all bulk and density requirements applied to permanent structures.
- 169.Preliminary Plat or Plan.** A plan prepared in accordance with the Subdivision Ordinance depicting the proposed subdivision of property by Final Plat or Final Floor Plan.
- 170.Principal Structure or Use.** The single primary structure or use on a lot, as distinguished from accessory uses or structure.
- 171.Processing.** Preparing, treating or converting a raw material into a finished product.

¹ Ordinance Resolution 2009-3, 4/28/2009

- 172. Protective Covenants.** Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in planned unit developments to establish homeowners associations, restrict shoreline development and provide for common facilities.
- 173. Public Waters.** Any waters as defined in Minnesota Statutes Sec. 105.37, Subd. 14 & 15. However no lake, pond or flowage of less than 10 acres in size in municipalities need be regulated for the purposes of the shoreland management rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shoreland management. The official determination of the size and physical limits of drainage areas of rivers and streams should be made by the DNR Commissioner.
- 174. Recorder.** The County Recorder of Morrison and/or Cass County.
- 175. Recreational Vehicle.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles may be designed to be temporary living space for camping or travel use. RV's shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.
- 176. Resort.** Any buildings, structures or enclosures kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and primarily to those seeking recreations, for periods of one day, one week or longer, and having for rent three or more cottages, rooms or enclosures along with any related facilities such as restaurants, bars, golf courses or other recreational amenities.
- 177. Restaurant.** An establishment where the principle business is the preparation, service and sale of food and beverages to be consumed by customers at tables or counters located within the building on the premises.
- 178. Right-of-Way.** A parcel of property dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.
- 179. Screening.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.
- 180. Semi Public Use.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
- 181. Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, acceptability to flooding or occurrence flora or fauna in need of special protection.
- 182. Setback.** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway, property line or other facility. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
- 183. Setback, Interior Lot.** In a planned unit development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
- 184. Setback, Side, Exterior.** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

- 185. Setback, Road.** The closest horizontal distance between the road right-of-way line and the foundation or wall of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
- 186. Setback, Waterfront.** The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.
- 187. Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Chapter 7080 of the State Rules and Regulations.
- 188. Sewer System.** Pipe lines or conduits, pumping stations and forcemain and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.
- 189. Shore Impact Zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the normal structure setback.
- 190. Shoreland.** Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the water for lesser distances and when approved by the DNR Commissioner.
- 191. Shoreline Property.** A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.
- 192. Sign.** Any letter, word or symbol, poster, picture, statuary, 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.²
- 193. Sign, Abandoned.** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) 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 (1) year or more. Any signs 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 for which a Conditional Use Permit or a variance have been approved shall also be subject to the definition of abandoned sign.³
- 194. Sign, Awning.** A building sign or graphic printed on or in some fashion attached directly to the awning material.⁴
- 195. Sign, Balloon.** A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.⁵
- 196. Sign, Building.** Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.⁶
- 197. Sign, Canopy.** Any sign that is part of or attached to a canopy, made of fabric, plastic,

² Amended 9/23/08

³ Amended 9/23/08

⁴ Amended 9/23/08

⁵ Amended 9/23/08

⁶ Amended 9/23/08

or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.⁷

- 198. Sign, Changeable Copy.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustrations change or rearrange only once in a twenty-four (24) hour period.⁸
- 199. Sign Digital Display.** A sign or portion thereof that displays electronic, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices with the display area where the message change sequence is accomplished immediately or by the means of fade, repixelization or dissolve modes. Digital display signs include computer programmable, microprocessor controlled electronic or digital displays. Digital display signs include projected images or messages with these characteristics onto buildings or other objects.⁹
- 200. Sign, Directory.** A sign erected at an intersection that lists the residences or businesses that reside along the intersecting roadway.¹⁰
- 201. Sign Face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.¹¹
- 202. Sign, Flashing.** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.¹²
- 203. Sign, freestanding.** Any sign which has a supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.¹³
- 204. Sign Height.** The height of a sign shall be computed as the vertical distance measured from the grade immediately below the sign to the top of the highest attached component of the sign.¹⁴
- 205. Sign, Illuminated.** Any sign which contains an element designed to emanate artificial light internally or externally.¹⁵
- 206. Sign, Legally Established Nonconforming.** Any sign and its support 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 legally established nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.¹⁶
- 207. Sign, Marquee.** Any building sign painted, mounted, constructed or attached in any manner, on a marquee.¹⁷
- 208. Sign, Off-premise.** A sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such sign is located. For purposes of this ordinance, easements and other

⁷ Amended 9/23/08

⁸ Amended 9/23/08

⁹ Amended 9/23/08

¹⁰ Amended 9/23/08

¹¹ Amended 9/2/3/08

¹² Amended 9/23/08

¹³ Amended 9/23/08

¹⁴ Amended 9/23/08

¹⁵ Amended 9/23/08

¹⁶ Amended 9/23/08

¹⁷ Amended 9/23/08

appurtenances shall be considered to be outside such plated parcel of land and any sign located or proposed to be located in an easement of other appurtenance shall be considered an off-premise sign.¹⁸

- 209. Sign, On-premise.** A sign which identifies an establishment, person, activity, goods, products or services located on the premises where the sign is installed.¹⁹
- 210. Sign, Pole.** See pylon sign.²⁰
- 211. Sign, Portable.** Any sign which is manifestly designed to be transported, including by trailer 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 since this characteristic is based on the design of such sign.²¹
- 212. Sign, Projecting.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.²²
- 213. Sign, Pylon.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.²³
- 214. Sign, Rotating.** A sign or portion of a sign which turns about on an axis.²⁴
- 215. Sign, Scrolling.** Any sign that uses changing lights or colors to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.²⁵
- 216. Sign, Shimmering.** A sign which reflects an oscillating sometimes distorted visual image.²⁶
- 217. Sign Structure.** Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.²⁷
- 218. Sign, Temporary.** Any display device, constructed of cloth, canvas, light fabric, cardboard, wall board or other light materials, with or without frames, intended to be displayed for a limited period of time only. Temporary event signage includes but is not limited to balloons, banner, flags, pennants/streamers, wind animated devices, inflatable statuary, rigid portable signs, portable reader-boards, and searchlights. Other types of display devices will require the approval of the Zoning Administrator.²⁸
- 219. Sign, Wall.** Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.²⁹
- 220. Sign, Window.** Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window or glass and is visible from the exterior of the window.³⁰

¹⁸ Amended 9/23/08

¹⁹ Amended 9/23/08

²⁰ Amended 9/23/08

²¹ Amended 9/23/08

²² Amended 9/23/08

²³ Amended 9/23/08

²⁴ Amended 9/23/08

²⁵ Amended 9/23/08

²⁶ Amended 9/23/08

²⁷ Amended 9/23/08

²⁸ Amended 9/23/08

²⁹ Amended 9/23/08

³⁰ Amended 9/23/08

- 221. Significant Historical Site.** Any archeological site, standing structure, or other /property that meets the criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Sec. 307.08. A Historical Site meets this criteria if it is presently listed on either Register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historical sites.
- 222. Sketch Plan.** A plan drawn to scale used for planning and discussion purposes only.
- 223. Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12% as measured over horizontal distances of 50 feet or more, but which are not bluffs.
- 224. Street.** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the Comprehensive Plan unless defined in a roadway classification plan or other similar road specific plan.
- 225. Street, Arterial.** A street that has the primary function of rapidly move traffic to or through the City. May provide access to abutting land. Arterial streets are, in general, county or state highways that begin and terminate outside of the City limits or connect to other arterial streets within the City.
- 226. Street, Collector.** A street that has the primary function of receiving and distributing traffic to and from local streets and providing distribution of traffic within. May provide access to abutting lots. In general, collector streets begin and terminate at arterial streets or other collector streets.
- 227. Street, Local.** A street, the function of which is to provide localized access to individual parcels. Does not normally carry through traffic. Traffic volumes and traffic speeds are expected to be low.
- 228. Structure.** Any building, appurtenance including decks or other facility constructed, placed or erected by man except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than 4 feet wide, stoops not exceeding 30 square feet, fenced, temporary furniture, planter, or decorative material and retaining walls consisting of wood or decorative block.
- 229. Subdivider.** The owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his control.
- 230. Subdivision.** The division of real estate into two or more parcels for the purpose of sale, rent or lease, including planned unit development.
- 231. Subdivision by Plat.** The subdivision into two or more parcels of any size by the authority of Minnesota Statutes, Chapter 505, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.
- 232. Subdivision by Condominium Plan.** The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of Minnesota Statutes, Chapter 515A, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.
- 233. Subdivision by metes and bounds.** Any division of real estate resulting in two or more parcels which are not platted, but divided by description prepared and signed by a Registered Land Surveyor.
- 234. Surface Water Oriented Commercial Use.** The use of land for commercial purposes where access to and use of a surface water feature is an integral part of the normal

operation of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

- 235. Temporary.** A use or structure that lasts longer than three days and is discontinued within 14 days. Any use or structure existing longer than 14 days, except for signs, shall be considered permanent unless a specific date of discontinuation, agreeable to the Planning and Zoning Administrator to be reviewed by the Planning Commission, has been submitted, in writing, to the City.
- 236. Temporary Structure.** A structure of a temporary character including but not limited to house boats, fish houses, recreational vehicles, tents or shacks, used as dwellings for more than a 5 day period per year. Any new dwelling constructed or placed after the date of this Ordinance and not on a permanent foundation shall be considered a temporary structure.
- 237. Toe of Bluff.** a) The lower point of a 50 foot segment with an average slope exceeding 18%.
- 238. Top of the Bluff.** The higher point of a 50 foot segment with an average slope exceeding 18%.
- 239. Townhouse Dwelling.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.
- 240. Tree.** A woody plant 4 inches or more in diameter or 8 feet or more in height.
- 241. Variance.** A legally permitted deviation from the provisions of this ordinance as deemed necessary by the Board of Adjustment when the strict interpretation of the Ordinance would create undue hardship and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the Ordinance, with any attached conditions, will still be in keeping with the spirit and intent of the Ordinance. Variances cannot create a land use not permitted in a zone.
- 242. Vegetation Removal, Clear Cutting.** The removal of more than 75% and up to 100% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.
- 243. Vegetation Removal, Open Cutting.** The removal of more than 25% and up to 75% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.
- 244. Vegetation Removal, Select Cutting.** Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land up to 40 acres. Complete brush removal is allowable including trees under 10 feet in height.
- 245. Vegetation Removal, Steep Slopes.** Removal of dead, diseased or damaged trees or shrubs and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land with a bluff. Brush removal is only allowable where required to accommodate stairways, lifts and landings.
- 246. Walkway.** A parcel of property dedicated to the public for non-vehicular access purposes.
- 247. Water Oriented Accessory Structure or Facility.** A small above ground building or other improvement, except stairways, fences, docks and retaining walls, which because of the relationship of its use to a surface water feature is located closer to public waters than the normal structure setback. Examples of such structures and facilities include boat houses, gazebos, screen houses, fish cleaning houses and detached decks.
- 248. Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following three attributes:

1. have a predominance of hydric soils,
 2. are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and
 3. under normal circumstances support a prevalence of such vegetation.
- 249. Warehousing.** The principle use is the storage of materials or equipment within an enclosed building.
- 250. Warehousing, Commercial.** The rental or sale of warehousing space.
- 251. Zoning Administrator.** The duly appointed person responsible for the enforcement and administration of this Ordinance.
- 252. Zoning District.** An area of the City of Motley defined on the zoning map, having uniform zoning provisions.
- 253. Zoning District Overlay.** A zoning district containing regulations superimposed upon other zoning district regulations and superceding the underlying zoning district regulations.
- 254. Zoning Map.** The map of the City of Motley, amended from time to time, which defines the boundaries of the zoning districts.
- 255. Zoning Permit.** A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a land use when the provisions of this ordinance have been met, when approval of any conditional use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when called for by the Ordinance.

SECTION IV - GENERAL PROVISIONS

4.1 Application of the Ordinance.

1. The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety and welfare of the inhabitants of the City of Motley, Minnesota.
2. Where the provisions of the Ordinance are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail.
3. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.
4. The provisions of this Ordinance shall be applicable to any subdivision of property within the City after the effective date of this Ordinance.
 - a. Subdivision by Plat or Condominium Plat shall be approved by the Planning Commission and Council.
 - b. Subdivision by metes and bounds shall be approved by the Planning Commission and Council if either of the resulting parcels is less than 20 acres and 500 feet of width for residential lots of 5 acres and 300 feet of width for commercial lots, and shall be limited to no more than one split of a parcel into two parcels in a three year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed. The proposed legal description for subdivision of land by metes and bounds shall be prepared and certified by a Registered Land Surveyor. Approval by the City Council shall be indicated by the stamp of approval affixed by

the City Clerk to said legal description. The County recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.

5. Ambiguities in the Ordinance shall be resolved by interpretation of the Planning and Zoning Administrator. If an applicant wishes to appeal the interpretation of the Administrator, an appeal can be made, by a conditional application if applicable, through a hearing of the Planning Commission.

4.2 Environmental Documents and Concurrent Permits.

1. It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits; Health Department Permits; DNR Planned Unit Development Permits; Corps of Engineers Permits, DNR Public Water Permits and DNR Water Appropriation Permits. Approval by the City does not imply approval by other agencies.
2. The City will prepare an Environmental Assessment Worksheet (EAW) where a proposed project exceeds the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental review program or as requested by the Planning Commission or petitioned by the public.
3. The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

4.3 Use of Pre-Existing Lots³¹.

1. A nonconforming single lot of record may be allowed as a building site without variances from lot size requirements, provided that:
 - a. All structure and septic system setback distance requirements can be met;
 - b. A Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the City of Motley SSTS regulations, can be installed or the lot is connected to a public sewer; and
 - c. The impervious surface cover does not exceed the requirements of the underlying zone.
2. In a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the underlying zoning district and with the shoreland classification consistent with Minnesota Rules, chapter 6120 if located within a shoreland area;
 - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the City of Motley SSTS regulations;
 - c. Impervious surface coverage must not exceed the requirements of the underlying zone; and

³¹ Amended by Ordinance 153.05, 3/9/2010

- d. Development of the lot must be consistent with the City of Motley Comprehensive Plan.
3. A lot subject to Section 4.3(2) not meeting the requirements of Section 4.3(2) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
4. Notwithstanding Section 4.3(2), contiguous nonconforming lots of record under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota Rules, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.
5. An existing nonconforming parcel may be enlarged by attachment of a portion of an adjacent lot provided that the lot or parcel being reduced in size remains conforming to all dimensional and sewage treatment requirements applicable to a newly created lot. The applicants shall provide a revised legal description for each resulting parcel or lot such that the lot line adjustment does not result in an increase in the number of saleable properties. The Zoning Administrator may require additional information as necessary in order to assure compliance with this section and the Zoning Ordinance.

4.4 Non-conforming Structures and Uses³².

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following:

1. Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control, may be continued in the same physical location with a zoning permit, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion (except as allowed under paragraph 6 of this section), unless:
 - a. The nonconformity or occupancy is discontinued for a period of more than one year; or
 - b. Any nonconforming structure or use in a non-shoreland district is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged.
 - c. Any nonconforming structure or use in the shoreland district with less than 50 percent of the required setback from the ordinary high water level is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage.
 - d. For the purposes of this section, a structure shall not be considered to have expanded if it does not increase the amount of land covered by the structure being replaced and does not result in more than a 10 percent increase in the percentage of the structure being within a required setback, not to exceed an additional 100 square feet. The Zoning Administrator may require that the applicant submit reasonable evidence of the dimensions of the structure to be replaced, including but not limited to photos, surveys or building plans.

³² Amended by Ordinance 153.05, 3/9/2010

2. In cases where the requirements of Section 4.4 (1) are not met or applicable the landowner may apply for a conditional use permit and in the review of such request, the City may allow reconstruction and expansion of the structure that was destroyed, up to the dimensions allowed under paragraph 6 of this section. Such approval shall only be granted if the structure setback is increased where practicable and reasonable conditions are placed upon the zoning or building permit to mitigate created impacts on the adjacent property or water body, to prevent and abate nuisances and to protect the public health, welfare, or safety. This paragraph shall apply to the replacement of any water oriented accessory structure.
3. Notwithstanding paragraphs 1 and 2 above, any repair, replacement, maintenance, improvement, or expansion of a nonconforming use or structure in floodplain areas shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program and to not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.
4. A lawful, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.
5. Sewage treatment systems shall be upgraded to a conforming status in conformance with the following schedule:
 - a. Upon issuance of any zoning permit, conditional use permit or variance for any improvement on, or use of, the property.
 - b. Upon determination that leakage to the surface or lake or into an adjacent well is occurring, or determination that the system is discharging into the ground at an elevation less than 3 feet above the highest known water table.
 - c. Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
 - d. Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.
 - e. Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.
6. A one-time addition/enlargement may be made to an existing non- conforming structure, subject to the following:
 - a. For water oriented accessory structures, no expansion shall be allowed except as permitted under subparagraph f below.
 - b. The addition is not within the shore impact zone.
 - c. The addition will not encroach further into any setback.
 - d. The size of the addition shall not exceed fifty percent of the size of the structure it is being added to.
 - e. For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.
 - f. The height of the addition shall not exceed the height of the existing structure, except as may be necessary to achieve a roof pitch of no steeper than 4:12.
 - g. No permits shall be granted under this provision for homes constructed after June 10, 2003 or where a previous variance has been approved.
 - h. All other provisions of the Ordinance, except Section 4.5, Subdivision 2 must be complied with.

4.5 Building Standards.

1. All structures and appurtenances shall be constructed in accordance with the general standards of the building industry. The City does not examine plans nor assume liability for the structural stability or quality of any structures.
2. All dwelling units shall be a minimum of 18 feet wide and shall be placed on a foundation.
3. In accordance with the Minnesota State Building Code, in the absence of a determination by an engineer competent in soil mechanics, the minimum allowable footing depth in feet due to freezing is five feet.
4. Sewage treatment systems shall conform to Minnesota Pollution Control Agency Standards - Chapter 7080. All sanitary systems shall be constructed by installers certified by the State of Minnesota to install individual sewage treatment systems. The septic tank or pressure sewer shall be no closer than 50 feet from any well. The drainfield shall be no closer than 50 feet from a well that is deeper than 50 feet or penetrates at least 10 feet of impervious material, or 100 feet from any other well. The bottom of the drainfield trench shall be 3 feet or more above the highest known water table. The trench and drop box method shall be used where feasible. Sewage tanks being abandoned shall be pumped and filled with soil.
5. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health. All wells must be installed by a well driller licensed in the State of Minnesota. A log of each well shall be filed with the City within 45 days of the well being drilled.
6. The provisions of the Ordinance were prepared to be at least as restrictive as the "Statewide Standards for 'Management of Shoreland Areas'" effective July 3, 1989. Where the conditions of the Shoreland Standards are more restrictive, or in case of oversight, exclusion, or question in this Ordinance, the Shoreland Standards shall govern, except for applications involving non-conforming uses.

SECTION V - ZONING DISTRICTS AND DISTRICT PROVISIONS

5.1 General

1. The City of Motley is hereby divided into Zoning Districts as shown on the official Zoning District map, which may be subsequently amended by the procedures of Section 11.4.
2. The boundaries are generally on the center of the streets, on lot lines, on shorelines, on the center of streams or rivers, and following the contour of the land for the Natural Resource Zoning District.
3. The following Districts are hereby established:

Shoreline Residential.....R-1

Residential - Medium Density	R-2
Residential – High Density	R-3
Urban Commercial.....	C-1
Commercial	C-2
Industrial.....	I
Public Use.....	PU
Natural Resource	NR

4. The rivers in the City have been classified as follows:
 - A. Forested: Crow Wing River and Long Prairie River
5. The jurisdiction of this Ordinance shall include the shorelands of all the public waters in the City listed in Sec. 5.1(4).
6. The following provisions apply to all zoning districts:
 - A. All accessory structures or uses require the establishment of a principle structure.
 - B. Agricultural use is prohibited within 100 feet of the OHW.
 - C. There shall be no impervious coverage within 100 feet of the OHW excepts walks and steps on grade less than four feet wide as provided for in this Ordinance.
 - D. Unless specifically allowed, no more than four leases per year, per dwelling are allowed.
 - E. Water orientated accessory structures, including boathouses, are prohibited.
7. All uses are considered prohibited unless specifically allowed in this Code, even if they are not listed specifically under excluded uses.
8. Criteria for land use categories:
 - A. Preservation of natural sensitive areas.
 - B. Present ownership and development.
 - C. Shoreland soil types and their engineering capabilities.
 - D. Topographic characteristics.
 - E. Vegetative cover.
 - F. In-water physical characteristics.
 - G. Recreational use of surface water.
 - H. Road and service center accessibility.
 - I. Socio economic development needs of the public.
 - J. Availability of public sewer.
 - K. The necessity to reserve and restore certain areas having significant historical or ecological value.
 - L. Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties.
 - M. Alternative available for desired land use.
 - N. Prevention of spot zoning.
 - O. Conformance to the City of Motley Use Plan.

5.2 Shoreline Residential (R-1).

1. Purpose: To establish and maintain a land use district on the shorelines of public waters that is residential in character and that is compatible with the natural resources of the public water. The provisions of this zone shall apply to the shorelands of the public water bodies as classified in Section 5.1(4) of this ordinance.
2. Permitted Uses. (R-1)³³
See Section 5.11
3. Conditional Uses. (R-1)³⁴
See Section 5.11
4. Excluded Uses. (R-1)³⁵
See Section 5.11
5. Lot and Use Requirements. (R-1)

Lot width at OHW and building line - feet, minimum	200
Lot width with guest quarters or duplex	300
Buildable lot area - square feet, minimum	80,000
Buildable lot area with guest quarters or duplex - square feet, minimum	120,000
Setback, right-of-way, local streets – feet, minimum	30
Setback, right-of-way, collector and arterial streets – feet, minimum	50
Setback, OHW – feet, minimum	150
Setback, bluff – feet, minimum	50
Setback, side - feet, minimum	10
Setback, corner side – feet, minimum	50
Impervious coverage – maximum	15%
Building height - feet, maximum	25
Building above highest known groundwater or lake level – feet, minimum	3
Maximum Density	1 unit/20,000 sq. ft.
ISTS setback from OHW – feet, minimum	150

6. Performance Standards. (R-1)
 - A. Dwelling, Guest Quarters. A dwelling guest quarters must meet the following restrictions:
 1. Shall be located along with the principal structure on the smallest lot meeting the above requirements.
 2. Shall not cover more than 700 square feet of land and must not exceed 15 foot height.
 3. Shall be located to reduce it's visibility as viewed from public waters and adjacent shorelands.
 4. Shall be screened from adjacent parcels and public waters by vegetation, topographical location, increased setback, color or other

³³ Ordinance 2009-3, 4/28/2009

³⁴ Ordinance 2009-3, 4/28/2009

³⁵ Ordinance 2009-3, 4/28/2009

methods assuming summer leaf on conditions.

- B. Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.
 2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
 3. Canopies or roofs are not allowed on stairways, lifts or landings.
 4. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 5. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with.
- C. Fertilizer and Pesticides. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation or both.
- D. Duplexes. On Forested rivers, subdivisions of duplexes must also meet the following standards:
1. Each building must meet setback at least 200 feet from the Ordinary High Water Mark.
 2. Each building must have common sewage treatment and water systems that serve both units in the building.
 3. Watercraft docking facilities for each lot must be centralized in location and serve all dwelling units in the subdivision.
 4. No more than 25% of river shoreline can be in duplex development.
- E. Docks. The landward end of all docks must meet a 10 foot setback from the nearest lot line. Docks must be placed so that no portion of the dock, including “L” extensions or additions, and no accessory or ancillary structures or equipment (including mooring buoys, boat lifts, shore trackers or swimming platforms), extends across the projection of the setback from the lot line into the river. Docks must also be placed so as not to block access from an adjacent property to open water. The storage of all docks, and all watercraft or water oriented items shall also be subject to this property setback rule.

Notwithstanding any provision of this section to the contrary, the 10-foot setback for docks shall not apply to the extent necessary to allow ingress or egress of a pre-existing boat house.

This Ordinance shall apply to the use, maintenance and installation of any dock and accessory or ancillary structures or equipment at any time.

- F. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
 - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
 - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.3 Residential – Medium Density (R-2)

1. Purpose: To establish and maintain a medium density land use Zoning District, which will provide a buffer between Residential – Low Density (R-1) and higher density residential and commercial is non-riparian.
2. Permitted Uses. (R-2)³⁶
See Section 5.11
3. Conditional Uses. (R-2)³⁷
See Section 5.11
4. Excluded Uses. (R-2)³⁸
See Section 5.11
5. Lot and Use Requirements. (R-2)

Lot Width – feet, minimum	50
Buildable Lot Area - minimum	10,000 sq ft with city sewer/water, 2.5 acres with an ISTS
Setback, right-of-way, local streets – feet, minimum	15
Setback, right-of-way, collector and arterial streets – feet, minimum	25
Setback, side - feet, minimum	10
Setback, corner side – feet, minimum	15
Impervious coverage - maximum	25%
Building height - feet, maximum	25
Building height, accessory structure - feet, maximum	13
Accessory Structure Size – square feet, maximum, cumulative	1,280 for parcels 2.5 acres or less, 1,280 for each additional 2.5 acres parcel size
Building above highest known groundwater lot lake level – feet, minimum	3
Maximum Density	1 unit/10,000 sq. ft.

6. Performance Standards (R-2)

³⁶ Ordinance 2009-3, 4/28/2009

³⁷ Ordinance 2009-3, 4/28/2009

³⁸ Ordinance 2009-3, 4/28/2009

Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:

- a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
- b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.

Impervious Coverage. The impervious coverage may be increased by 50% provided the following:

- a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
- b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.4 Residential - High Density (R-3).

1. Purpose: To establish and maintain a land use District that will accommodate higher levels of residential density serviced by City sanitary utilities. This zone will also be used to enhance the diversity of housing opportunities for residents at a variety of income levels.
2. Permitted Uses. (R-3)³⁹
See Section 5.11
3. Conditional Uses. (R-3)⁴⁰
See Section 5.11
4. Excluded Uses. (R-3)⁴¹
See Section 5.11

5. Lot and Use Requirements. (R-3)	
Lot Width – feet, minimum	50
Buildable Lot Area - square feet, minimum	6,000
Setback, right-of-way, local streets – feet, minimum	20
Setback, right-of-way, collector and arterial streets – feet, minimum	20
Setback, side - feet, minimum	10
Setback, cornerside – feet, minimum	20
Impervious coverage – maximum	50%
Building height - feet, maximum	45
Accessory Structure Size – square feet, maximum, cumulative	1,280
Building above highest known groundwater lot lake level – feet,	3

³⁹ Ordinance 2009-3, 4/28/2009

⁴⁰ Ordinance 2009-3, 4/28/2009

⁴¹ Ordinance 2009-3, 4/28/2009

minimum

Maximum Density

1 unit/3,000 s.f.

6. Performance Standards (R-3)

Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:

- a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
- b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.

Impervious Coverage. The impervious coverage may be increased by 50% provided the following:

- a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
- b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.5 Urban Commercial (C-1)

1. Purpose: To provide a zoning classification for high-density commercial uses. Development in this zone relies less on automobile traffic and more on walking, biking and other similar modes of transportation. Infrastructure must be in place to provide on-street parking and walkways as well as connection to municipal water and sanitary sewer utilities. The zone must be clustered to provide the maximum amount of interaction and accessibility between the different business establishments.
2. Permitted Uses. (C-1)⁴²
See Section 5.11
3. Conditional Uses. (C-1)⁴³
See Section 5.11
4. Accessory Uses. (C-1)⁴⁴
See Section 5.11
5. Excluded Uses. (C-1)⁴⁵
See Section 5.11
6. Lot and Use Requirements. (C-1)

⁴² Ordinance 2009-3, 4/28/2009

⁴³ Ordinance 2009-3, 4/28/2009

⁴⁴ Ordinance 2009-3, 4/28/2009

⁴⁵ Ordinance 2009-3, 4/28/2009

Impervious surface coverage - maximum.....	85%
Setback, right-of-way - feet.....	0
Setback, side - feet.....	0
Setback, rear - feet.....	0
Building height - feet, maximum.....	25
Building above highest known groundwater.....	3
Minimum lot size - square feet.....	6,000

7. Performance Standards. (C-1)
 - A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
 - B. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development.
 - C. Fire Lanes. Fire lanes shall remain unobstructed at all times.

5.6 Commercial (C-2)

1. Purpose: To provide a zoning classification for commercial uses oriented around the automobile. Parcels are larger than in the Urban Commercial zone in order to provide on-site parking, on-site stormwater facilities as well as on-site water supply and sewage treatment where municipal utilities are not immediately available.
2. Permitted Uses. (C-2)⁴⁶
See Section 5.11
3. Conditional Uses. (C-2)⁴⁷
See Section 5.11
4. Accessory Uses. (C-2)⁴⁸
See Section 5.11
5. Excluded Uses. (C-2)⁴⁹
See Section 5.11
6. Lot and Use Requirements. (C-2)

Impervious surface coverage - maximum.....	50%
Setback, right-of-way - feet.....	50
Setback, parking from lot line - feet.....	30
Setback, side - feet.....	10
Setback, rear - feet.....	10
Building height - feet, maximum.....	25
Building above highest known groundwater.....	3
Minimum lot size - square feet.....	20,000

⁴⁶ Ordinance 2009-3, 4/28/2009

⁴⁷ Ordinance 2009-3, 4/28/2009

⁴⁸ Ordinance 2009-3, 4/28/2009

⁴⁹ Ordinance 2009-3, 4/28/2009

Onsite sign setback - feet.....10

7. Performance Standards. (C-2)

- A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- B. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.
- D. Screening. All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 25% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Lights approved with signs must be turned off at the close of business each day.
- F. Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:
 - a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
 - b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.
- G. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
 - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
 - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.7 **Industrial. (I)**

- 1. Purpose: To provide a zoning classification for light-industrial and heavy commercial uses. Development in this zone requires high accessibility and municipal water and sanitary sewer service. Industrial zones should be clustered to control negative impacts of industrial activities and to efficiently facilitate maximum interaction between light-industrial and heavy commercial enterprises.
- 2. Permitted Uses. (I)⁵⁰

⁵⁰ Ordinance 2009-3, 4/28/2009

See Section 5.11

3. Conditional Uses. (I)⁵¹
See Section 5.11

4. Accessory Uses. (I)⁵²

5. Excluded Uses. (I)⁵³
See Section 5.11

6. Lot and Use Requirements. (I)
- Impervious surface coverage - maximum.....50%
 - Setback, right-of-way - feet.....50
 - Setback, parking from lot line - feet.....30
 - Setback, side - feet.....10
 - Setback, rear - feet.....30
 - Building height - feet, maximum.....25
 - Building above highest known groundwater.....3
 - Minimum lot size - square feet.....20,000
 - Onsite sign setback - feet.....10

7. Performance Standards. (I)

- A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- B. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.
- C. Screening. All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 25% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- D. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Lights approved with signs must be turned off at the close of business each day.
- E. Outside storage shall be screened.
- F. Highway access will be limited to one driveway per three hundred (300) linear feet of highway frontage. In the case of an egress and ingress driveway for safety reasons, both will be allowed within the 300 linear feet.
- G. All proposed industrial uses shall be required to disclose any environmentally sensitive emissions, discharges or waste products at the time of hearing. The

⁵¹ Ordinance 2009-3, 4/28/2009

⁵² Ordinance 2009-3, 4/28/2009

⁵³ Ordinance 2009-3, 4/28/2009

allowable level of these parameters shall be established in the conditional use permit to be at least as restrictive as the applicable State or Federal standards, and a testing program shall be established to monitor the facility. Exceeding the allowable level of any parameter shall constitute a failure to perform a condition of the C.U.P.

- H. For new construction or additions/alterations, at least ten percent (10%) of the land area shall be landscaped with grass, shrubs, trees or other approved ground cover and ornamental landscaping. All landscaped areas shall be maintained and kept free of weeds and debris.
- I. All areas not used for buildings shall be graded to provide drainage and shall not drain unto abutting property. All areas not designated for structures, parking or driveways shall be landscaped and maintained. Landscaping shall be completed within nine months of the end of development construction.
- J. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
 - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
 - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.8 Public Use. (PU)

- 1. Purpose: To establish and maintain a land use district that is publicly owned for public buildings and public facilities.
- 2. Permitted Uses. (PU)⁵⁴
See Section 5.11
- 3. Conditional Uses. (PU)⁵⁵
See Section 5.11
- 4. Excluded Uses. (PU)⁵⁶
See Section 5.11
- 5. Lot and Use Requirements. (PU)
Requirements shall be as restrictive as the adjacent zoning classification.
- 6. Performance Standards (PU)
Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
 - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
 - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain

⁵⁴ Ordinance 2009-3, 4/28/2009

⁵⁵ Ordinance 2009-3, 4/28/2009

⁵⁶ Ordinance 2009-3, 4/28/2009

event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.9 Natural Resource. (NR)

1. Purpose: This zone contains the park and outdoor recreation system, wetlands and the flood plain areas of the city. The zone protects high quality outdoor recreation areas for city residents and visitors and maintains a high quality natural environment.
2. Permitted Uses. (NR)⁵⁷
See Section 5.11
3. Conditional Uses. (NR)⁵⁸
See Section 5.11
4. Accessory Uses. (NR)⁵⁹
See Section 5.11
5. Excluded Uses. (NR)⁶⁰
See Section 5.11
6. Lot, Use and Density Requirements. (NR)
Requirements shall be as restrictive as the adjacent zoning classification.
7. Mixed Zone Lots. (NR)
For a lot crossing the Natural Resource District boundary into another Zoning District, the minimum lot size shall be the same as the other Zoning District with no area credit given for the Open District area.
8. Performance Standard (NR)
Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
 - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
 - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

5.10 Downtown Mixed Use (DMU)⁶¹

1. Purpose and Intent: To provide a zoning classification for a mix of high-density residential and commercial uses. Development in this zone relies less on automobile traffic and more on walking, biking and other similar modes of transportation. Infrastructure must be in place to provide on-street parking and walkways as well as connection to municipal water and sanitary sewer utilities. Downtown Mixed-Use zones should be clustered to provide the maximum amount of interaction and accessibility

⁵⁷ Ordinance 2009-3, 4/28/2009

⁵⁸ Ordinance 2009-3, 4/28/2009

⁵⁹ Ordinance 2009-3, 4/28/2009

⁶⁰ Ordinance 2009-3, 4/28/2009

⁶¹ Ordinance 2009-3, 4/28/2009

between the different establishments.

2. Compatibility: The Downtown Mixed-Use zone is most compatible with and should be established next to the Residential, High Density zone, but it also may be adjacent to the Urban Commercial, Commercial and Public Use Zones.
3. Lot and Use Requirements. (DMU)

Lot width– feet, minimum	25
Buildable lot area – square feet, minimum	2,250
Maximum Density (units per acre)	20
Setback, right of way, City road- feet, minimum	1
Setback, right of way, County or State road, feet, minimum	10
Setback, side yard – feet, minimum	0
Setback, rear – feet, minimum	10
Setback, sign – feet, minimum	1
Setback, parking from building or lot line – feet, minimum	0
Setback, wetland – feet, minimum	50
Impervious Coverage with storm sewer available	90%
Impervious Coverage without storm sewer available	50%
Building height – feet, maximum	25
Building above highest groundwater level – feet, minimum	3

4. Performance Standards. (DMU)
 - A. Parking. Developments shall minimize the appearance of parking areas.
 - (1) Location. Parking and vehicle drives shall be located away from building entrances and street corners, and not between a building entrance and the street. Surface parking shall be oriented behind or to the side of a building when possible.
 - (2) Landscape Buffering. Suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks and buildings.
 - B. Pedestrian Amenities. Proposed developments shall provide for safe and comfortable sidewalks, paths, and resting areas for pedestrians. Sidewalks and paths shall connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.
 - C. Lighting. All building entrances, pathways and other pedestrian areas shall be lit to two-foot candles with pedestrian-scale lighting including wall mounted, sidewalk lamps, bollards, or landscape up-lighting.
 - D. Fences. Fences not exceeding 72 inches in height may be constructed. Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.

5.11 Land Use Matrix⁶²

Table 1. City of Motley Land Use Matrix

Use	NR	R1	R2	R3	DMU	PU	C2	C1	I
<i>Abandoned Building</i>	E	E	E	E	E				
<i>Abandoned Motor Vehicle</i>	E	E	E	E	E				
<i>Accessory Apartment</i>		C	C		C				
<i>Accessory Structure</i>	E		P	P	P	C	P	P	
<i>Adult Oriented Business</i>		E	E	E	E		E	E	C
<i>Agricultural - Cropland and Pasture</i>		P(1)			E				
<i>Agricultural Use</i>	E		P	E	E				E
<i>Airport, Public or Private</i>					E	C	C		
<i>Animal Boarding Facility</i>		E	C(2)	E	E		C		
<i>Animal Feed Distribution and Processing</i>					C		C		
<i>Animal Grooming Facility</i>					P		C		
<i>Animal Husbandry, Domestic</i>			C	C	C				E
<i>Animal Husbandry, Food</i>		C	C		E				E
<i>Animal Husbandry, Wild</i>		E	E	E	E				E
<i>Appliance Repair</i>					C		C	E	
<i>Artist Studio</i>					P			P	
<i>Assembly Plants</i>					C				C
<i>Athletic Clubs or Gymnasiums</i>					P		P	E	
<i>Automobile Repair Shops and Garages</i>					E		C	E	
<i>Automobile Sales</i>					E		C	E	
<i>Auto Salvage Yard</i>					E				C
<i>Banks</i>					P		P	P	
<i>Beach</i>					E	C			
<i>Bed and Breakfast Dwelling</i>		C		C	C				
<i>Billboards</i>	E	E	E	E	E	E	E	E	E
<i>Blacksmith Shops</i>					E				C

⁶² Ordinance 2009-3, 4/28/2009

Use	NR	R1	R2	R3	DMU	PU	C2	C1	I
<i>Building Material Yards, Lumber Yards</i>					E				C
<i>Campground</i>		E		E	E				E
<i>Camping</i>		P			E				E
<i>Car Wash</i>					E			C	
<i>Child Care, Center</i>					P		P	P	
<i>Church</i>		E		C	C		C	P	E
<i>Clinics and Ethical Pharmacies</i>					C		P	P	
<i>Commercial Uses</i>					C	E			
<i>Community and Recreation Centers</i>				C	C		P	C	
<i>Contractors Equipment Yards</i>					E				C
<i>Drive-in Window Facilities</i>					C		C	C	
<i>Dry Cleaning and Laundering Services</i>					P		C	C	
<i>Dwelling, Duplex</i>		C	P		P				
<i>Dwelling, Guest Quarters</i>		C			P				
<i>Dwelling, Mixed Use</i>					P		C	C	
<i>Dwelling, Multi-Family</i>			C	C	P				
<i>Dwelling, Single Family</i>		P	P	P	P			C	
<i>Dwelling Unit, Triplex</i>				P	P				
<i>Dwelling Unit, Quad</i>				P	P				
<i>Dwelling, Other</i>					C				
<i>Education and Training</i>					P		C		
<i>Extractive Use</i>	E	E			E				
<i>Fair Grounds</i>					E	P			
<i>Farm Machinery and Equipment - Rental</i>					E		C	E	
<i>Forest Land Conversion</i>	E	E			E				
<i>Gas Station</i>					E		C		
<i>Grading greater than 50 cubic yards</i>		C			C				
<i>Grocery Store</i>					P		P	P	
<i>Heavy Industrial</i>					E				E(5)
<i>Hiking Trails, Public or Private</i>	P	P	P	P	P	P			
<i>Interval Ownership</i>		E			E				
<i>Junk Yard</i>		E	E		E				E

Use	NR	R1	R2	R3	DMU	PU	C2	C1	I
<i>Light Repair Shops</i>					C				P
<i>Manufacturing</i>					C		C		C
<i>Mobile Home / Manufactured Home Park</i>				E	E				E
<i>Motel / Hotel</i>					C				E
<i>Municipal Sewage Facility</i>					E	P			
<i>Nursery</i>					C		C		
<i>Office Buildings</i>					P			P	
<i>On-sale Liquor Sales</i>					C		AC(4)	AC(4)	
<i>Outside Storage</i>		E			E				C
<i>Packaging Plants</i>					E				C
<i>Parking Lot</i>	E	C	C	C	C	P	P	P	P
<i>Parking Structure</i>					C		C		
<i>Parks, Playgrounds and Historic Sites</i>	C		P	P	P	P		C(3)	
<i>Personal Service Buildings</i>					P			P	
<i>Plumbing Shops</i>					C				C
<i>Police and Fire Facilities</i>					P	P			
<i>Post Office</i>					P		P	P	
<i>Principal Structure</i>	E				P				
<i>Print and Copy Shops</i>					P		P	P	
<i>Processing</i>					C		C		
<i>Professional Service Buildings</i>					P		C	P	
<i>Public Buildings</i>					P		P	P	
<i>Public Maintenance Facilities</i>					C		C		
<i>Public Utility Substation Buildings or Exchanges</i>					C				C
<i>PUD, Commercial</i>	E	E	E		P				
<i>PUD, Mixed Use</i>	E	E	E		P				
<i>PUD, Residential</i>	E	E	C		P				
<i>Residential Uses</i>					P	E	E		E
<i>Restaurant / Bar</i>					C		P	P	
<i>Retail Sales</i>					P		P	P	
<i>Schools</i>					C	P			
<i>Sign, Balloon</i>	E	E	E	E	P	P	P	P	P
<i>Sign, Banner</i>	E	E	E	E	A	A	A	A	A
<i>Sign, Canopy</i>	E	E	E	E	P	P	P	P	P

Use	NR	R1	R2	R3	DMU	PU	C2	C1	I
<i>Sign, Digital Display</i>	E	E	E	E	C	C	C	C	C
<i>Sign, Directory</i>	E	C	C	C	A	A	A	A	A
<i>Sign, Awning</i>	E	E	E	E	P	P	P	P	P
<i>Sign, Flashing</i>	E	E	E	E	C	C	C	C	C
<i>Sign, Marquee</i>	E	E	E	E	C	P	P	P	P
<i>Sign, Off-premise</i>	E	E	E	E	E	E	C	C	E
<i>Sign, On-premise</i>	E	P	P	P	P	P	P	P	P
<i>Sign, Portable</i>	E	E	E	E	P	P	P	P	E
<i>Sign, Pylon</i>	E	E	E	E	C	C	P	P	P
<i>Sign, Scrolling</i>	E	E	E	E	C	C	C	C	C
<i>Sign, Shimmering</i>	E	E	E	E	C	C	C	C	C
<i>Swimming Pools</i>					C	C			
<i>Temporary Structure</i>		P	P	P	P	P			E
<i>Temporary Vehicle Storage Facilities</i>					C		C	E	
<i>Tennis Courts</i>					C	C			
<i>Vegetation Removal, Clear Cutting</i>					C	C			
<i>Vegetation Remocal, Open Cutting</i>	C	C	C	C	C	C			P
<i>Vegetation Removal, Select Cutting</i>	P	P	P	P	P	P			
<i>Vegetation Removal, Steep Slopes</i>	C	C	C	C	C	C			
<i>Vehicle Body Repair / Machine Shops</i>					E				C
<i>Warehousing</i>		E			E		C	E	C
<i>Welding Shops</i>					E				C

- (1) More than 100 feet from OHW
- (2) As Home Occupation
- (3) Only parks and playgrounds allowed as conditional use, historic sites not listed
- (4) Requires liquor license only, no land-use permit required
- (5) Producing noise, smoke, odor, nuclear waste, gaseous waste, liquid waste or solid waste, noxious to humans

SECTION VI - SUBDIVISION STANDARDS

6.1 Sketch Plan.

A sketch plan shall contain the following data:

1. Existing Conditions
 - A. Approximate exterior boundary drawn to a scale of not less than 1" = 100' with the scale and northerly direction shown thereon.
 - B. Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark.
 - C. Use of adjoining properties including street locations, structure locations and property lines.
 - D. Significant historical sites.
2. Proposed Design
 - A. Proposed roads and walkways.
 - B. Proposed lots with building setbacks and bluff impact zones.
 - C. Proposed Green Space.
 - D. Proposed City sewer and water system connections or sewage treatment systems and well locations.

6.2 Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres.

A Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres shall contain the following data: (except as waived by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal:

1. Existing Conditions
 - A. Boundary lines with lengths and bearings drawn to exact scale of no less than 1" = 100' taken from a boundary survey by a Registered Land Surveyor with the legal description of the property, total acreage, name of the fee owner, developer and surveyor. North arrow and scale.
 - B. Topography consisting of 2-foot contour intervals, or at the discretion of the Planning Commission during the sketch plan review, 10-foot contour intervals taken from the USGS mapping with additional field determined spot elevations added to define drainage ways, 100 year floodplains, wetlands, slopes and the Ordinary High Water Mark. Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation.
 - C. Tree cover limits, specimen tree locations.
 - D. Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems. At least one boring for each unit unless waived by the Planning Commission.
 - E. Location of adjoining streets, wetlands, structure and property lines within 200-feet of subject parcel, including acreage of any property owned by the developer not included in the preliminary plat.
 - F. Significant historical sites.
 - G. Date of boundary survey, topography and proposed plat.
2. Proposed Design
 - A. Layout of proposed streets, walkways, blocks, lots, buildings if known, drawn to same scale as existing data.

- B. Dimensions scaled to nearest 5 feet of all lot lines, street widths, easement widths and waterfront lengths.
 - C. Areas of proposed lots.
 - D. Structure setback lines from streets, lot lines and Ordinary High Water Mark.
 - E. Proposed Green Space with area shown.
 - F. Proposed public dedication areas other than streets or walkways with the area shown.
 - G. Proposed City sewer or water system connections and extensions existing and proposed with grades shown.
 - H. Potential locations and estimated depth to water table for all proposed onsite sewage disposal systems, two per lot.
 - I. Information regarding adequacy of domestic water supply,
 - J. Proposed storm drainage system and erosion control, both during and after construction activities.
 - K. Proposed street standards and profiles.
 - L. Potential principal structure and accessory structure locations and elevations.
 - M. Extent of anticipated vegetation and topographic alterations.
 - N. Proposed covenants.
 - O. Name of Subdivision and proposed street names.
 - P. Stages of development proposed.
3. Evidence of Authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.

6.3 Final Plat or Final Condominium Plat.

A Final Plat or Final Condominium Plat shall contain all elements required by this Ordinance and Minnesota Statutes 505, 515A or 515B respectively, and the State Plat Manual including but not limited to the following:

- 1. Conformance with approved Preliminary Plat or agreed upon portion thereof.
- 2. Design standards in conformance with the Ordinance and the Motley Zoning and Subdivision Ordinance.
- 3. Preparation by a Registered Land Surveyor. Signatures of Mayor, Clerk, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land.
- 4. Dedication to the public of easements, right-of-ways, walkways and land to become public.
- 5. Drainage and utility easements over natural drainage ways and significant wetlands.
- 6. Reservation of private streets in Out lots (Planned Unit Development).
- 7. Covenants: Covenants shall be filed concurrently with the plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system is proposed for subdivision.
 - A. The Association shall consist of all benefited lot owners including the subdivider.
 - B. The Association shall be responsible for all costs of maintenance and replacement.
 - C. The costs shall be uniformly divided by lots served.
 - D. The costs shall be lien able against the lots by the Association if payment is not forthcoming.
 - E. The status of the facility shall be clearly stated as subject to perpetual private maintenance.

- F. Provisions shall be made for emergency access or emergency maintenance by the City with subsequent reimbursement by the Association.
- 8. Concurrent documents
 - A. Title Opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented by signature on the plat as holding interest in the property being divided.
 - B. Evidence of plat check by an independent Registered Land Surveyor,
 - C. Financial security acceptable to the City Attorney in the amount of 125% of the cost estimated by the Engineer for the uncompleted required improvements.
 - D. Development contract acceptable to the City Attorney, if required.

6.4 Design Layout Standards - Minimum.

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer, Planning Commission and Council, except as waived by variance approved by the Board of Adjustment.

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration. Land subject to flooding, land below the ordinary high water mark, wetlands, and areas with high water table, bluffs or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sights, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
3. Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
4. Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without variance.
5. Lot layouts shall be compatible with the existing layout of adjoining properties.
6. Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.
7. Proposed streets shall conform to the Comprehensive Plan of the City, County and State highway plans and existing boundary conditions.
 - A. Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 15% for minor roads.
 - B. Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
 - C. When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed.
 - D. Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
 - E. Streets will be designed as collectors or local streets in accordance with the

Comprehensive Plan of the City.

- F. The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) and shall not exceed 1200 feet in length.
- G. Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City.
- H. Right of Way shall be dedicated to the public:
 - Cul-de-sac (turnaround)68' radius
 - Arterials...100' or as determined by Morrison and/or Cass Co
 - Collectors66'
 - Local Streets66'

Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.
- I. Intersections
 - 1. Street centerlines shall intersect at not less than 75 degrees.
 - 2. Street jogs shall be no less than 200' from centerline to centerline.
 - 3. Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%.
- J. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when any other reasonable and feasible placement alternatives exist.
- K. Street names shall conform to the pattern of the City, continue an existing name on the same alignment and generally promote a direction in the community.
- 8. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:
 - Water main20 feet
 - Sanitary Sewer40 feet
 - Storm Sewer20 feet
 - Electrical, telephone or cable television.....10 feet
 - Drainage way.....10 feet
- 9. Lots requiring variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

6.5 Survey Standards.

Survey Standards shall be those required by Minnesota Statutes 505 including the placement of all monuments including block corners, lot corners, curve points and water survey line points on lot lines. All US, State, County and other official bench marks, monuments or triangulation points in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

6.6 Street Improvement Standards.

All streets within the subdivision shall be constructed by the sub divider or otherwise provided for by agreement in a Development Contract between the sub divider and the City Council with all expenses borne by the sub divider. Local streets and collector streets shall be constructed according with the established minimum standards.

6.7 Sanitary Provision Standards.

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system, or the sub divider constructs a cluster system serving the lots to be owned and maintained by a property owner's association or the lot is provided with sanitary service by a municipal sewer system at the expense of the sub divider.

1. A municipal sewer system shall be extended to the lot at the sub divider's expense by agreement in a Development Contract between the sub divider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the Engineer and Planning Commission or if the density of the proposed development necessitates a municipal sewer connection. The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the Engineer.
2. Onsite systems or cluster onsite systems shall conform to Minnesota Pollution Control Agency Standards, Individual Sewage Treatment Systems Standard, Chapter 7080, and provide for two (2) treatment sites for drain fields.
3. Municipal sewage facilities shall be designed by a Registered Engineer approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to "Standard Utilities Specifications", City Engineer's Association of Minnesota.

6.8 Water Supply Standards.

The sub divider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, onsite sewage disposal sites, and potential well locations to allow the well installations in conformance with the City of Motley Zoning Ordinance requirements or the sub divider shall provide the lot with a cluster water supply system to be owned and operated by a property owner's association or the sub divider shall provide municipal water service to the lot.

1. A municipal water system shall be extended to the lot at the expense of the sub divider by agreement in the Development Contract between the sub divider and the Council if the existing municipal system is adjacent to the parcel being subdivided or reasonably close in the opinion of the engineer and Planning Commission or if the density of the proposed development necessitates a municipal water connection. The water main shall also be extended to the exterior boundary at locations designated by the Engineer.
2. Onsite wells or cluster water systems shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 "Water Well Construction Code", and the cluster system shall receive the approval of the City Engineer.
3. Municipal water facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Department of Health and installed according to "Standard Utilities Specifications" City Engineer's Association of Minnesota.

6.9 Drainage/Grading Standards.

The sub divider shall consider the retention of natural stormwater/snowmelt drainage patterns in the design of his proposed subdivision. The sub divider shall be responsible to provide adequate drainage facilitates for his development and upstream properties.

1. All natural drainage ways draining properties upstream from the subject property shall be preserved, and no structures shall be less than one (1) foot above the water level in the drainage way created by a storm of a 100-year, 24-hour rain event. No filling of

areas inundated by the 100-year, 24-hour rain event shall be allowed except by Conditional Use Permit.

2. All streets, building sites and subsurface sanitary disposal sites shall be drained to a natural drainage way. The sub divider shall provide adequate grading or drainage structured so no inundation or ponding will occur from a storm of a 5-year, 24-hour rain event.
3. Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the sub divider. No storage area shall be considered part of the minimum lot area requirement. All storage areas shall be vegetated and designed to lower naturally after a storm.
4. All drainage structures provided shall be sufficient in size to pass a 5-year, 24-hour storm to a natural drainage way and to pass a 100-year, 24-hour storm along a drainage way.
5. All areas disturbed by grading, street construction or structure installation shall be covered with a 3 inch natural topsoil and seeded. Drainage ways over 2% in gradient shall, at a minimum, be sodded.
6. All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water.
7. Erosion control measures shall be provided where necessary in the opinion of the Engineer.

6.10 Dedication to the Public – Standards.

1. In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the sub divider shall dedicate, to the public, lands for highway right of ways, street right of ways, utility easements, wetland easements and similar lands required for perpetual and public improvements.
2. In addition, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the Planning Commission, with the concurrence of the City Council, shall require a payment to the City, in lieu of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space, of a sum not to exceed ten percent (10%), of the fair market value of the land to be subdivided. The fair market value of the land to be subdivided shall be the value as determined by the Morrison and/or Cass County Assessor at the time of Final Plat approval by the City Council. The amount of the payment shall be set by the Planning Commission, with the concurrence of the City Council, after taking into consideration the open space, park, recreational or common areas and facilities with the applicant proposes to reserve for public use within the subdivision. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358, Subdivision 2b, of the Minnesota Statutes.
3. All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.

SECTION VII - SPECIAL PROVISIONS

7.1 Adult Oriented Businesses

1. General. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to

promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation of restriction on the content of any communicative material, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

2. Standards.
 - A. All adult oriented businesses are permitted only by conditional use permit in designated zones.
 - B. Such businesses are required to have proper licensure from Morrison County and/or Cass County.
 - C. During the term of this Ordinance, no Adult Oriented Businesses shall be located less than 500 feet from any residential zoning district boundary or site used for residential purposes, nor less than 500 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult Oriented Business may be located within 300 feet of another Adult Oriented Business. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site, or another Adult Oriented Business site to the nearest boundary of the proposed Adult Oriented Business site.
 - D. No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

7.2 Mobile Home/Manufactured Housing Development.

1. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, water and fire protection. The City of Motley shall limit the number of these developments due to the heavy demand on municipal facilities.

7.3 Campgrounds/Campsites.

1. Minimum parcel size - No campground or Recreational Vehicle Park shall be allowed on a parcel of less than 40 acres.
2. Dwelling site requirements - The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
 - A. Campsites or recreational vehicle sites shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet, center to center.
 - B. A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites.
 - C. Parking shall be off the road.
 - D. Recreational facilities shall be included sufficient to provide for the number of sites.
 - E. A water system capable of providing 100 gallons per site, per day, at 200 psi at the most remote fixture for RV sites, or within 400 feet of each campsite for non RV sites.
 - F. Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.
 - G. Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one

- dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals, and screened.
- H. Fire pit for each campsite.
 - I. Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided.
 - J. Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities.
 - K. Grass or other complete ground cover shall be maintained except in parking areas and roads.
 - L. Recreation vehicles shall be moved off site or into a designated storage area for at least 4 months of every year.
 - M. Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.
 - N. All sites shall be well drained.
3. The submission requirements for a campground shall be the same as a subdivision, except as determined not applicable by the Zoning Administrator.

7.4 Extractive Uses and Restoration.

- 1. Extractive Uses. Extractive uses, where allowed, shall be permitted only by Conditional Use Permit. Such permit shall include, as a condition: a site plan, a completion plan and a haul route with a provision for road restoration.
- 2. Restoration. Upon completion of mining or other extraction, the site shall be shaped and natural overburden replaced, then natural topsoil placed thereon and seeded. The haul road shall be restored to the condition prior to the beginning of the extraction operation.
- 3. No processing machinery shall be placed closer than 1,000 feet from any residence or 200 feet from the OHW of any lake, river or stream.

7.5 Home Occupation.

- 1. General. Residents may establish home occupations consistent with the following standards:
 - A. All business activities including storage shall be inside buildings.
 - B. All activities shall be clearly incidental to the use of the property for residential purposes.
 - C. If the hours of operation exceed normal business hours (8:00 AM to 6:00 PM Monday thru Saturday), hours of operation shall be limited by Conditional Use Permit to be compatible with the residential use.
 - D. If there are employees beyond the owner of the property, the number of employees shall be limited by Conditional Use Permit.
 - E. On the premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by Conditional Use Permit.
 - F. All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.

7.6 Proposed Telecommunication Towers

- 1. Purpose and Intent.

- To establish predictable and balanced regulations that protect the public health, safety, and general welfare of the City.
- A. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Motley.
 - B. Minimize adverse visual effects of towers through careful design 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. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the City.
2. Permits Required. It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the City and securing a permit. A change in construction, dimension, lighting design or design type shall also require a permit. The placement of antennae on previously approved towers may be administratively approved by the City.
3. Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:
- A. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
 - B. 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.
 - C. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
 - D. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - E. Metal towers shall be constructed of, or treated with, corrosive resistant material.
4. Tower Setbacks. Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:
- A. Towers shall be set back from all property lines and existing structures an amount equal to the height of the structure.
 - B. Guy wires for towers shall be located no closer than twenty-five (25) feet to any property line and shall meet the setback of the underlying land use district with respect to the public road right of way.
 - C. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet shall be provided around any tower and guy wires.
5. Tower Location. Towers less than two hundred (200) feet in height shall be located a minimum of one-half mile from the end of an airport clear zone as measured from the center point of the base of a free-standing tower. Towers that are 200 feet or more in height shall be located a distance of at least three miles from any public or private airport.
6. Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:
- A. Documentation of the area to be served including maps demonstrating the size of communication cells and a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) mile radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.

- B. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
 - 2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - 3. Existing or approved towers and buildings within the search radius that are sixty (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.
 - 4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 - C. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 99 feet in height, or for at least one additional user if the tower is between 35 and 99 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept mounting at varying heights.
 - D. An agreement stating that the site will be designed for not less than three users with applicant and property owner commitment to co-location, whereby, any prohibition of additional users on a tower will be considered a violation of the permit and city policy. The agreement shall also include a statement that any unused or abandoned tower shall be removed by the property owner and/or applicant. Said agreement shall be signed by the applicant and the property owner and shall be attached to and become a part of the permit.
7. Antennas Mounted on Existing Buildings or Towers. The placement of telecommunication antennas including wireless telecommunication antennas on existing buildings, towers or structures, shall meet the requirements of the underlying land use district and this section. A site plan and building plan must be submitted to the City as part of the land use permitting process. Where a tower is non-conforming due to the requirements of this section additional telecommunication antennas may be permitted to be placed on the tower after being reviewed by the Zoning Administrator.
 8. Accessory Utility Buildings. All buildings and structures accessory to a tower shall:
 - A. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for each land use district.
 - B. Have ground mounted equipment screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
 9. Tower Lighting. 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 or the Federal Communications Commission or state agency. 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.
10. Abandoned or Unused Towers. Abandoned or unused towers and associated facilities shall be removed within twelve (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 the 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 assessed against the property.
 11. Public Safety Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include adequate information that will be reviewed by the Planning & Zoning Commission before a permit may be issued. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of any changes and allow the City to monitor interference levels during the testing process.
 12. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
 13. Non-conforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the city, the following provisions shall apply to non-conforming towers. Telecommunication towers in existence at the time of this Ordinance may be permitted to increase tower height after being issued a conditional use permit. The Planning & Zoning Commission shall consider the following criteria as part of the conditional use permit process:
 - A. Tower safety concerns including tower collapse, falling ice, and airplane traffic.
 - B. Land use character and history of tower(s).
 - C. Comparative visual impact to the surrounding lands of the proposed tower height increase.
 - D. Disturbance or conflict with agricultural uses on the property.
 - E. Other factors which tend to reduce conflicts or are incompatible with the character and need of the area.
 14. Screening and Landscaping Requirement. A screening and landscaping plan designed to screen the base of the tower, accessory utility buildings, utility structures, and security fencing shall be submitted. The plan shall show the location, size, quantity, and type of landscaping materials. Landscape materials shall be capable of screening all year and must be six (6) feet in height by the end of the second growing season. Gravel or other durable surface or other weed prevention measures shall be applied within the fenced area to prevent the growth of weeds. A maintenance plan for landscaped materials shall also be submitted.
 15. 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 commercial wireless telecommunication service 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 the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 - C. The location of all public and private airports within a three (3) mile radius of the tower site.
 - D. Applicant must obtain FAA approval and/or provide documentation that FAA approval is not needed.

- E. Applicant must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed.
 - F. An intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems, only if that is the basis for not co-locating
 - G. The applicant must submit proof of Liability and Worker's Compensation.
 - H. For towers over five hundred (500) feet, an Environmental Assessment Worksheet (EAW) is required and the applicant shall be responsible to provide the city with all information required to complete the EAW prior to the issuance of a permit from the city.
 - I. The owner of the tower shall provide the city with an acceptable financial guarantee in an amount equal to one and one-half (1&1/2) times the cost to remove the tower and related infrastructure, including footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and to restore the site. Failure to remove the structure shall be cause for the City to remove the tower and associated equipment at the expense of the property owners.
16. Towers Not Requiring a Permit. Permits are not required for the following:
- A. A satellite earth station antenna four (4) feet in diameter or less, located in an industrial or commercial district, meeting required setbacks.
 - B. A satellite earth station antenna three (3) feet or less in diameter, meeting the required setbacks.
 - C. A tower less than fifty (50) ft. as measured from the ground.

7.7 Signs⁶³

1. Findings, Purpose, and Intent.
 - A. Findings. The City hereby finds as follows:
 1. Exterior *signs* have a substantial impact on the character and quality of the environment.
 2. *Signs* provide an important medium through which individuals may convey a variety of messages.
 3. *Signs* can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare.
2. Purpose and Intent. It is not the purpose or intent of these sign standards 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 the outside of a *building*. The purpose and intent of this Section is to:
 - A. Regulate the number, location, size, type, illumination, and other physical characteristics of *signs* within the City in order to protect and promote the public health, safety, and welfare.
 - B. Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
 - C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
 - D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.

⁶³ Amended 9/23/08

3. General Provisions.

- A. Regulations. Except as hereinafter provided, no *signs* shall be *erected* or maintained at any angle to a *building* or *structure* so that the *sign* extends or projects over the *street* or highway. No *sign* which is *erected* or maintained flat against any *building* or *structure* shall extend or project more than twelve inches from the *building*.
- B. Electrical *Signs*. Electrical *signs* must be installed in accordance with the current electrical code and a separate electrical permit from the State must be obtained prior to placement.
- C. All flashing, revolving and intermittently lighted *signs* and all *portable signs* are prohibited, except as specifically allowed in this section.
- D. *Temporary signs* pertaining only to the construction, sale, or rental of the premises are allowable provided they do not exceed nine (9) square feet in any District and are removed within thirty (30) days of the completion of construction, sale, or rental.
- E. *Temporary signs*, including *banners*, streamers and *portable signs*, are allowed for special events such as grand openings and promotions provided they are not in place longer than fourteen (14) days.
 - 1. *Portable signs* must be placed twenty (20) feet back from the Highway 210 / Highway 10 Intersection; and
 - 2. four (4) feet of clear space must be maintained in the center of the sidewalk for the passage of pedestrians.
- F. Prohibited *Signs*. The following *signs* are prohibited *signs*:
 - 1. Any *sign*, signal, marking or device which purports 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 or which hides from view or interferes with effectiveness of any official traffic-control device or any railroad sign or signal.
 - 2. All off-premise advertising, including billboards.
 - 3. *Signs* painted, attached, or in any other manner affixed to *trees*, rocks, or similar natural surfaces, or attached to public utility poles, bridges, *towers*, or similar public *structures*.
- G. *Setbacks*. Permanent *signs* can be allowed up to the *right-of-way* as long as there are no safety or maintenance concerns as determined by the *Zoning Administrator*.
- H. Area. The area within the frame shall be used to calculate the square footage. If such letters or graphics are mounted directly on a wall of fascia or in such way as to be without a frame, the dimensions for calculating the square footage shall be the area within the periphery around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate *sign* and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walls, *awnings*, free-standing *structures*, suspended by balloons or kites or on persons, animals, or vehicles are considered a *sign* and are included in calculating the overall square footage.
- I. Canopies, *Marquees*, and Fixed *Awnings*. Canopies, *marquees*, and fixed *awnings* are an integral part of the *structure* to which they are attached. Where allowed, they shall meet the following requirements and the applicable square footage requirements.
 - 1. An *awning*, *canopy*, or *marquee* may not extend out from the *building* more than thirty (30) inches.

2. *Awnings*, canopies, or *marquees* may have no part of the *structure* other than supports nearer to the ground surface than seven (7) feet.
 3. Below *Marquee*. No *sign*, either illuminated or non-illuminated, may project below a *marquee*.
- J. Illumination. External illumination for *signs* shall be so constructed and maintained so that the source of light is not *visible* from the public *right-of-way* or neighboring residential properties.
 - K. Height. The top of a *sign*, including its superstructure, if any, shall be no higher than fifty percent (50%) of the roof elevation of the *building* to which such *sign* may be attached or thirty (30) feet above ground level, whichever height is less. *Freestanding signs* shall not exceed an overall height of thirty (30) feet from ground level.
 - L. *Non-commercial speech*. Notwithstanding any other provision of this Ordinance, all *signs* of any size containing *Non-commercial speech* may be posted in any number from August 1 in a (state) general election year until ten (10) days following the (state) general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.
4. Specific Regulations by *Zoning District*.
 - A. Residential Districts.
 1. Within residential *Zoning Districts* one (1) *sign* per primary *structure* is allowed, with a permit, with a maximum *sign* area of eight (8) square feet.
 2. The following types of *signs* are not permitted in residential *Zoning Districts*:
 - a. *Awning signs*
 - b. *Balloon signs*
 - c. *Digital Display Signs*
 - d. *Flashing signs*
 - e. *Marquee signs*
 - f. *Pole signs*
 - g. *Pylon signs*
 - h. Neon signs
 - i. *Scrolling signs*
 - j. *Shimmering signs*
 - B. Business Districts.
 1. Within the Commercial District (C), *signs* are permitted as follows:
 - a. Each property is allowed one *freestanding sign* so long as the *sign's* placement does not create a safety hazard by obstructing lines of sight or pedestrian corridors.
 - b. For *corner lots*, one *freestanding sign* conforming to these standards is allowed on each roadway.
 - c. Maximum *sign* area of a single *sign* is one hundred twenty-eight (128) square feet.
 - d. Up to ten percent (10%) of any *principal structure* facade area which directly abuts and lies generally parallel with the road *right-of-way* or publicly traveled roadway may be dedicated to signage.
 - e. The maximum *sign* area for the side of the *principal structure* not *abutting* the road *right-of-way* or publicly traveled road is twenty-four (24) square feet.

- C. Industrial Districts. Within the Industrial District (I), *signs* are permitted as follows:
1. Each property is allowed one *freestanding sign* so long as the *sign's* placement does not create a safety hazard by obstructing lines of sight or pedestrian corridors.
 2. For *corner lots*, one *freestanding sign* conforming to these standards is allowed on each roadway.
 3. Maximum *sign* area of a single *sign* is one hundred twenty-eight (128) square feet.
 4. Up to ten percent (10%) of any *principal structure* facade area which directly abuts and lies generally parallel with the road *right-of-way* or publicly traveled roadway may be dedicated to signage.
 5. The maximum *sign* area for the side of the *principal structure* not *abutting* the road *right-of-way* or publicly traveled road is twenty-four (24) square feet.
5. Required Permits. No *sign* shall be *erected*, altered, reconstructed, or moved in the City without first securing a permit from the City. The content of the *sign* shall not be reviewed or considered in determining whether to approve or deny a sign permit.
6. Non-conforming Signs. It is recognized that *signs* exist within the *Zoning Districts* which were lawful before this Ordinance was enacted, which may be prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this Ordinance that *non-conforming signs* shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other *signs* or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit *legally established nonconforming signs* existing on the effective date of this Ordinance, or amendments thereto, to continue as *legally established nonconforming signs* provided such *signs* are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:
- A. No *sign* shall be enlarged or altered in a way which increases its nonconformity.
 - B. Should such *sign* or *sign structure* be destroyed by any means to an extent greater than fifty percent (50%) of its replacement cost and no sign permit has been applied for within one hundred eighty (180) days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
 - C. Should such *sign* or *sign structure* be 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 ordinance 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 *structure* loses its status as a legal *non-conforming structure*, all *signs* on the property shall be brought into conformance with this ordinance within sixty (60) days.
7. Substitution Clause. The *owner* of any *sign* which is otherwise allowed by this Ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of *commercial speech* over *non-commercial speech*, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provisions to the contrary.

SECTION VIII - IMPROVEMENTS

- 8.1 Prior to the City Council approving a Final Plat or a metes and bounds split, the sub divider shall provide for the construction of the required improvements at his expense and shall have the work completed or shall enter a Development Contract and give bond or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the uncompleted improvements except as provided in 9.3. The bond shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.
- 8.2 The required improvements shall conform to the standards of Sections VI of this Ordinance and shall include City street signs and lighting in conformance with City standards.
- 8.3 All costs of the City Engineer, City Attorney, Bond Council, financial experts and other professional costs borne by the City in writing and/or executing Development Contracts, estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the sub divider, shall be borne by the sub divider.

SECTION IX - ADMINISTRATION

9.1 Zoning Administration.

- 1. The Zoning Administrator shall be appointed by the City Council.
- 2. Duties of the Zoning Administrator:
 - A. Determine if applications are complete and comply with the terms of the Ordinance.
 - B. Direct or conduct inspections of building, sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
 - C. Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.
 - D. Review, file and forward applications for appeals, Variances, Conditional Uses and Zoning amendments.
 - E. Enforce the provisions of this Ordinance by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time and with the approval of the Planning Commission and City Council instituting with the City Attorney in the name of the City any appropriate actions or proceedings against any violator.
 - F. Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
 - G. Issue permitted Zoning Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
 - H. To mail a copy of the finding to an applicant.
 - I. To file copies of Conditional Use Permits and Variances with the County Recorder.
 - J. To communicate with the DNR where required by the Ordinance or State Law.
 - K. To ensure that the City Council, Planning Commission and Board Adjustment review land use application or public hearing applications as prescribed by State

- Statutes.
 - L. To conduct periodic and final inspections with a member of the Planning & Zoning Committee, of property subject to conditions of approval relating to variances, conditional use permits and other land use applications.
 - M. To issue *Land Use Certificates of Compliance*.
3. The Zoning Administrator and their duly authorized deputies shall have the right to trespass within the City of Motley in the pursuit of their duties.

9.2 Board of Adjustment.

1. The Board of Adjustment shall consist of the members of the Planning Commission, and shall hold its meetings concurrently with the Planning Commission meetings on a monthly or more frequent basis at the discretion of the Chairman.
2. Duties of the Board of Adjustment.
 - A. To consider appeals from the action of the Zoning Administrator wherein the Board will take the authority of the Administrator.
 - B. To hold hearings on Variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within a minimum of 350 feet distance of any Variance in question. Such notice shall be given at least 10 days before the hearing date.
 - C. To recommend action on Variances within the required time frame to the City Council with complete findings to justify the action.
 - D. To keep a record of it's proceedings, notifications and justifications for its actions.

9.3 Planning Commission.

1. Organization of the Planning Commission.⁶⁴
 - A. The Planning Commission shall consist of seven members. The members may include up to five members from the City Council. Each member other than council members shall be appointed by the City Council and shall hold office for three years and terms shall be staggered. Vacancies shall be filled for the remainder of the term by the City Council.
 - B. The Commission shall elect a chairman from its members for a term of one year.
 - C. If the Commission does not include all members of the City Council, the Mayor may appoint those that shall serve, with the concurrence of the City Council, or a liaison to the City Council on an annual basis.
 - D. The Commission shall meet a minimum of eleven times a year, once each month except December, at a regular meeting unless the docket is empty in which case the Mayor can approve suspension of a meeting. Special meetings shall be advertised in the official newspaper and posted in the City Hall at least 10 days in advance of the meeting.
2. Duties of the Planning Commission under this Ordinance.
 - A. To hold hearings after proper public notice in the official newspaper and individual notice by regular mail of any property owners within a minimum of 350 feet of any land use in question. Such notices shall be given at least 10 days

⁶⁴ Amended 9/11/2012.

before the hearing date.

- B. To decide within the required time frame the following:
 1. Recommendations to the City Council regarding requested Zoning District boundary changes or amendments to the Ordinance.
 2. To review and provide recommendations to the City Council on proposed plats or floor plans and to provide recommendations on final plats and final floor plans to the City Council.
 3. To review and approve all metes and bounds property divisions within the City.
 4. To review and provide recommendations to the City Council on requests for Conditional Use Permits with complete findings to justify the decision.
 5. To periodically review the Zoning map and Ordinances and consider their role in shaping the growth of the community and to recommend changes to the City Council of these documents to guide growth and current land use toward the goals of the Comprehensive Plan.
 6. To recommend on a timely basis that the City Council review the Comprehensive Plan when appropriate.
3. It shall be the duty of each individual member to be present at all meetings of the Planning Commission and Board of Adjustment. More than 3 absences in any one year period shall be grounds for replacement by the City Council.

9.4 City Council.

1. The City Council shall have the following duties under this Ordinance:
 - A. Appoint the Zoning Administrator by a majority vote, or terminate the Zoning Administrator by a 4/5 vote.
 - B. Confirm the appointments of the Mayor to the Board of Adjustment/Planning Commission members by a majority vote, or to remove members by a 4/5 vote.
 - C. To decide within the required time frame the following:
 1. Recommendations from the Planning Commission for changes in Zoning District boundaries.
 2. Recommendations from the Planning Commission for acceptance of proposed plats, Conditional Use Permits, final plats and condominium plans.
 3. Recommendations from the Board Adjustment for acceptance of Variances from this Ordinance and the Subdivision Ordinance.
 - D. To hear appeals from the actions of the Board of Adjustment and the Planning Commission where their action is normally final.

9.5 Conditional Use Permits.

1. Conditional Use Permits shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall

advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

2. Submissions for C.U.P. The applicant shall complete the Conditional Use Permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
3. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following⁶⁵:
 - A. Increasing the required lot size or yard dimension.
 - B. Limiting the height, size or location of buildings.
 - C. Controlling the location and number of vehicle access points.
 - D. Increasing the street width.
 - E. Increasing or decreasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location or lighting of signs.
 - G. Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
 - H. Designating sites for open space.
 - I. Stormwater runoff management.
 - J. Reducing impervious surfaces.
 - K. Increasing setbacks.
 - L. Restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.
4. The Planning and Zoning Commission shall decide the issue with consideration to the following:
 - A. The following must be met:
 1. The use or development is an appropriate conditional use in the land use zone.
 2. The use or development, with conditions, conforms to the comprehensive land use plan.
 3. The use with condition is compatible with the existing neighborhood.
 4. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
 - B. The following must be considered:
 1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminishes or impairs values in the

⁶⁵ Amended by Ordinance 153.05, 3/9/2010

- immediate vicinity.
 - 2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - 3. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
 - 4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares.
 - 5. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - 6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
 - 7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
 - 8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
 6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Council.
 7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall make a recommendation to the City Council on conditions for reinstating the permit or revocation. The City Council shall make the final decision on reinstating or revoking the suspended permit.
 8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.
 9. Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
 10. The Conditional Use Permit shall be filed with the County Recorder within 45 days.

9.6 Variances.

1. Variances shall not create a use not provided for in a zoning district.
2. Variances shall be issued to the property and are not transferable.

3. Variances shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.
4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
5. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions⁶⁶.
6. Variances shall be decided within the required time frame with consideration for the following:
 - A. The strict interpretation of the Ordinance would create undue hardship, and
 - B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
 - C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
 - D. The variance will not create a land use not permitted in the zone, and
 - E. The variance will not alter the essential character of the locality, and
 - F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.
7. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
8. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.

⁶⁶ Amended by Ordinance 153.05, 3/9/2010

9. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.
10. The Variance shall be filed with the County Recorder within 45 days.

9.7 Zoning Permits.

1. Zoning Permits shall be issued for all new structures and any change in structure exterior, plumbing or number of bedrooms, any construction or repair of a sewage system and any grading and filling in shoreland not exempted by this ordinance. No person shall assemble, install, repair, remodel, remove or construct any structure prior to applying for and receiving a Zoning Permit.
2. Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be issued or security posted before the Zoning Permit is issued.
3. The City shall not accept applications where the applicant has past due fees or charges due to the City or the County until the account is made current.
4. The Zoning Permit shall contain the parcel number of the property and the signature of the fee or contract owner of the property or his authorized agent.
5. Unless extended by the Zoning Administrator, where a Zoning Permit has been issued but no action has occurred within 12 months, the Zoning Permit shall be null and void. Exterior work on the structure shall be complete in 18 months from the issuance of the Zoning Permit. The time limit may be extended by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission.
6. Granting of a Zoning Permit shall occur when all requirements of the Ordinance have been met, but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with the Ordinance.
7. If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

9.8 Subdivision

1. Pre-Application Meeting. At the sub divider's option, a pre-application meeting shall be held including the sub divider, City Zoning Administrator, City Engineer, if requested by the Zoning Administrator, and the City Clerk. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.
2. Sketch Plan Review Meeting with Planning Commission. At the sub divider's option, a review of a sketch plan will be made by the Planning Commission prior to a public hearing. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.

- A. The sub divider shall submit 9 copies of the sketch plan, 14 days prior to the normal Planning Commission meeting, and request a position on the formal agenda.
 - B. The Planning Commission shall not take action on the proposal, but may make suggestions to facilitate the preparation of an approvable preliminary plat or plan.
3. Metes and Bounds Lot Split Approval. Where appropriate, under the provisions of this Ordinance, the sub divider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval. The review of the Planning Commission need not include a public hearing.
- A. The sub divider shall submit 9 copies of his proposal to the Zoning Administrator 30 days prior to the normal Planning Commission meeting and pay the corresponding fee.
 - B. The Zoning Administrator shall review the proposed lot split for compliance with the Zoning Ordinance including a field review at his discretion.
 - C. The Planning Commission make a recommendation to the Council on approval of the lot split within a reasonable time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) split into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.
 - D. The City Council shall review the recommendation of the Planning Commission and make the final determination.
 - E. The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.
 - F. Failure of the sub divider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.
4. Preliminary Plat or Preliminary Condominium Plat Approval. The preliminary Plat or Preliminary Condominium plan approval constitutes formal approval of the concept and design of the subdivision. The Planning Commission review shall include a public hearing and may include a field review at their discretion. All reports of City staff, DNR and Road authorities shall be reviewed and included in the hearing record. Related variance requests, rezoning requests and conditional use requests shall be heard concurrently with a subdivision request.
- A. The sub divider shall submit 9 copies of his proposed plat or condominium plat to the Zoning Administrator 30 days prior to the normal Planning Commission meeting, pay the required fees and request a public hearing.
 - B. The Zoning Administrator shall notify all property owner's within 350 feet, by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing, including sufficient legal property description in the advertisement. The Zoning Administrator shall distribute one (1) copy to each Planning Commission member, if the proposal is adjacent to a County Highway, one (1) copy to the County Engineer, and if the plat is in shorelands, one (1) copy to the DNR postmarked at least ten (10) days before the public hearing for review and comment.
 - C. The Zoning Administrator shall review the proposed plat or plan as to content

- standards, necessary variances, from the Zoning Ordinance and this Ordinance, necessary rezoning or necessary conditional use permits, and advise the sub divider and the Planning Commission of his findings.
- D. The sub divider shall make addition application for the necessary permits at least 30 days prior to the normal Planning Commission or Board of Adjustment meeting as applicable, if sub divider desires to have a concurrent public hearing for variance, conditional use or rezoning.
 - E. The Planning Commission shall hold the Public Hearing and may continue the hearing as it deems necessary to allow all factual input it deems necessary to allow a decision. Lack of submission of comments by outside agencies shall be construed to mean the agency has no objections.
 - F. The Planning Commission shall recommend the approval of the Preliminary Plat or Preliminary Condominium Plat to the Council within one hundred twenty (120) days of submission, and the findings shall be sent to the sub divider. The Planning Commission shall consider the following in it's decision:
 - i. Is the property properly zoned?
 - ii. Does the proposal conform to the requirements of the Zoning Ordinance?
 - iii. Does the proposal conform to the requirements of the Subdivision Ordinance?
 - iv. Have the concerns of the affected agencies been addressed?
 - G. The City Council shall review the findings and recommendations of the Planning Commission at their next regular meeting and make the final determination.
 - H. The City Council will hear any appeal within thirty (30) days of the Planning Commission action and will re-notify anyone noticed for the Public Hearing. Said appeals will be filed with the City Clerk within fifteen (15) days of the decision.
 - I. Failure of the sub divider to act after an approval of Preliminary Plat or Preliminary Condominium Plat within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.
5. Final Plat or Final Condominium Plat Approval. Upon approval by the Planning Commission, the sub divider shall cause the Final Plat or Final Condominium Plat, documents and concurrent documents to be prepared and submitted to the Planning Commission for recommendation to the City Council. All coincident variance requests, conditional use permit requests and/or rezoning requests shall either have been decided or be pending approval simultaneously with the Final Plat.
 - A. The sub divider shall submit 9 paper copies of the Final Plat or Final Condominium Plat and concurrent documents to the Zoning Administrator 30 days prior to the Planning Commission meeting.
 - B. The Zoning Administrator shall distribute the information received to the City Attorney and City Engineer, who shall review the submission for conformance with the standards and comment thereupon to the Planning Commission. The Zoning Administrator shall compare the Final Plat or Final Condominium Plat to the Preliminary Plat or Preliminary Condominium Plat and comment thereupon. The Attorney shall ascertain that all parties with an interest in the parcel to be divided are indicated as signers of the documents. The Engineer shall determine that the improvements required have been completed or have been included in a development contract and that the required security has been posted with the City Council.
 - C. The Planning Commission shall review the reports of the Attorney, Engineer

and Zoning Administrator and make recommendation to the City Council within 45 days of submission. The Planning Commission shall consider the following:

- i. Has the applicant complied with all conditions and requirements upon which the preliminary approval is expressly conditioned wither through performance or execution of appropriate agreements assuring performance?
 - ii. Does the Final Plat or Final Condominium Plat agree with the Preliminary Plat or Preliminary Condominium Plat?
 - iii. Does the City Attorney agree that all parties with an interest in the property are shown as signers of the document?
 - iv. Does the City Engineer agree that all improvements required are satisfactorily completed or are guaranteed by contract with adequate financial security.?
 - v. Does an independent Professional Land Surveyor agree the final document meets the statutory requirements?
 - vi. Has financial security been posted in the appropriate amount
- D. The City Council shall review the proposal at their next regular meeting and decide the approval within sixty (60) days of the submission of the Final Plat or Final Condominium Plat to the City.
- E. Following approval by the City Council, the sub divider shall submit to the Zoning Administrator, two (2) double mounted cloth backed prints on card stock (hard-shells) and two (2) mylar prints of the Final Plat or Final Condominium Plat for signature by the Mayor and Clerk. The Zoning Administrator shall send one copy of any approved Final Plat within shorelands to the DNR postmarked within ten (10) days of approval.
- F. Upon signature, the sub divider shall file all pertinent documents with the County Recorder. Failure to file a Final Plat or Plan, within two (2) years shall void the approval unless extended by the City Council.

9.9 Fees.

The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications shall require the payment of three times the normal fee unless specifically stated otherwise in the fee schedule.

The City shall not accept applications where the applicant has any past due fees or charges due to the City until the account is made current.

9.10 Financial Requirements

Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.

When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.

The City of Motley may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the City for direct costs relating to professional services provided during the review, approval and inspection of the project. The City may charge the applicant a rate equal to the value of the service to the City. Services provided by City staff or contract professionals will be billed at an established rate⁶⁷.

9.11 Required Decision Making Time Frames.

1. Pursuant to Minnesota Statutes, Chapter 15.99, as amended, the City of Motley establishes the following time frames for decisions made on all land use requests before the City, including Variances, Conditional Use Permits, Zoning District Boundary Changes, Zoning Ordinance Amendments, Appeals of Decisions by the Zoning Administrator or Planning Commission and Zoning Permits.
 - A. It shall be the applicant's responsibility to submit a completed application packet, which shall by definition include the application forms approved by the City, site plan with all information required by this ordinance and remit proper fees for the land use application. Once the Zoning Administrator or appointee has received the completed application packet, the review time frame shall commence. The Zoning Administrator shall notify applicants in writing when a completed application has been received.
 - B. The City shall within sixty (60) days of the receipt of a completed application, make a decision on the request. A determination shall be either a recommendation to another body or a final action approving or denying a request. Time frames for other reviews required by statutes or other government units shall not be counted as time during the local decision making process. Once the other agency or governmental unit has made their determination, the time frame for local review shall again commence.
 - C. If the City is unable to make a proper determination within the prescribed sixty (60) day time frame, it shall have the right to extend the time frame another sixty (60) days. The City shall, in writing, notify the applicant that it is unable to complete the review process and state the specific reasons why the process must be extended.
 - D. If the City is unable to make the final determination within 120 days of the original application date, it shall, in writing, request an extension from the applicant. The applicant shall have the authority to approve or deny the request for an extension.

SECTION X - ENFORCEMENT

10.1 Violations and Penalties.

The violation of any provision of this ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine of not more than \$500 or imprisonment for a term not to exceed 90 days or both. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

10.2 Liability of City Officials.

⁶⁷ Amended by Ordinance 153.05, 3/9/2010

The failure of any officer of the City or Board or employees of the City to act pursuant to this Ordinance, except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Board or employee to any penalty except those provided under the City personnel policies.

10.3 Equitable Relief.

In the event of a violation or threatened violation of any provision of this ordinance or the conditions of any permit issued pursuant to the ordinance, the City, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate such violation or threatened violation.

SECTION XI - SEPARABILITY, SUPREMACY, EFFECTUATION, AMENDMENTS, NOTICES

11.1 Separability.

Every section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

11.2 Supremacy.

When any condition implied by this Ordinance on the use of land or buildings is more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other City ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restriction or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable of this Ordinance, the Ordinance shall prevail.

11.3 Effectuation.

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.

11.4 Amendment.

The City Council may adopt amendments by 4/5 vote to either the Zoning Ordinance or Zoning map in relation to the land uses within a District or the boundaries of the District(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

1. Procedure.

- A. An amendment may be initiated by the Council, the Planning Commission or by any property owner.
- B. The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
- C. The Planning Commission shall make a reasonable attempt to cause all property

owners within a minimum of 350 feet of proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the legal section of the official newspaper and shall provide notice to the DNR at least 10 days ahead of the public hearing. The Planning Commission shall hold the hearing and make a timely recommendation to the City Council. Adoption of a new Zoning map shall require published notice only. The Planning Commission shall consider the criteria for land use categories, Sec 5.1(8), in its decision.

- D. The City Council shall review the recommendations and shall make a timely decision. An amendment requires a 4/5 vote to be enacted.
- E. The City Clerk shall publish a summary of the text of the change or description of boundary change or a new Zoning map, whichever is appropriate, in the official newspaper within 30 days after action by the Council and shall send a copy to the DNR.

11.5 Notices.

Failure to receive notice called for by this Ordinance shall not invalidate any action taken by the City so long as the City acted reasonably in its attempt to provide such notice.