City Of La Crescent

LA CRESCENT MINNESOTA

APPLE CAPITAL

1857

315 Main Street

La Crescent, MN 55947

Zoning Ordinance, Chapter 12

City of La Crescent, Minnesota

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12.01 TITLE

This ordinance shall be known and cited as the "ZONING ORDINANCE" of the City of La Crescent, Minnesota.

12.02 PURPOSE, INTERPRETATION AND SCOPE

Subd. 1. LEGISLATIVE INTENT. The general purpose of the zoning ordinance is to carry out the intent of the City of La Crescent, Minnesota's plans and policies and to promote the public health, safety and general welfare.

Subd. 2. INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of the zoning ordinance shall be held to be minimum requirements. Whenever the zoning ordinance imposes a greater restriction than is imposed or required by other provisions of law or rules or ordinances, the provision of the zoning ordinance shall govern. Whenever another ordinance imposes a greater restriction than is imposed by the zoning ordinance the other ordinance shall govern.

Subd. 3. COMPLIANCE REQUIRED. No land, building, or structure or part thereof shall hereafter be erected, altered, constructed, reconstructed, maintained, used, relocated or occupied except in conformity with the provisions of this zoning ordinance.

Subd. 4. VALIDITY. The zoning ordinance and the various subdivisions thereof are hereby declared to be severable. If any section, subdivision, paragraph, sentence, or phrase of the zoning ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of the zoning ordinance shall not be affected thereby.

Subd. 5. ENFORCEMENT. This zoning ordinance shall be enforced by the Building Official of La Crescent, Minnesota, as set forth herein or other official as may be authorized by the City Council.

Subd. 6. JURISDICTION. This zoning ordinance shall apply to all lands as defined herein, located within the corporate limits of La Crescent, Minnesota.

Subd. 7. ENACTMENT. This zoning ordinance is enacted pursuant to Section 462.35 to 462.364, laws of Minnesota, 1959, as amended.

Subd. 8. RESERVATIONS AND APPEALS. Upon the adoption of this ordinance according to law, any previous zoning regulations of the City of La Crescent, Minnesota, as amended, are hereby repealed, except as to such sections expressly retained herein.

12.03 DEFINITIONS

Subd. 1. INTERPRETATION. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of the zoning ordinance. Words used in the present tense shall include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased" or "intended to be used"; the "may" is permissive; and the word "shall" is mandatory and not discretionary. The masculine gender includes the feminine and neuter genders.

Subd. 2. ACCESSORY STRUCTURE OR BUILDING. A subordinate structure or building on the same lot which is incidental and subordinate to the principal use of the primary or main building. A detached garage is considered an accessory structure.

Subd. 3. ACCESSORY USE. A use incidental or subordinate to the principal use on the same lot.

Subd. 4. ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Subd. 5. ALTER OR ALTERATION. Any change, addition, or modification in construction or occupancy.

Subd. 6. APPLICANT. The landowner, or his representative, proposing a change of land use, as defined by this ordinance. Consent shall be required from the legal owner of the premises if the applicant is not the landowner.

Subd. 7. BASEMENT. Any floor level below the first story, as further defined by the adopted building code.

Subd. 8. BALCONY. A platform projecting from the wall of a building and surrounded by a balustrade or railing or parapet.

Subd. 9. BLOCK. Any combination of land ownership bounded by streets, roads, or highways or a combination thereof or by a combination of streets, roads, or highways and public parks, cemeteries, railroad right-of-ways, streams, lakes, or similar manmade or natural physical barriers.

Subd. 10. BLUFF, SHORELAND. A topographic feature such as a hill, cliff, or embankment having the following characteristics: Part of or (all of the) the entire feature is located in a shoreland area;

A. The slope rises at least 25 feet above the ordinary high water level of the waterbody;

B. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

C. The slope must drain toward the waterbody.

An area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff

Subd. 11. BLUFF IMPACT ZONE, SHORELAND. A bluff and land located within 20 feet from the top of a bluff.

Subd. 12. BOND. Any form of security which includes a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the

Governing Body. All bonds shall be approved by the Governing Body wherever a bond is required by these regulations.

Subd. 13. BUILDABLE AREA. The portion of a lot remaining other than required yards.

Subd. 14. BUILDING. Any structure built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

Subd. 15. BUILDING COVERAGE. The area of a lot or site covered by buildings or roofed areas, excluding allowed projecting eaves and other similar features.

Subd. 16. BUILDING LINE, SHORELAND. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subd. 17. BUILDING OFFICIAL. The officer or other official charged by the City Council with the regular administration and enforcement of this ordinance.

Subd. 18. BUILDING PERMIT. A permit required from the responsible governmental agency before any site work, construction, or alteration to structures can be started.

Subd. 19. BUSINESS. Any occupation, employment, or enterprise wherein merchandise is exhibited, sold, or where services are offered for compensation.

Subd. 20. CELLAR. A portion of a structure having more than one-half (1/2) of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for purposes of height measurement. No structure which consists solely of a cellar shall be used as a dwelling.

Subd. 21. CERTIFICATE OF OCCUPANCY. A certificate issued by the Building Official authorizing the use or occupancy of a building or structure.

Subd. 22. CITY ATTORNEY. The licensed attorney designated by the City of La Crescent to furnish legal assistance for the administration of these regulations.

Subd. 23. COMMERCIAL USE. When the principal use of land or buildings is for the sale, lease, rental, or trade of products, goods, and services.

Subd. 24. COMMISSIONER. Refers to the Commissioner of the Department of Natural Resources.

Subd. 25. COMPREHENSIVE PLAN (MASTER PLAN). "Comprehensive Municipal Plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the municipality, and its environs and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the City's recommendations for the future development of the municipality.

Subd. 26. CONDITIONAL USE. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as

provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan, and the use is compatible with the existing neighborhood.

Subd. 27. CUL-DE-SAC (COURT). A street having one end open to traffic and being permanently terminated by a circular turnaround for vehicles.

Subd. 28. DECK. A perforated platform supported by an open system of posts, beams and other structural elements. Such decks may be either attached to a principal structure or be constructed as free-standing, detached entities.

Subd. 29. DEVELOPER. The owner of land proposed to be built on or subdivided or his representative. Consent shall be required from the legal owner of the premises for any development application to the City.

Subd. 30. DENSITY. The number of dwelling units permitted per acre of net developable acres of land as regulated by the applicable zoning district.

Subd. 31. DWELLING, SINGLE-FAMILY. A residential building unit for a family as defined in this title.

Subd. 32. DWELLING, TWO-FAMILY. Any residential building that contains two separate dwelling units with separation either horizontal or vertical on one lot that is used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or occupied for living purposes.

Subd. 33. DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Subd. 34. DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on weekly, monthly or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Subd. 35. EARTH SHELTER STRUCTURE. A building or structure, which by the nature of its design, utilizes soil material as an insulating source or as an integral part of its design. The uses in such structures shall be governed by the provisions of the zoning district in which it is located.

Subd. 36. EASEMENT. A grant by the property owner for the use of a designated portion of land to another entity or individual for specific purposes.

Subd. 37. EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Subd. 38. ESSENTIAL SERVICES-GOVERNMENTAL USES, BUILDINGS AND STORAGE. An area of land or structures used for public purposes, storage, or maintenance and which is owned or leased by a governmental unit.

Subd. 39. ESSENTIAL SERVICES-UTILITY SUBSTATION. A use by a utility whose function is to reduce the strength, amount, volume, or configuration of utility flow from a bulk wholesale quantity in large size long distance transmission lines to small retail quantities in a neighborhood distribution system. These uses include electric substations and telephone switching and relay facilities. Business offices associated with these uses are not included as part of this definition.

Subd. 40. EXISTING BUILDING OR STRUCTURE. A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

Subd. 41. EXTERIOR STORAGE. The storage of goods, materials, equipment, manufactures products or similar items not fully enclosed by a building.

Subd. 42. FAMILY. Any number of persons who are related by blood, marriage or adoption, and including also foster children and servants, but not more than two adults not related by blood, marriage or adoption living together as a single housekeeping unit.

Subd. 43. FEEDLOT. Any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, and swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

Subd. 44. FENCE. A partition, structure, wall, or gate erected as a visual or physical barrier.

Subd. 45. FILLING STATION. Buildings and premises where automobile fuel and automobile accessories may be supplied and dispensed at retail, but not including major mechanical and body work, straightening of body parts, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations.

Subd. 46. FINAL PLAT. All required maps, information, and documents as set forth in the subdivision regulations.

Subd. 47. FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Subd. 48. FLOOD FREQUENCY. The frequency expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 49. FLOOD FRINGE. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term ‘floodway fringe” used in the Flood Insurance Study for La Crescent.

Subd. 50. FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse that have been or may be covered by a regional flood

Subd. 51. FLOODPROOFING. A combination of structural changes, or adjustments to properties and structures which are subject to flooding, primarily for the reduction or elimination of flood damages.

Subd. 52. FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

Subd. 53. FLOOR AREA. The area inside the exterior walls of a building. Measurements shall be made from the inside of exterior walls.

Subd. 54. FOOTING. That portion of the foundation of a structure which spreads and transmits loads directly to the soil or the piles.

Subd. 55. FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

Subd. 56. FRONTAGE. That side of a lot abutting on a street or right-of-way and ordinarily regarded as the front of the lot.

Subd. 57. GARAGE. A building or portion thereof designed for the storage of a motorized vehicle, or equipment containing gasoline, distillate, or other volatile, flammable liquid in its tank, is stored, repaired, or kept.

Subd. 58. GARAGE, PRIVATE. A garage used by the owner or tenant for the storage of motorized vehicles or equipment, not for commercial or business purposes.

Subd. 59. GARAGE, COMMERCIAL. A garage which provides for motorized vehicle and equipment storage, automobile or engine repair and body work.

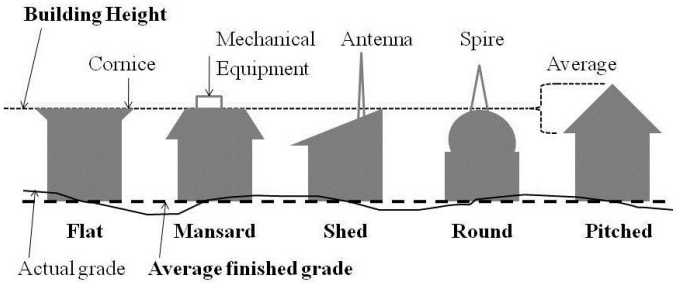
Subd. 60. GENERAL DEVELOPMENT PLAN. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission and City Council to the form of the plat and the objectives of these regulations.

Subd. 61. GOVERNING BODY. The City Council of La Crescent, Minnesota.

Subd. 62. GRADE. The slope of a road, street, or other public way, specified as a percentage of the vertical rise divided by the horizontal run.

Subd. 63. HARDSHIP. As defined in Section 12.07 of this title.

Subd. 64. HEIGHT OF BUILDING. The vertical distance measured from the average grade of a building line to the cornice of a flat roof; to the deck line of a mansard roof; to a point on the roof directly above the



highest wall of a shed roof; or to the mean distance of the highest gable on a pitched or hip roof.

Subd. 65. HOME OCCUPATION. An occupation or business enterprise, regardless of the duration thereof, conducted in a dwelling unit.

Subd. 66. IMPROVEMENTS. See Lot Improvements or Public Improvements.

Subd. 67. IMPERVIOUS SURFACE. The portion of a parcel which has a covering which does not permit water to percolate into the natural soil. Impervious surface shall include, but not be limited to, buildings, all paved driveways and parking areas, sidewalks, patios, swimming pools, tennis and basketball courts, covered decks, porches and other structures.

Subd. 68. INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subd. 69. INSPECTION. A procedure of determining if the location of buildings and structures and the general construction or erection utilized meet the intent of this ordinance.

Subd. 70. INTENSIVE VEGETATION CLEARING. The removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subd. 71. LANDSCAPING. Planting trees, shrubs and turf covers such as grasses and shrubs.

Subd. 72. LIGHT MANUFACTURING. Land uses where products are assembled or produced that include no discharge of any form of emissions to the air, or water environment, or to the public utilities of the City other than wastes from restroom facilities. Such uses shall create no audible noise beyond property lot lines.

Subd. 73. LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Subd. 74. LOT. For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, or may consist of:

A. A single lot of record.

B. A portion of a lot of record.

C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of records.

D. A parcel of land described by metes and bounds.

Provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Subd. 75. LOT CORNER. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Subd. 76. LOT FRONTAGE. The front of a lot shall be construed to be the position nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

Subd. 77. LOT IMPROVEMENT. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Subd. 78. LOT MEASUREMENT.

A. Depth of a lot shall be the average horizontal distance between the front and rear lot lines.

B. Width of a lot shall be the horizontal distance between the side lot lines of a lot measured at the principal building setback line.

Subd. 79. LOT OF RECORD, A lot which is part of a subdivision recorded in the Office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded in accordance with the subdivision ordinance and zoning ordinance of the City in effect at the time of said conveyance.

Subd. 80. LOT THROUGH. A lot that has street frontage along both the front and rear lot lines.

Subd. 81. MANUFACTURED HOME. "Manufactured home" is a general term meaning a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and including the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all of the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development, or the duly authorized agent or successor thereof, and complies with the standards established in Chapter 327, Minnesota General Statutes, as amended.

Subd. 82. MANUFACTURED HOME PARK. An approved site, lot, field or tract of land designed, maintained, or used for the purpose of supplying location and accommodations for manufactured homes and shall include any building, structure, vehicle, or enclosure

used or intended for use as part of the equipment of such park; unoccupied manufactured homes which are parked for the purposes of inspection and sale may be placed in a manufactured home park if they are incidental to the operation of said manufactured home park.

Subd. 83. MANUFACTURED HOME SPACE OR MANUFACTURED HOME LOT. A parcel of ground within a manufactured home park designed for the accommodation of one manufactured home.

Subd. 84. MODULAR BUILDING. Industrialized/Modular Building is a building of closed construction, constructed so that concealed parts of processes of manufacturing cannot be inspected on the site without disassembly, damage or destruction and made or assembled in manufacturing facilities, or assembly and installation on the building site. MSBC 1361.0200 Subd. 4. Construction is regulated by the State Building Code and does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act.

Industrialized/Modular Buildings are sectional prefabricated structures manufactured at a location other than the permanent site of occupancy. Industrialized Modular Buildings include but are not limited to, buildings built for single family and multi-family housing and nonresidential structures. Finished sections are transported to local building sites and then assembled and set on permanent foundations using cranes or other methods.

Subd. 85. MONUMENT. Concrete and/or metal markers utilized to establish survey points and lot boundaries.

Subd. 86. NON-CONFORMING. A lawful use, structure, or parcel of land that does not comply with the regulations for its zoning district but which complied with applicable regulations at the time of its establishment.

Subd. 87. NONRESIDENTIAL SUBDIVISION. A subdivision whose intended use is other than residential, such as commercial or industrial.

Subd. 88. OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Subd. 89. OFFICIAL MAP. A map of the municipality and/or any portion thereof lying within the incorporated limits, which shows the exact alignment, gradients, dimensions, and other pertinent data for highways and major streets and including specific controls for setbacks from the right of way of buildings or other physical structures or facilities.

Subd. 90. OPEN SPACE. An area of land preserved from building development and reserved for the use of the general public or a homeowners association for the purpose of active and passive recreation and certain necessary community facilities.

Subd. 91. ORDINANCE. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Subd. 92. ORDINARY HIGH WATER LEVEL (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Subd. 93. OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or proprietary interest in the land.

Subd. 94. PARK. Area of public land developed and maintained primarily as pleasurable landscaped areas providing for both active and passive recreational pursuits, including tot-lots, playgrounds, neighborhood parks, play field, and special purpose areas.

Subd. 95. PARKING SPACE, OFF-STREET. For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

Subd. 96. PERVIOUS SURFACE. Surface materials that allow the passage of water.

Subd. 97. PLANNED UNIT DEVELOPMENT. A development characterized by a unified site design as further defined and regulated by this title.

Subd. 98. PLANNING COMMISSION. A governmental agency appointed by the City Council according to applicable State Statutes.

Subd. 99. Pole Structures. Post and Beam or Post Frame Structures. Pole Structures are a common form of barn and farm utility building construction and often are sided and roofed with corrugated steel. "Post-and-beam" construction is a general term for building with heavy timbers rather than "dimension lumber" such as 2"x4"s. It is commonplace in wooden buildings from the 19th century and can be used to achieve large spans. The method comes from construction out of logs and tree trunks without modern high tech saws to cut dimensional lumber. A new terminology for pole barns is post frame construction or post frame buildings and a possible advantage can be a reduction in foundation costs, specifically perimeter footers and site work necessary to erect the building. See 12.10, Subd. 14 and 12.52 Subd. 15.B.

Subd. 100. PORCH. A structure that is designed for home occupancy that includes a floor and roof, and may include walls, but is not designed for winter use. A porch may be attached or detached. A detached porch (for example, a gazebo) is classified as an accessory structure.

Subd. 101. PRELIMINARY PLAT. All required maps, information, and documents as set forth in City regulations.

Subd. 102. PRINCIPAL STRUCTURE OR USE. The primary or predominant use of a lot and any structure located on the lot, as contrasted to an accessory use or structure.

Subd. 103. PUBLIC IMPROVEMENT. Any drainage, ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Subd. 104. PUBLIC WATERS. Any waters as defined in Minnesota Statutes, Section 1030.005, Subdivision 15.

Subd. 105. REACH. A hydraulic engineering term describing a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Subd. 106. RECREATIONAL VEHICLE. A transportable, overnight or short-term, sleeping or dwelling unit. The term includes, but is not necessarily limited to, travel trailer, pickup camper, fold-down camper, motor home and mobilized camper.

Subd. 107. REGIONAL FLOOD. a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100—year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

Subd. 108. REGULATORY FLOOD PROTECTION ELEVATION. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Subd. 109. REPAIR. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" shall not apply to any structural or spatial modifications.

Subd. 110. RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Subd. 111. RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land-platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots

or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcel.

Subd. 112. RIGHT-OF-WAY WIDTH. The distance between property lines measured at right angles to the center of the street.

Subd. 113. SEMI PUBLIC USE. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Subd. 114. SETBACK. The distance for determining open space from a lot line(s) to the nearest part of a structure. In the case of front lot lines it is measured from the platted right-of-way.

Subd. 115. SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment.

Subd. 116. SEWER SYSTEM. Pipelines or conduits, pumping stations, force mains, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Subd. 117. SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Subd. 118. SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Subd. 119. SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Subd. 120. STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the sites soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Subd. 121. STREETS.

A. FREEWAY. Freeways are designed for the safe and efficient movement of high volumes of through traffic, at relatively high speeds. A standard design feature of a freeway is a divided roadway with full control of access by the use of ramps.

B. EXPRESSWAY. Expressways are divided roadways which are designed for through traffic and also to serve intra-urban travel between major centers of activity in the metropolitan area. The at-grade intersections are usually spaced at infrequent intervals and are fully or partially regulated by traffic control devices. No direct private access onto the street should be permitted so as to minimize the number of vehicle-vehicle conflicts. If no alternative forms of access are available and frontage roads are warranted, additional right-of-way will be required.

C. ARTERIAL. An urban arterial is a four-lane street which provides service for intra-urban trips at a somewhat lower level of travel mobility than the expressway. The at-grade intersections should be fully or partially regulated by conditions for the arterial traffic. Direct private access onto the street will be permitted but regulated. Under certain circumstances, a frontage road may be needed. Additional right-of-way would be required for the frontage road.

D. COLLECTOR. A street that serves local traffic and provides for direct private access to abutting land uses and channels the local traffic to and from the arterial system, capable of serving a minimum amount of through traffic.

E. LOCAL. A local street offers the lowest level of mobility because service to through traffic is deliberately discouraged. Direct private access to abutting land uses is provided.

F. FRONTAGE ROAD. A frontage road is adjacent to a major thoroughfare. Its primary function is to preserve the safety and capacity of the thoroughfare by controlling access to the major street while still providing direct private access to the adjoining properties. The roadway of the frontage road usually abuts the thoroughfares right-of-way.

Subd. 122. STRUCTURE. A building or edifice of any kind that is built, constructed, or erected, on a fixed location on the ground or attached to something having a fixed location on the ground. A structure can be among other things a building, wall, fence, well, solar array, or manufactured home which has been immobilized and erected on some type of permanent footings or foundation.

Subd. 123. SUBDIVIDER. Any persons who (I) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease or development any interest, lot, parcel, site, unit or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, unit,

or plat in a subdivision, and who (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

Subd. 124. SUBDIVISION. Pursuant to Minnesota Statute 462.352, a subdivision is the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

A. Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

B. Creating cemetery lots;

C. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

Subd. 125. SURFACE WATER ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such uses.

Subd. 126. TOE OF THE BLUFF. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 127. TOP OF THE BLUFF. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 128. TOWNHOME or TOWNHOUSE. A single family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit. Each single-family dwelling unit shall be considered to be a separate building. Separate building service utilities shall be provided to each single-family dwelling unit when required by other chapters of the State Building Code.

Subd. 129. VARIANCE. A variance is a modification or relaxation of the provisions of this Ordinance where it is determined that by reason of special and unusual circumstances unique to the individual property under consideration, strict application of the Ordinance would cause an undue or unnecessary hardship, or that strict conformity with the provisions of this Ordinance would be unreasonable, and granting a variance would be in keeping with the spirit and intent of the Ordinance.

Subd. 130. 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, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Subd. 131. WETLAND - A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition) or revisions thereof.

Subd. 132. YARD. Any open space on the same lot with a building, unoccupied and unobstructed by any portion of the main building from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the distance between the nearest edge of the wetland buffer and the main building shall be as provided.

Subd. 133. YARD, FRONT. A yard extending across any street frontage of a lot between the side lot lines and being the minimum horizontal distance between any street line and main building or any projections thereof other than the projections of the usual steps, entranceway, unenclosed balconies or unenclosed porch as provided in this title. In the case of a lot containing or adjacent to all or a portion of a wetland, the front yard shall be the minimum horizontal distance between the nearest edge of the wetland buffer and the main building and the permitted projections. In residential shoreland districts the front yard is the street frontage.

Subd. 134. YARD, REAR. A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches as provided in this title. **On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.** On all lots containing or adjacent to all or a portion of a wetland, the rear yard shall be the minimum distance between the nearest edge of the wetland buffer and the main building and the permitted projections. In residential Shoreland districts the rear yard is the opposite site of the dwelling and faces the water body.

Subd. 135. YARD, REQUIRED. The open space between a lot line and the buildable area within which no structure may be located except as provided by this title.

Subd. 136. YARD, SHORELAND. A yard which is typically a rear yard extending across a lot and being the required minimum horizontal distance between a structure and the ordinary high water level of a public water as established by the City and Department of Natural Resources.

Subd. 137. YARD, SIDE. A yard between the main building and the side line of the lot and extending from the front yard line to the rear yard line, except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the side yard is between the nearest edge of the wetland buffer and the main building.

Subd. 138. VIOLATIONS - NUISANCES. Any violation of any provision of the City of La Crescent Zoning Code is deemed a public nuisance and as such, is subject to abatement or injunction.

Subd 139. ZONING DISTRICT. An area or areas within the limits of the city in which the regulations and requirements of this title are applied uniformly.

12.04 ADMINISTRATIVE PROCEDURES

Subd. 1. PUBLIC HEARINGS. A public hearing is required for the following applications: zoning text and map amendment, Conditional Use Permits, amendments and revocations; Preliminary Plats; Minor Subdivisions, Planned Unit Developments (PUD's), Interim Use Permits, amendments and revocations and vacations of public right of way or drainage easement. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of La Crescent at least ten days prior to the day of the hearing. When a public hearing involves changes in district boundaries or is a required hearing for a zoning permit, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the hearing relates. For the purpose of giving mailed notice, the Building Official may use the appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Building Official and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners shall not negate the proceedings of such hearing provided a bona fide attempt to comply with these procedures has been made. All applicants shall provide the list of the owners and addresses secured from the Houston County Recorder to which the notice is to be sent.

Subd. 2. PUBLIC MEETINGS. Where, in the administration of this ordinance, a public meeting is required, said meeting shall occur at a regularly scheduled meeting of the meeting body or at a special meeting only after public notification of said special meeting by public posting.

Subd. 3. TEXT AMENDMENTS AND DISTRICT CHANGES. Whenever the public necessity to maintain the integrity of this ordinance requires it, the City Council may, by ordinance, amend the text of this ordinance or change the district boundaries shown on the Zoning Map. Such changes shall be made only after the Planning Commission has held a public hearing and made a recommendation to the City Council. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the Building Official for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Building Official and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

Subd. 4. INITIATING CHANGES. Text amendments or district boundary changes may be initiated by either the City Council or Planning Commission. In addition, district boundary changes may be initiated by petition by any property owner within the boundary change area. Property owner petitions shall be submitted to the Building Official three weeks (21 days) prior to the Planning Commission meeting at which the petition is to be heard. The property owner petition for change shall include a legal

description of the property to be changed, a description of the existing and intended use of the property lines of the change area and adjacent properties, and the required filing fee. Approval of a request shall require passage by a majority vote of the entire City Council, except an amendment changing a district from residential to commercial or industrial shall require a two-thirds majority vote of all members.

Subd. 5. DEADLINE FOR ACTIONS. Pursuant to Minnesota Statutes, Section 15.99, a written request for zoning action shall be approved or denied within sixty (60) days of the receipt of a complete application with the following considerations:

Failure to act within this time frame approves the request.

Any denial must state in writing the reasons for the denial.

The City has fifteen (15) business days after the receipt of any part of the application to inform the applicant in writing that the application is missing a required element.

If an application is amended, the sixty (60) day period begins again upon receipt of a complete amended application.

The City may extend the review period by up to sixty (60) days if it provides the applicant written notice of and the reasons for the extension prior to the end of the initial sixty (60) day period.

12.05 ZONING BOARD OF APPEALS

Subd. 1. ZONING BOARD OF APPEALS. The Zoning Board of Appeals shall be the City Council.

Subd. 2. ACTIONS. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this Ordinance. Such appeal may be taken by any person, firm or corporation aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.

Subd. 3. APPEALS. Any person aggrieved by any decision of the Planning Commission or the Building Official regarding the administration of this Title may appeal to the Zoning Board of Appeals (City Council). All appeals hereunder must be filed in writing within 10 days of the decision, by filing with the Building Official a written notice of appeal and including a statement of the alleged errors or omissions of the Planning Commission or city official.

If a decision of the Planning Commission is being appealed, the Building Official shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. If a decision of the Building Official is being appealed, the Building Official shall first transmit to the Planning Commission all the papers constituting the record upon which the action appealed from was taken so that it can make a recommendation to the Zoning Board of Appeals.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Zoning Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

The Zoning Board of Appeals shall fix a reasonable time for hearing appeals, give public notice, consistent with 12.04 for public meetings, and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The Zoning Board of Appeals may, in conformity with the provisions of this section, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determine appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Building Official.

Subd. 4. HEARINGS. Hearings of the Zoning Board of Appeals shall be held within such time and upon such notice to interested parties as is provided for in State Statutes. The Board shall, within 60 days of such hearing, make its order upon the appellant or petitioner by mail. The reasons for the Board's decision shall be stated. Any party may appear at the hearing in person or by agent or attorney.

Subd. 5. JUDICIAL REVIEW. Any person aggrieved by any decision of the Zoning Board of Appeals may present to the District Court a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 10 days after the decision is filed in the office of the Zoning Board of Appeals. The petitioner must exhaust the remedies provided in this section before availing of the right to petition a court as provided by this section.

12.06 CONDITIONAL USE PERMITS

Subd. 1. PERMIT REQUIRED. It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the city. Where applicable, a building permit shall also be obtained from the city.

Subd. 2. CHANGES IN PERMITS. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

Subd. 3. CRITERIA FOR GRANTING CONDITIONAL USE PERMITS. In granting a conditional use permit, the La Crescent City Council shall consider the advice, recommendations and findings of the Planning Commission and the effect of the proposed use on upon the health, safety, morals and general welfare of occupants of surrounding lands. The City Council may make the following findings where applicable:

A. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate

vicinity.

B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

F. The use is consistent with the purposes of the zoning code and the purposes of the zoning district in which the applicant intends to locate the proposed use.

G. The use is not in conflict with the policies of the City of La Crescent.

H. The use will not cause traffic hazards or congestion.

I. Existing uses will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.

Subd. 4. ADDITIONAL CONDITIONS. In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose additional conditions which are considered necessary to protect the best interest of the surrounding area or the community as a whole. Additional conditions may include but are not limited to the following:

A. Increasing the required lot size of yard dimensions.

B. Limiting the height, size or location of buildings.

C. Modifying the building architecture or orientation or requiring berms, screening, landscaping or other facilities to protect adjacent or nearby property.

D. Controlling the location and number of vehicle access points.

E. Increasing the street or driveway width to mitigate traffic or safety concerns.

F. Increasing the number of required off-street parking spaces.

G. Requiring landscaping, fencing, screening, or other improvements to protect adjacent or nearby property.

H. Limiting the number, size, location, or lighting of signs.

Subd. 5. APPLICATION. Application for a conditional use permit shall be made to the Building Official on forms provided by the city at least 30 days prior to the required public hearing and shall be accompanied by the following:

A. Legal description of the property

B. A list of the names and addresses of the owners of all properties situated wholly or partially within 350 feet of the property as such appear on the certified records of the Houston County Auditor.

C. Evidence of ownership or an interest in the property.

D. The fee as required by the city.

E. A plat or map of the property which shows, at a minimum, all lot lines, grading and drainage plan, existing and proposed structures and building materials, driveways and parking areas, landscaping, screening and buffering plans, signage plans if applicable.

F. Such other information as may be required by the city.

Subd 6. NOTICE. Pursuant to Minnesota Statutes, an application for a CUP shall be approved or denied within 60 days from the dates of its official and complete submission. The 60 day review period can be extended an additional 60 days pursuant to Minnesota Statute 15.99 as it may be amended from time to time. If the initial 60 day review period is extended, the city must provide written notice of the extension to the applicant before the end of the initial review period.

Subd. 7. PUBLIC HEARING. After receipt of a completed application, a date shall be set for a public hearing before the Planning Commission. Not less than 10 days prior to the public hearing, notice shall be published in the official newspaper and sent by mail to the applicant and to the owners of all properties located wholly or partially within 350 feet, as reflected in the certified records of the Houston county auditor. Following the hearing or any continuance which is not appealed by the applicant, the Planning Commission shall make a recommendation to the City Council.

Subd. 8. CITY COUNCIL. After receipt of the recommendation of the Planning Commission, the City Council shall consider the request. In evaluating an application for a conditional use permit, the City Council shall consider and adopt findings regarding compliance with the general and specific criteria under Subd. 3 of this section. The Planning Commission may recommend and the City Council may impose conditions on granting the permit in order to ensure compliance with the criteria or to affect the purpose of this ordinance.

Subd. 9 REVOCATION OR MODIFICATION. The City Council may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit or requirement of this ordinance. If it is discovered after approval

of the conditional use permit that the city's decision was based at least in part on fraudulent information, the City Council may revoke the conditional use permit, modify the conditions or impose additional conditions to ensure compliance with all of the sections of this ordinance.

Subd. 10. RECORDING. A certified copy of the conditional use permit shall be filed with the Houston County Recorder or Registrar of Titles by the City, which shall charge fees as established by the City Council. The permit shall contain a legal description of the property.

Subd. 11. TERM OF CUP. A conditional use permit shall remain in effect, and transfer with the property, for so long as the conditions agreed upon are observed.

Subd. 12. VIOLATIONS. Any person who violates, fails to comply with or assists, directs or permits the violation of the rules or conditions of a conditional use permit shall be subject to Section 12.54. In addition, such violation shall be a violation of the permit and shall render the permit null and void.

12.07 VARIANCES

Subd. 1. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the Planning Commission, acting as a Board of Adjustment, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

Subd. 2.

A. Variances shall only be permitted

1. when they are in harmony with the general purposes and intent of the ordinance and

2. when the variances are consistent with the comprehensive plan.

B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

Subd. 3. "Practical difficulties," as used in connection with the granting of a variance, means that

1. the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

2. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and

3. the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Subd. 4. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The Board Adjustment may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Subd. 5. APPLICATION. Application for a variance shall be made to the Building Official a minimum of three weeks prior to the Planning Commission meeting. The application shall be on forms provided by the city and shall be accompanied by the following:

A. A plat or map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features and mature trees.

B. Evidence of ownership or an interest in the property.

C. A fee required by the city.

D. Other information as required by the city.

Subd 6. NOTICE. Pursuant to Minnesota Statutes, an application for a variance shall be approved or denied within 60 days from the dates of its official and complete submission. The 60 day review period can be extended an additional 60 days pursuant to Minnesota Statute 15.99 as it may be amended from time to time. If the initial 60 day review period is extended, the city must provide written notice of the extension to the applicant before the end of the initial review period.

Subd. 7. MEETING. Upon receipt of a completed application, a date shall be set for a public meeting with the Planning Commission, serving as the Board of Adjustment. Abutting property owners and those property owners that would be abutting except for the existence of a right of way shall be advised by written notice of the variance request.

Subd. 8. DECISIONS. Following the public meeting or any continuance which is not appealed by the applicant, the Board of Adjustment shall grant or deny the variance upon a decision by a majority of members present. The Board of Adjustment may grant variances from the literal provisions of this Ordinance when the applicant for the variance establishes that there are practical difficulties as defined herein, and when they are in harmony with the general purposes and intent of the Ordinance and when the variances are consistent with the comprehensive plan.

The Board of Adjustment may impose any reasonable condition in granting of such variances in order to ensure compliance with this Ordinance or to protect adjacent property.

The Board of Adjustment may consider functional and aesthetic issues in order to protect the essential character of the neighborhood.

The Board of Adjustment shall accompany its decision to grant or deny a variance with a statement of its findings.

Subd. 9. TERM OF VARIANCE. Any variance granted by the Board of Adjustment shall run with the land and shall be perpetual unless prior to December 31 of the year following the year of approval and no building permit has been issued or substantial work performed on the project, in which case the variance shall be null and void. The Board of Adjustment may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.

Subd. 10. SPECIFIC PROJECT. A variance shall be valid only for the project for which it was granted. Construction of any project shall be in substantial compliance with the building plans and specifications reviewed and approved by the Board of Adjustment.

Subd. 11. APPEAL TO THE CITY COUNCIL. Upon approval or denial of a variance request by the Board of Adjustment an applicant or other aggrieved party may file an appeal in writing to the City Council within 10 days of the decision, otherwise the decision by the Board of Adjustment becomes final.

The appeal shall include a statement of the alleged errors or omissions of the Board of Adjustment.

Subd 12. ACTION BY THE CITY COUNCIL. Upon application of an appeal of the approval or denial of a variance request, the City Council, serving as the Board of Appeal and following procedures outlined in 12.05, shall place the appeal on an agenda and hear the appeal.

Subd. 13. RECORDING. A certified copy of the variance shall be filed with the Houston County Recorder by the City, which shall charge appropriate fees as indicated in the fee schedule. The variance shall contain a legal description of the property affected.

Subd. 14. VIOLATIONS. Any person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of a variance shall be subject to Section 12.54. Such violation shall be a violation of the variance and shall render the variance null and void.

12.08. INTERIM USES

Subd. 1. Purpose. The purpose and intent of an interim use permit is:

A. To allow a use for a period of time while permanent location is obtained or constructed; or

B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future; or

C. To allow a temporary use that is reflective of anticipated long range change to an area that is in compliance with the Comprehensive Plan, provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the performance standards of this Code; or

D. To provide a mechanism for allowing changes to a nonconforming use of property contingent upon a plan for cessation of said nonconforming use within a specified period of time.

E. To remedy extraordinary circumstances, as determined by the City Council at its sole discretion. Under no circumstances is an applicant entitled to the granting of an interim use permit due to precedent or any other reason other than the merits of its application as determined by the City Council.

Subd. 2. INFORMATION REQUIREMENT AND PROCEDURE. The information required and the procedure to be followed for all interim use permit applications shall be the same as that required for a conditional use permit as provided for in this title.

Subd. 3. TERMINATION. An interim use shall terminate on the happening of any of the following events, whichever occurs first:

The date stated in the permit;

Upon violation of conditions under which the permit was issued or other code violations as determined by the City Council in a public hearing as outlined in this Title;

The rezoning of the property upon which it is located to a permitted use.

Subd. 4. GENERAL STANDARDS. An interim use permit shall comply with the following:

A. Conform to the applicable general building and performance requirements of this Code;

B. Allowable interim uses may include any permitted or conditional use in the respective zoning district or any other use found by the City Council to be a reasonable interim use for the particular site in question as part of the approval of the interim use permit.

C. The date or event that will terminate the use can be identified with certainty;

D. The use will not impose additional unreasonable costs on the public;

E. The user agrees to any conditions that the City Council deems appropriate for permission of the use. Said conditions shall be set forth in a development agreement between the property owner and the City which agreement shall be recorded with the Houston County Recorder or Registrar of Deeds.

Subd. 5. CONDITIONS OF APPROVAL. Interim Use Permit. In permitting a new interim use permit or amending an existing interim use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this Code, additional conditions that the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

A. Increasing the required lot size or dimensions;

B. Limiting the height, size or location of buildings;

C. Controlling the location and number of vehicular access points;

D. Increasing the street width;

E. Increasing the number of required off-street parking spaces;

F. Limiting the number, size, location and lighting of signs;

G. Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.

H. Expiration upon change of ownership.

Subd. 6. VIOLATIONS. Any of the following conditions will be considered a violation of the interim use permit and could result in the revoking of the interim use permit:

A. Two (2) violations of conditions of approval;

B. Two (2) Code violation complaints;

C. One (1) violation of conditions of approval and one (1) Code violation complaint

D. Refusing to grant property access to the Building Official or its designee for the purpose of making an inspection

Any of the violation conditions shall be verified with written notice to the holder of the interim use permit and a public hearing shall be called by the City Council within sixty (60) days of the last complaint to consider revoking the interim use permit.

In the event a violation is charged as a misdemeanor, the City may, nevertheless, based upon the same violation(s) institute proceedings for the revocation of an interim use permit and conversely the initiation of revocation proceedings shall not preclude charging violation(s) as a misdemeanor in accordance with Section 12.54.

12.09 TEMPORARY USES.

Subd. 1. In order to accommodate short duration events, such as community festivals, fund raisers, farmer's markets, performing arts, seasonal uses, etc., the City Council may grant a temporary use permit for up to 30 days total in a year for any use and may include additional conditions it deems necessary. For the purpose of this subsection 'days' may be granted on either a consecutive or cumulative basis.

Requests for temporary uses shall be processed according to the procedures for a conditional use.

12.10 GENERAL PROVISIONS

Subd. 1. EXISTING LOTS OF RECORD. A lot of record in any district may be used for any permitted, conditional or accessory use in the applicable district provided the parcel meets all setback requirements, it has frontage on an improved public street and it was under separate ownership from abutting lands upon or prior to the effective date of this ordinance.

Subd. 2. NONCONFORMING USES

A. Pursuant to Minnesota Statutes 462.357 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 under this ordinance, may be continued, including repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

   1. The nonconformity or occupancy is discontinued for a period of more than one year; or

   2. The nonconforming use 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. Reasonable conditions may be imposed upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water 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, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

B. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The City Council may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit the City Council from enforcing an

ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

C. Notwithstanding paragraph (A), The City Council shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

D. The following provisions apply to shoreland lots of record in the office of the county recorder on the date of adoption of local shoreland controls that do not meet the requirements for lot size or lot width. [See 12.10 Subd. 15 for additional Shoreland regulation and Setback requirements]. The City Council shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to the following:

1. A nonconforming single lot of record located within a shoreland area 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, can be installed or the lot is connected to a public sewer; and

    c. The impervious surface coverage does not exceed twenty five percent (25%) of the lot.

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 shoreland classification consistent with Minnesota Rules, chapter 6120;

    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 local government controls;

    c. Impervious surface coverage must not exceed 25 percent of each lot; and

    d. Development of the lot must be consistent with an adopted comprehensive plan.

3. A lot subject to paragraph (2) not meeting the requirements of paragraph (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 paragraph (2), contiguous nonconforming lots of record in shoreland areas 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 section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer.

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 actions.

6. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

Subd. 3. THROUGH LOTS AND CORNER LOTS. In the case of through lots, front yards shall be provided on all frontages with the following exception. If one of the yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Building Official may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots, a front yard setback of the required depth shall be provided on one yard and a second front yard setback of a half depth required generally for front yards in the district shall be provided on the other front footage. The determination of which yard shall be the full depth setback may be determined by the property owner.

In the case of corner lots with more than two frontages, the Building Official shall determine the front yard requirements subject to the following limitations:

A. At least one front yard shall be provided having the full depth required generally in the district.
B. No other front yard on such lot shall have less than half the full depth required generally.

Depth of the required front yards shall be measured at right angles to the straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corner at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

See Subd 8. of this section for special regulation of fences for corner lots.

Subd. 4. ACCESS DRIVES AND ACCESS

A. Access drives and driveways shall be paved or surfaced with asphalt, cement, pervious pavement/pavers or other hard surface material prior to the issuance of a final certificate of occupancy. Gravel, dirt and similar surfaces are not considered acceptable surfacing materials. If weather conditions prevent installation prior to occupancy, a temporary occupancy permit may be issued in accordance with Section 12.10, Subd. 12.

B. Access drives shall maintain a setback of three (3) feet to a side lot line, except in districts where a lesser or zero setback is allowed. Drives may be shared as a common drive serving two properties across a common property line with a conditional use permit in any zoning district. The City Council shall find that appropriate provisions have been made for cross easements, maintenance and other relevant issues.

C. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

D. Access drives onto county roads shall require a review by the County Engineer. The County Engineer shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

E. Access drives to principal structures, of less than 150 feet, which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. All such driveways shall have a minimum width of ten (10) feet with pavement strength capable of supporting any emergency vehicles.

F. All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from an existing dedicated improved public roadway.

G. All new driveway grades shall not be greater than 1-1/2 inches per lineal foot within the public right of way (or within 15 feet of the road way whichever is greater).

H. Access drives more than 150 feet in length must be approved by the Fire Code Official in conformance with the Fire Code.

Subd. 5. ACCESSORY STRUCTURE OR BUILDING

A. A building permit is required for any accessory structure or building over 120 square feet.

B. No permit shall be issued for an accessory building, on any lot, that does not have an existing principal building.

C. In commercial and industrial districts all accessory building setbacks shall equal the principal building setback requirements.

D. In residential districts the total sum of the area of all accessory buildings shall not exceed 925 square feet in total area.

E. Accessory buildings over 120 square feet shall consist of materials and colors similar to the principle building.

F. Accessory buildings in residential districts shall not exceed 15 feet in height for properties with a single story principal building, nor shall an accessory building exceed two thirds (2/3) the height of the principal structure to a maximum of 24 feet, if the principal structure is more than one story high.

G. Accessory buildings in residential districts shall not encompass more than 15% of the lot area. Such buildings shall be limited to a total of not more than two (2) accessory buildings.

H. Accessory Residential Building Setback Requirements
   1. Side Yard Setbacks. A detached accessory building may be located no closer than five (5) feet of the side lot line.

   2. Front Yard Setbacks All accessory buildings shall meet the same front yard setback requirements as the principal building, except for shoreland and through lots. For detached garages on through lots, a minimum twenty (20) foot front yard setback is required. **See 12.10 Subd. 17 for Shoreland setback requirements.**

   3. Rear Setbacks. A detached accessory building may be located no closer than three (3) feet of the rear lot line when not more than fifteen (15) feet in height. Structures more than fifteen (15) feet in height require an additional one (1) foot of setback added to the three (3) foot requirement setback for each three (3) feet of additional building height up to a maximum structure height of twenty-four (24) feet. An accessory building shall be located **no** closer than 5 (five) feet **to** the principal structure.

   4. Decks attached to the principal structure or detached decks regardless of the distance above grade, shall observe the same setbacks as the principal structure.

Subd. 6. STRUCTURES AND VEHICLES IN YARDS. Every part of a required yard or court shall be open and unobstructed by a building, structure or vehicle from its lowest point upward, except as follows:

A. Eaves may extend not more than two (2) feet into a required yard setback. Sills, buttresses, open fire balconies and fire escapes, chimneys, flues, cantilevered walls and similar building appurtenances may not extend into required setback areas.

B. Steps to building entrances may extend not more than 6 feet into any required front yard or rear yard and shall not extend into required side yard setbacks.

C. One manufactured home or trailer may be permitted on a construction site as a temporary office for a period not to exceed the duration of construction activities subject to the applicable setback requirements.

D. Off-street parking of licensed passenger automobiles and personal vehicles of less than twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) on an established driveway or parking area that is surfaced in compliance with this title **is permitted**.

E. Off-street parking of one (1) commercial vehicle of less than twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) or of one (1) fully enclosed commercial trailer with a bed length of fourteen (14) feet or less on an established driveway or parking area that is surfaced in compliance with this title **is permitted.**

F. Off-street parking of one (1) commercial vehicle with no restriction on the gross vehicle weight rating (GVWR) and of one (1) commercial trailer (enclosed or unenclosed) with no restriction on bed length may temporarily occur for a time period not to exceed one (1) hour per day unless being used in conjunction with a temporary service including, but not limited to, a construction or remodeling project benefiting the premises, provided they are parked on an established driveway or parking area that is surfaced in compliance with this title.

G. One (1) recreational vehicle or recreational camping vehicle of less than twelve thousand (12,000) pounds gross vehicle weight rating (GVWR) that is registered to the occupant, and parked on an established driveway or parking area that is surfaced in compliance with this title **is permitted**.

H. No vehicle can be parked closer than 1 foot from a public sidewalk.

Subd. 7. PERSONAL PROPERTY IN YARDS. All personal property shall be stored within a building or fully screened so as not to be visible from adjoining properties and public streets, except for the following: Basketball hoop, trampoline or similar recreational equipment provided it is set back at least six (6) feet from any lot line.

A. Firewood, provided it is stacked and is for the burning supply of the property, may be located in a side, rear, or equivalent yard, provided it is not located in a wetland or wetland buffer.

B. Construction and landscaping materials or equipment, if these are used or intended for use on the premises within a period of three (3) months, unless there is an active building permit issued for improvements on the property, or as otherwise approved by the Building Official.

Subd. 8. FENCES. Fences shall be permitted in all zones subject to the issuance of a zoning permit and the following conditions.

A. General Requirements

1. The property owner shall be responsible for establishing property boundary lines by a survey. In all cases, the City of La Crescent shall not be liable for the establishment or definition of property lines.

2. Chain link fences not exceeding ten (10) feet in height shall be permitted to enclose tennis courts.

B. Construction and Maintenance

1. All fences shall be constructed of durable, weather resistant materials and properly anchored. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, danger or constitute a nuisance. Fences in a state of disrepair or deemed to be a nuisance may be abated by the City by proceedings taken under Minnesota Statues, Chapter 429, and the cost of abatement, including administration expenses, may be levied as a special assessment against the property upon which the fence is located.

2. In all districts except the Agricultural and Industrial Districts, electric and barbed wire fences are prohibited. In the Agricultural District, electric and barbed wire fences are permitted. In the Industrial District, barbed wire may be used as an anti-vaulting device on top of a fence that does not exceed six (6) feet in height, with an approved Conditional Use Permit. The height of the industrial use of barbed wire shall not exceed the height of one (1) foot above the top of the fence. Conditions for granting a Conditional Use Permit shall include: actual property theft; requirements of Homeland Security or other governmental agency; or demonstration of high risk of loss or damage to property.

3. In all districts, fences shall be chain link, wood, wrought iron, aluminum, steel, polyvinyl or masonry, constructed from commercially available materials. Wooden fences shall not be constructed from twigs, branches, doors, siding or other wooden products originally intended for other purposes.

4. Fences shall in no way detain or inhibit the flow of surface water drainage to and from abutting properties.

5. Front yard fences shall be designed and constructed in such a manner so as not to unreasonably obscure the sight distance of vehicles accessing the street from driveways on the subject property or from adjacent properties.

6. Fence heights shall be measured from the adjoining natural ground. Fences installed on top of retaining walls shall be limited to a maximum of forty-two (42) inches above the top of the retaining wall in residential zones and the total height of the retaining wall and fence shall not exceed 60 inches when measured from the land behind the retaining wall.

7. When a retaining wall is greater than 6 feet in height a fence of 42 inches is required at the top of the retaining wall (or dense, continuous and well maintained hedge) as an element of safety.

8. All fenced areas shall be accessible through at least one gate having a minimum width of three (3) feet.

9. All chain link fences shall have a top rail, barbed ends shall be placed at the bottom of the fence and posts shall be spaced at intervals not to exceed eight (8) feet. For wooden fences, post spacing shall not exceed eight (8) feet.

10. Fences shall be installed such that the finished side faces abutting properties. The finished side shall be the side which provides maximum coverage of posts and stringers. Board-on-board, basket- weave fences, and similar design shall be deemed to have two finished sides.

11. There shall not be a required setback for a fence along an adjacent property line, but it shall be constructed without encroachment onto neighboring property.

12. Corner lots where the side yard is located on a County Trunk Highway shall be governed by special regulations permitting 6 foot fences conforming to the following rules.

    a. The fence shall begin no closer than the rear corner of the face of the home parallel to the County Trunk Highway.
    b. The fence shall be set back from the side walk 2 feet. In cases where there is no sidewalk the fence will be set back a distance sufficient to provide for the installation of a standard sidewalk plus the required setback.
    c. In cases where there is an alley at the rear of the lot the corner of the fence shall be installed to provide a 10 foot by 10 foot sight-line measured from the right-of-way lines.

13. No fence or hedge in any yard of a corner lot shall, within 20 feet of the corner measured from the right of way, be more than 3 feet above the level of the center of the roadway nearest it, and shall additionally conform to the traffic visibility zones prescribed by this ordinance for corner lots. See Subd 8. of this section.

    In the case of corner lots, rear yard fences shall be limited to installation on a horizontal plane with the rear of the main building, or any projections other than steps, enclosed balconies or unenclosed porches, from the main frontage of the lot.

C. Residential District Fences (additional requirements)

1. Front yard fences may be solid or open and shall not exceed four (4) feet in height.

2. Rear and side yard fences located behind the front yard setback line may be solid or open and shall not exceed six (6) feet in height.

3. Fences shall be required around swimming pools in accordance with the requirements of the building code.

D. Agriculture, Business and Industrial District Fences

1. Fences in the Agriculture, Commercial and Industrial Districts shall not exceed six (6) feet in height.

2. Fences in the Central Business District shall be by Conditional Use Permit and shall not exceed six (6) feet in height.

Subd. 9. HOME OCCUPATIONS. Home occupations are allowed without permit in residential districts if they meet the following conditions:

A. No employees who are not also residents of the dwelling

B. No customer traffic at the dwelling

C. No external signage

D. No use of materials, such as toxic or explosive substances that would be a hazard to the neighborhood as determined by the Building Official

E. No creation of sound audible at the property line

F. No creation of foul odors, detectable at the property line

Home Occupations are allowed as a conditional use in residential dwellings subject to the following restrictions.

A. No more than one (1) person other than members of the family residing on, the premises shall be engaged in such occupation, except that barber shops and beauty parlors shall be limited to a maximum of two (2) chairs.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the main building.

D. No home occupation shall be conducted in any accessory building.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Vehicular

traffic shall not be increased by more than one (1) additional vehicle at a time.

F. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

G. The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved by the City Council.

H. A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved by the City Council.

I. The home occupation shall not be established prior to the member(s) of the family conducting the home occupation taking possession of, and residing in, the dwelling.

J. The home occupation shall not change the fire rating of the structure.

K. The receipt, sale or shipment of deliveries shall not be permitted on or from the premises, with the exception of regular U.S. Mail and/or an express shipping service that is characteristic of service to residential neighborhoods.

L. The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this title.

M. There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation.

N. Any type of motor vehicle service and repair is a prohibited home occupation.

O. Home day cares shall comply with the applicable district use regulations and not the requirements of this subdivision.

Subd. 10. SWIMMING POOLS AND HOT TUBS. Within any Residential District, swimming pools and hot tubs shall be permitted subject to the following restrictions. All regulations of swimming pools, unless expressly excluded, shall apply equally to hot tubs:

A. Swimming Pools. **[Reference Ord. 279 and State Building Code].** Swimming pools having a water depth of two (2) feet or more which are operated for the enjoyment and convenience of the residents of the principal use and their guests are permitted provided that the following conditions are met:

1. Swimming pool setbacks shall be as follows:

Side yard	10 feet
Corner lots, from side street	15 feet

Rear yard	25 feet
From any structure on same lot, except hot tubs	10 feet
From principal building on an adjoining lot	20 feet

2. Swimming pools on residential lots are prohibited in the area between the front line of the principal building and the front lot line.

3. Swimming pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.

4. Swimming pools shall not be located within any private or public utility, walkway, drainage or other easement.

5. All access for construction and maintenance shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property. If damage does occur, it shall be promptly repaired to the same or better condition as determined by the Building Official (for property damage) or the City Engineer (for damage to public infrastructure). The property owner may be assessed for such damage if not repaired.

6. To the extent feasible, back-flush water or water from swimming pool drainage shall be directed onto the property owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land.

7. The filter, pump, heating unit, and any other noise-making mechanical equipment shall be located at least fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line.

8. Lighting for the swimming pool shall be directed toward the pool and not toward adjacent property.

9. The swimming pool, excluding hot tubs, shall be entirely enclosed by a protective fence or other permanent structure not less than five (5) feet or more than six (6) feet in height. Such protective enclosures shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

10. The swimming pool complies with Section 308.4.5 of the State Building Code and has an approved building permit (if required by the Building Official).

Subd. 11. HILLSIDE BUILDING CONSTRUCTION. Where average slopes exceed 10% as calculated below an application shall be submitted to the Building Official and all activity on the site shall be governed by the Storm Water and Erosion Control Ordinance Chapter 14 of the City Code. The application shall be accompanied by a description of

the use proposed and a site plan, with contour lines with 10 foot intervals and a scale of one inch equals 20 feet, showing compliance with this Code. The average slope as defined in the City Code, Chapter 12.185, will be calculated and reported using the following formula:

$$\text{Slope} = .0023 \times \frac{I \times L}{A}$$

Where: I = contour interval
L = total length of contour lines within subject parcel
A = area in acres of subject parcel

Subd. 12. CERTIFICATES OF OCCUPANCY. Whenever a building permit is required, all of the requirements of this title shall be complied with prior to the issuance of a final certificate of occupancy. If some of the required improvements, such as driveways, siding or landscaping cannot be reasonably completed due to winter conditions, the Building Official may issue a temporary certificate of occupancy. The term of the temporary certificate of occupancy shall not extend beyond the following June 1 to ensure timely compliance.

Subd. 13. STREET ADDRESSES. All developed properties shall display the street address on at least one street frontage in a size and manner that is visible from the street.

Subd. 14. POLE STRUCTURES. Pole Structures or Post and Frame Structures. Construction must meet the same building codes as standard frame construction. Exterior walls and foundations of Post and Frame Structures must be set upon fully grouted masonry or concrete frost footings in Residential and Commercial Districts. Three season porches in residential districts can be exempted by the building official if adequate provisions are make for foundations. Reference 12.03 Definitions of Pole Structure and 12.53 Subd 15. B.

In Industrial districts other forms of foundations and floating slabs are permitted with the approval of the Building Official.

Subd. 15 SETBACKS IN SHORELAND RESIDENTIAL DISTRICTS. Withstanding all other wording, in any other section of Zoning Regulation to the contrary, setbacks for principal dwellings and accessory structures (including solar structures) in Residential Shore land areas will be regulated by this section.

A. The minimum setback for the Dwelling will be 35 feet from the edge of the road's bituminous surface.

B. No accessory structure, including solar structures or sheds; nor the placement of any material for storage including vehicles, boats or trailers may occur closer to the road than that of the minimum setback for a principal dwelling.

C. Except as provided hereafter there shall be no encroachment in the first 15 feet, measured from the road edge, including retaining walls of any kind, and paved or graveled areas specifically for vehicle parking (excluding driveways and parking areas that exist on the day of adoption of this ordinance). Permitted uses within the first 15 feet include: walkways, driveways,

mailboxes, mailbox bollards, cable boxes, telephone poles, minimal and non-sight-obscuring flowers and landscaping, power stands, and decorative bollards.

Hedges, fences, plantings, and retaining walls may occur between 15 and 35 feet from the road edge.

D. Lot depth will be measured as the horizontal distance from the OHW (ordinary high water) line to the road edge.

E. For lots of less than 100 feet in depth special regulation applies. Where the total lot depth is less than 100 feet the rear setback from the OHW shall be reduced by 15 feet.

F. Homes or accessory buildings that exist, on lots of 100 feet or less, as of the date of adoption of this ordinance may be replaced or reconstructed on or within their existing footprint.

G. Setback provisions do not apply to homes without frontage on a city street.

H. These provisions apply equally to Shoreland residential properties that do not front on the Mississippi River or its waters with the exception that lot depth will be the distance from road edge to recorded rear of property.

I. The Zoning administrator will review 'sightlines' in discussions with property owners on the placement of principal structures and accessory structures.

Subd. 16. SOLAR REGULATION.

A. Ground mounted and free standing solar collectors are permitted as accessory structures in all residential zoning districts subject to the following requirements.

1. Be located in side or rear yard only and not extend over the required setback [See specific setback regulation for shoreland residential zoning districts Subd. 15 of this section] with panels in the horizontal position;

2. Be setback at least 10 feet from the side and rear property line, with panels in the horizontal position, but in no case shall a solar structure be located within an easement;

3. Be located so as to minimize glare directed toward an adjoining property or any street and all exterior electrical lines must be buried per electrical code;

4. Not exceed 15 feet in height with panels oriented in a vertical position;

5. The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 15 percent of the lot, the lot coverage ratio, or 500 square feet, whichever is less;

6. The maximum lot coverage shall take solar installations into account [the square footage shall be taken as the surface area of the solar panels or array and lot coverage determined as if the surface was horizontal] for structures on the lot.

7. The solar installation shall not count as an additional accessory structure toward the maximum number of accessory structures unless such solar structure is roof mounted on an accessory structure.

8. Shall comply with all city and state building codes and regulation and the property owner shall notify the electric utility and provide written approval;

9. If the solar collector ceases to perform its originally intended function for a period of 6 months in a 12 month period, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the 12-month period.

10. The area beneath a solar array may not be enclosed in any fashion, nor may the area below the solar array be used as a storage area.

B. Rooftop and wall-mounted solar collectors are permitted in all zoning districts subject to the following requirements:

1. Shall not project beyond the peak of the roof such that the solar collector projects above the peak of the supporting roof;

2. Shall not be more than five feet above the roof deck to which it is attached and in no case exceed the maximum height for a zoning district in which it is located. If the roof is a flat roof, the solar collectors shall be no more than 9 feet above the roof;

3. Shall be mounted so that the edge of the collectors is at least one foot in from the edge of the roof to which it is attached;

4. If mounted on the wall of an existing building it may extend into no more than 3 feet into the required minimum side yard setback and in no case be closer than 3 feet from an adjoining side yard;

5. If mounted on a wall the solar collector shall not extend into the minimum rear yard setback;

6. Shall comply with all city and state building codes and regulation and the property owner shall notify the electric utility and provide written approval;

7. If the solar collector ceases to perform its originally intended function for a period of 6 months in a 12 month period, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the 12-month period.

C. Solar arrays and solar collectors shall require a zoning permit issued by the City in advance of any installation. Such application for a permit shall include a sketch showing the locations of all elements, including the size and location of posts, arrays, collectors, calculation of lot coverage and a letter from the Utility Company accepting the system being connected to its grid.

Subd. 18. Retaining Wall supplemental

A. A building permit is required for all retaining walls that are over four feet in height measured from the bottom of the footing to the top of the wall.

B. Concrete or masonry foundation walls shall be designed in accordance with accepted engineering practice when walls support more than 48 inches or unbalanced backfill that does not have permanent lateral support at the top or bottom.

C. Retaining walls that are not laterally supported at the top and retain in excess of 24 inches of unbalanced fill shall be designed to ensure stability against overturning, sliding, excess foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.

D. When a retaining wall is constructed at the toe of a slope, the height of the slope shall be measured from the top of the wall to the top of the slope. The house footing shall be set back twice the height of the slope, to a minimum of 10 feet and a maximum of 15 feet.

E. Retaining walls may not be constructed on neighboring properties without agreements recorded with the County Clerk. Nor can retaining walls be constructed on City or road right-of-ways without a variance.

12.11 MANUFACTURED HOME PARKS.

Subd. 1. Pursuant to Minnesota Statutes 462.357, a manufactured home park, including manufactured single family housing units, office limited to the administration of the park, recreational buildings and structures, storm shelters, and other directly related complementary uses are allowed as conditional uses in all districts that allow the construction of buildings for two or more families subject to the approval of a conditional use permit in accordance with the following standards:

Subd. 2. General Provisions for all Manufactured Home Parks.

A. Area. All land area shall be:

1. Adequately drained.

2. Landscaped to control dust.

3. Clean and free from refuse, garbage, rubbish or debris.

B. Outdoor Camping. There shall not be outdoor camping anywhere in a manufactured home park

C. Public Access. Public access to manufactured housing parks shall be as approved by the City.

D. Building Permit. All structures (fences, storage, decks, etc.) shall require a building permit from the Building Official. Fences shall be prohibited on individual manufactured home lots.

E. Foundation Enclosure. The area beneath a manufactured home shall be enclosed except that such enclosure must have access for inspection.

F. Community Building. A manufactured home park shall have an adequate central community building. Such building must be provided with rest room facilities, have adequate heating in all areas, and be maintained in a safe, clean and sanitary condition.

G. Emergency Storm Protections. Manufactured home parks established prior to July 1, 2010 shall comply with emergency storm protections as required by Minnesota Statutes. A new manufactured home park established after July 1, 2010 shall have storm shelters in compliance with Minnesota Statutes. Additionally, all emergency storm protection measures shall be subject to the approval of the City.

H. Lot Setbacks. Individual manufactured home lot setbacks:

In manufactured home parks created after July 1, 2010, no manufactured home shall be located closer than five (5) feet to a side or rear lot line. The front yard setback shall be at least twenty five (25) feet from the street surface. In addition, no manufactured home, community building, or other structure shall be located closer than thirty (30) feet from the periphery lot line of the manufactured home park.

I. Permitted Encroachments.

1. Attached steps, uncovered stoops, and landings may encroach up to five (5) feet into a side yard setback, provided that they do not exceed twenty (20) square feet in area or extend closer than ten (10) feet to a structure on an adjacent lot.

2. An eave or overhang may encroach up to one (1) foot into a front, side and rear setback.

J. Building Height Requirements. No structure shall exceed one (1) story or twenty-five (25) feet, whichever is least.

K. Utilities.

1. All manufactured home parks shall be connected to a public water and sanitary sewer system.

2. All installations for disposal of surface storm water must be approved by the City.

3. All utility connections shall be as approved by the City.

4. The source of fuel for cooking, heating or other purposes at each manufactured home site shall be as approved by the City.

5. All utilities shall be under ground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

6. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.

7. The method of garbage, waste, and trash disposal must be approved by the City.

8. The owner shall pay any required sewer and water connection fees to the City.

9. The owner shall pay inspection and testing fees for utility service to the City.

L. Storage. Exterior storage on individual manufactured home lots shall comply with the provisions of this title.

M. Accessory buildings and structures shall be subject to the accessory structure requirements of this title.

N. Building Type and Construction. Any building addition shall either be manufactured or custom built of materials that are consistent or compatible to the design of the principal building. "Compatible" means that the exterior appearance of an accessory building is not at variance with the principal building from an aesthetic and architectural standpoint to cause:

1. A difference to a degree to cause incongruity with the principal building.

2. A deviation from the general character of the neighborhood.

3. A depreciation of neighborhood values or adjacent property values.

4. A nuisance. Types of nuisance characteristics include, but are not limited to noise, dust, odors, glare and unsightly building exterior.

Subd. 3. DESIGN REQUIREMENTS FOR MANUFACTURED HOME PARKS CREATED AFTER JULY 1, 2010.

A. Park Size. The minimum area required for a manufactured home park designation shall be ten (10) acres.

B. Lot Size. Individual manufactured home lots:

1. Lot Width. Not less than forty (40) feet.

2. Lot Depth. Not less than one hundred ten (110) feet.

3. Changes to lot width and lot depth requirements may be allowed by conditional use permit as regulated by this title.

4. Each manufactured home shall have frontage on an approved roadway and the corners of each manufactured home lot shall be marked and each lot shall be numbered.

C. Parking.

1. Each manufactured home site shall have off-street parking space for two (2) passenger vehicles.

2. All parking spaces shall be hard surfaced according to the requirements of this title.

D. Internal Roads and Streets.

1. All streets shall be private streets and shall be developed with a road bed of not less than twenty eight (28) feet in width and shall meet City design specifications.

2. The manufactured home park shall have a street lighting plan approved by the City.

E. Recreation. All manufactured home parks shall have at least ten (10) percent of the land area developed for recreational use (tennis courts, children's play equipment, swimming pool, golf green, etc.).

F. Landscaping. All manufactured home parks shall comply with the landscaping requirements of this title.

G. Screening. A landscape screen to a height of at least three and one-half feet (31/2') above the parking grade shall be provided and maintained. Such screening shall either be constructed of durable building materials designed in harmony with the principal structures or accomplished through use of earth berms and/or landscape materials as approved.

H. Lighting.

1. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like but may be controlled with motion detectors or similar energy saving

controls.

2. The manufactured home park grounds shall be lighted as approved by the City from sunset to sunrise.

Subd. 4. OPERATIONAL STANDARDS FOR MANUFACTURED HOME PARK.

A. Maintenance. The operator of any manufactured home park, or a duly authorized attendance and/or caretaker shall be responsible at all times for keeping the manufactured home park, its facilities and equipment, in a clean, orderly, operable, and sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject.

B. Inspections Prior to Sale. Prior to the sale of a manufactured home within a manufactured home park, the operator of a manufactured home park or the duly authorized attendant and/or caretaker must inform the Building Official of the prospective sale and provide a completed copy of the Manufactured Home Safety Disclosure Form required by Minnesota Statutes, Section 327.07, Subdivision 3A.

C. Permits. Prior to a manufactured home being moved into a lot, the owner shall apply for and obtain a building permit for the (foundation) blocking to State Code and a permit for connection to public sewer and water. The application for permits shall be accompanied by a site plan, drawn to scale, detailing the unit placement, accessory structures, and setbacks.

D. Upgrading. Manufactured home housing units constructed prior to July 1, 1972 are not permitted within the City unless said unit has been upgraded to current life safety codes as determined by the Building Official. Units constructed prior to July 1, 1972 that were existing in the City prior to July 1, 2010 are legal non-conforming uses and subject to the nonconforming use provisions of this title.

E. Street Maintenance. All private internal streets in manufacturing home parks shall be maintained by the park owner in a good state of repair, free from obstructions, encumbrances, depressions, pot holes, and break ups. Snow shall be promptly plowed and removed from streets and adjacent mail boxes and fire hydrants, so that snow or snow piles do not constitute a safety hazard to motorists and pedestrians, or constitute an obstruction to emergency service vehicles. Icy streets and areas adjacent to mail boxes shall be promptly sanded. “Promptly” shall mean no later than twenty-four (24) hours after the end of a snow fall or in the case of ice within twenty-four (24) hours after it was formed.

12.12 DISTRICT REGULATIONS

Subd. 1. DISTRICTS. In order to classify, regulate and restrict the location of trades, industries, and other land uses, the following districts are hereby established within the City of La Crescent:

Ag Agricultural District

R-1A	Low Density Residential District
R-1B	Traditional Low Density Residential District
R-1C	New Urban Low Density Residential District
R-1D	Annexation Low Density Residential District
R-2	Single Family/Two-Family Residential District
R-3	Medium – High Density Residential District
CBD	Central Business District (CBD-1 and CBD-2)
C-1	Highway Commercial District
I	Industrial District
C-PD	Commercial Planned Development
CDD	Conservation Development District

Subd. 2. DISTRICT MAP. Said Districts are shown upon the Zoning District Map accompanying and made a part of this ordinance. Said map and all notations, references, and other information shown thereon, shall be as much a part of this ordinance as if they were fully described herein. The following rules shall apply in determining district boundaries on the map:

A. Where district boundary lines obviously are following road, street, water, lot or property lines, or section lines, such lines or the center line of such physical feature shall be the boundaries.

B. In un-subdivided property or where a district boundary divides a lot or parcel of property dimensions shown on the zoning district map shall be used to locate district boundaries, and in the absence of dimensions the scale appearing on the map shall be applied to locate boundaries.

C. The La Crescent City Council shall determine the location of boundaries where uncertainty or dispute exists after applying the rules.

Subd. 3. ANNEXATION ACCORDING TO DISTRICT. The appropriate land use and zoning classifications for any parcels annexed to the City shall be determined by the City Council after recommendation from the Planning Commission and after a public hearing has been held by the Planning Commission.

12.13 AG - AGRICULTURAL DISTRICT

Subd. 1. PURPOSE AND INTENT. It is the purpose and intent of the AG - Agricultural District to establish areas within the City of La Crescent for the production of food and fiber, and necessary accessory agricultural activities. All land coming into the City under an annexation agreement shall be zoned Agricultural if not otherwise specified.

Subd. 2. PERMITTED USES - Agricultural District. Within the Agricultural District, no building or land shall be used except for one or more of the uses identified below:

A. Farms and Farmsteads, with one residence.

B. Truck gardening, nurseries, orchards, similar ag. Uses

C. Animal kennels and boarding stables provided they are located at least 1,000' from any residence other than the owner and at least 1,000' from the

boundary line of adjoining districts.

D. Public Parks, trails, playfields, and related buildings/structures

E. Seasonal produce sales stands for sale of fruit and vegetable products

F. Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.

G. Earth shelter structures

H. Cemeteries

I. Livestock and poultry confinement feeding and breeding operations

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below are customarily incidental and clearly subordinate to the permitted or approved conditional uses and therefore permitted.

A. Accessory buildings

B. Home Occupations

C. Single satellite earth station antennas one meter (1 m) or less in diameter and single antennas designed to receive direct broadcast services or multichannel, multipoint distribution services one meter (1 m) or less in diameter and antennas designed to receive television broadcast signals, as regulated by this title.

Subd. 3. SETBACKS

A. Front 25'

B. Side 25'

C. Rear 25'

Subd. 4. LOT AREA, WIDTH, DEPTH BUILDING HEIGHT AND BUILDING COVERAGE

A. Lot Area 200,000 sq. ft.

B. Lot Width 200'

C. Lot Depth 200'

D. Building Height 35'

E. Building Coverage 15%

USES - AGRICULTURAL ZONES

Use P = Permitted	
Farms and farmsteads, with one residence	P
Truck gardening, nurseries, orchards, similar agriculture. uses	P
Animal kennels and boarding stables located at least 1,000' from any residence other than the owner and at least 1,000' from the boundary line of adjoining districts	P
Public parks, trails, playfields, and related buildings/structures	P
Seasonal produce sales stands for sale of fruit and vegetable products	P
Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.	P
Earth shelter structures	P
Cemeteries	P
Livestock and Poultry confinement feeding and breeding operations	P

12.14 R-1A - LOW DENSITY RESIDENTIAL DISTRICT

Subd 1. PURPOSE AND INTENT. The purpose and intent of the R-1A, Single-Family Residential District is to provide for development of low-density neighborhoods with varying lot width and lot sizes to accommodate natural topography of the site, preserve open space, natural features and provide shared amenities on site with a variety of lot width and sizes that support a greater variety in home design within a single development that is served by municipal sewer and water.

Subd. 2. PERMITTED USES. Within the R-1A District, no building or land shall be used except for one or more of the uses identified below:

A. Single-family, detached dwellings, occupied by no more than one family as defined in this Title.

B. Daycare facilities (licensed) serving twelve (12) or fewer persons in a single-family detached dwelling.

C. Licensed residential facility serving six (6) or fewer persons in a single-family detached dwelling.

D. Public Parks, trails, playfields, playgrounds, and directly related buildings and structures;

E. Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below are customarily incidental and clearly subordinate to the permitted or approved conditional uses and therefore permitted.

A. Private garages and accessory buildings in conformance with district requirements.

B. Fences as regulated by this title.

C. Play and recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests, except as otherwise permitted.

D. Private swimming pools and tennis courts.

E. Signs as regulated by this title.

F. Single satellite earth station antennas one meter (1 m) or less in diameter and single antennas designed to receive direct broadcast services or multichannel, multipoint distribution services one meter (1 m) or less in diameter and antennas designed to receive television broadcast signals, as regulated by this title.

Subd. 4. CONDITIONAL USES. In addition to other uses specifically identified elsewhere in this title, the following are conditional uses in an R-1A district and require a conditional use permit based upon procedures set forth in and regulated by this title. Additionally, besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in this title.

A. Government buildings and structures; private recreational buildings for the exclusive use of residents and their guests, neighborhood or community centers, and public swimming pools.

B. Public and parochial schools; provided, no building shall be located within fifty feet (50') of any lot line.

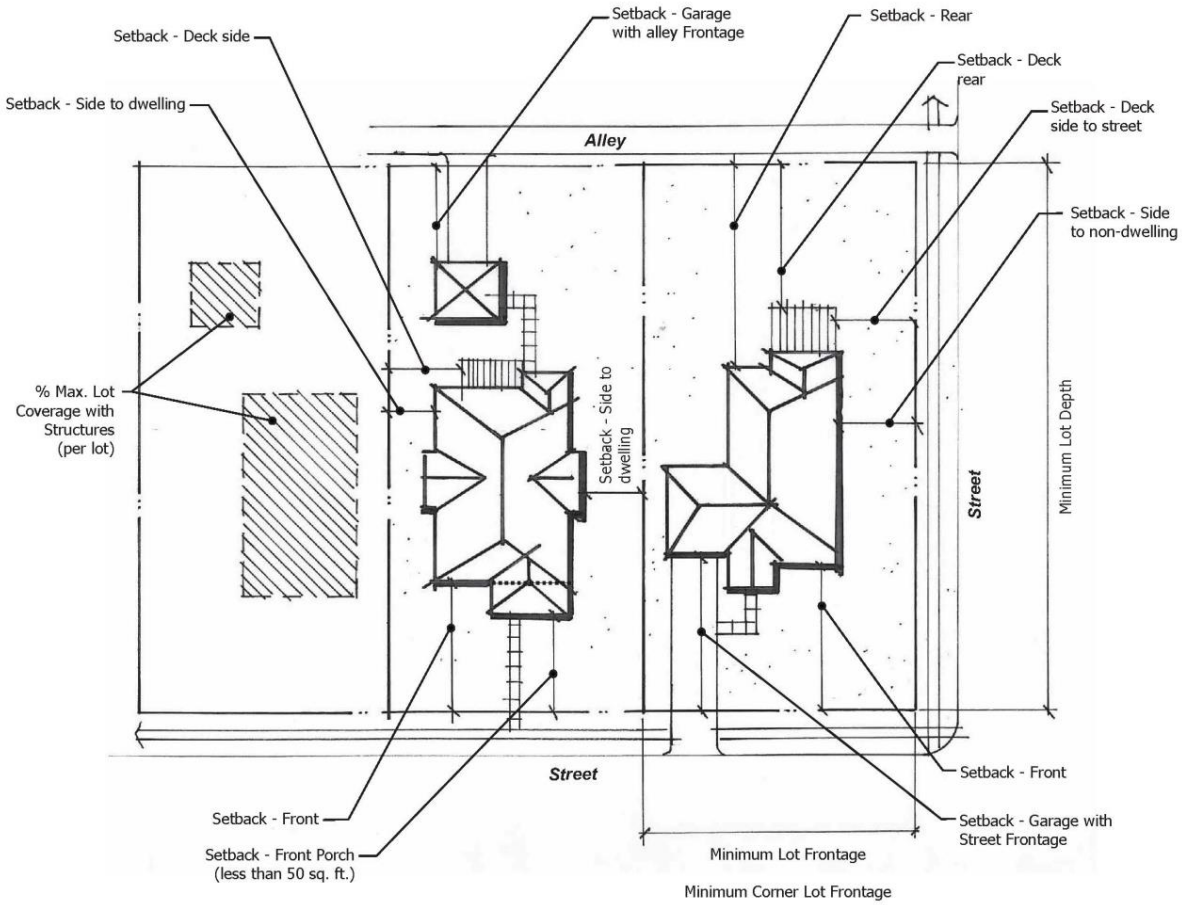
C. Places of assembly including those related structures located on the same site which are an integral part of the assembly use such as housing for persons related to the assembly function on the same site; provided, no more than ten (10) persons shall reside on the site and no building shall be located within fifty feet (50') of any lot line.

D. Home occupations requiring a permit.

E. Service antennas for personal wireless telecommunications, not located on a public structure or existing tower, as regulated by this title.

Subd. 5. LOT REQUIREMENTS AND SETBACKS. The following minimum requirements shall be observed in an R-1A district subject to additional requirements, exceptions and modifications set forth in this title. See 12.10 Subd. 15 for Setbacks in Shoreland Residential Districts:

Minimum Lot Size	8,400 SF
Minimum lot frontage	65 feet
Minimum corner lot frontage	65 feet
Minimum lot width at setback	65 feet
Minimum lot depth	110 Feet
Max. Lot Coverage with Structures (per lot)	30%
Setbacks - Dwelling	
Front (minimum)	25 feet
Front (maximum)	35 feet
Front Porch or deck, enclosed or unenclosed of less than 50 sq. ft.	N/A
Side to dwelling	10% of lot width, minimum 5 feet
Side to non-dwelling	10% of lot width, minimum 5 feet
Rear	35 feet
Dwelling Maximum Height	35 feet
Setbacks - Garage	
Front (minimum equal or greater to principal structure)	25-35 feet depending on setback of principal structure
Rear (minimum)	35 feet
Setbacks - Decks and attached open structures of greater than 50 sq. feet.	
Front, also side or rear to street for corner lots or through lots	30 feet
Side	10 feet
Rear	25 feet



Subd. 6. Special Minimum Requirements.

A. Parking Regulations:

1. A private two (2) car garage with a minimum floor area of four hundred forty (440) square feet shall be required to be built concurrent with the principal structure. The maximum footprint of the garage shall not exceed the footprint of the living area of the principal structure and detached garages must comply with all of the requirements for accessory structures.

2. Side entry garages are encouraged where feasible.

3. Garage shall not comprise more than 55 percent of the ground floor street-facing linear building frontage. This standard is based on the measurement of the entire garage structure and not on a measurement of the garage door or doors only.

4. Attached garages shall have the same or greater set back from the street as the principal structure (excluding front porches).

5. Two additional surface parking spaces shall be provided in a driveway location.

B. No more than 1 principal use shall be permitted on a platting lot or parcel of record.

C. All developed properties shall display the street address on at least one street frontage.

12.15 R-1B – TRADITIONAL LOW DENSITY RESIDENTIAL DISTRICT

Subd 1. PURPOSE AND INTENT. The purpose and intent of the R-1B, Traditional Single-Family Residential District is to provide for development of low-density neighborhoods in character with the original residential lot layout of the city.

Subd. 2. PERMITTED USES. Within the R-1B District, no building or land shall be used except for one or more of the uses identified below:

A. Uses permitted in the R-1A District.

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below are customarily incidental and clearly subordinate to the permitted or approved conditional uses and therefore permitted.

Uses permitted in the R-1A District.

Subd. 4. CONDITIONAL USES. In addition to other uses specifically identified elsewhere in this title, the following are conditional uses in an R-1A district and require a conditional use permit based upon procedures set forth in and regulated by this title. Additionally, besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in this title.

A. Uses permitted in the R-1A District.

B. Bed and breakfast inns within 600’ of the CBD District.

Subd. 5. LOT REQUIREMENTS AND SETBACKS. The following minimum requirements shall be observed in an R-1B district subject to additional requirements, exceptions and modifications set forth in this title:

Minimum Lot Size	6,500 SF
Minimum lot frontage	50 feet
Minimum corner lot frontage	50 feet
Minimum lot width at setback	50 feet
Minimum lot depth	110 Feet
Max. Lot Coverage with Structures (per lot)	35%
Setbacks- Dwelling	

Front (minimum)	25 feet
Front Porch or deck enclosed or unenclosed of less than 50 sq. ft.	20 feet
Garage with street frontage	25 feet and at least as far back as the principal structure
Garage with alley frontage	10 feet
Side to dwelling	10% of lot width, minimum 5 feet
Side to non-dwelling	10% of lot width, minimum 5 feet
Rear	35 feet
Dwelling Maximum Height	35 feet
Setbacks – Decks and attached open structures of greater than 50 sq. ft.	
Front, also side or rear to street for corner lots or through lots	30 feet
Side	10 feet
Rear	15 feet

A. Front Yard: The minimum front yard setback for living area in an R-1B district shall be twenty five (25'). The setback may be reduced to twenty feet (20') if the following conditions are met:

1. The setback reduction is for an attached living area or porch to the principal structure which does not exceed a total of fifty (50) square feet of above grade finished livable space. Such area may not include a garage.

2. The exterior materials of the proposed living area or porch are consistent or complementary in color, texture and quality with those visible at the front of the dwelling.

3. The roof of the proposed living area or porch is properly proportioned to and integrated with the roof of the dwelling.

Subd 6. SPECIAL MINIMUM REQUIREMENTS.

A. Parking Regulations: A private two (2) car garage with a minimum floor area of four hundred forty (440) square feet shall be required to be built concurrent with the principal structure. The maximum footprint of the garage shall not exceed the footprint of the living area of the principal structure and detached garages must comply with all of the requirements for

accessory structures. Side entry garages are encouraged where feasible.

1. Garage shall not comprise more than 55 percent of the ground floor street-facing linear building frontage. This standard is based on the measurement of the entire garage structure and not on a measurement of the garage door or doors only.

2. Attached garages shall be set back a minimum of the same distance as the principal structure.

3. Two additional surface parking spaces shall be provided in a driveway location.

B. No more than one principal use shall be permitted on a platting lot or parcel of record.

C. All developed properties shall display the street address on at least one street frontage.

12.16 R1C – NEW URBAN LOW DENSITY RESIDENTIAL DISTRICT

Subd 1. PURPOSE AND INTENT. The purpose and intent of the R-1C, New Urban Single-Family Residential District is to provide for development of low-density neighborhoods in character with the principles of New Urbanism. New Urbanism is an approach to development based on the design of older American cities in the late 19th and early 20th centuries with generally denser development than modern suburbs, an emphasis on the pedestrian environment, de-emphasis of the automobile, attention to details in streetscape and building design, and provision of public spaces. Its features include creative design, living areas over garages, walkable neighborhoods, use of alleys for parking access, narrower, one way, or boulevard streets where appropriate, parking on one or both sides of the street, and the encouragement of a lively street environment.

Subd. 2. PERMITTED USES. Within the R-1C District, no building or land shall be used except for one or more of the uses identified below:

A. Uses permitted in the R-1A District.

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below are customarily incidental and clearly subordinate to the permitted or approved conditional uses and therefore permitted.

A. Uses permitted in the R-1A District.

Subd. 4. CONDITIONAL USES. In addition to other uses specifically identified elsewhere in this title, the following are conditional uses in an R-1C district and require a conditional use permit based upon procedures set forth in and regulated by this title. Additionally, besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in this title.

A. Conditional uses permitted in the R-1A District

B. Dwelling, multiple-family (apartment, condominium, cooperative) not to exceed 4 units, provided that the architectural style is of compatible scale, style, quality and materials to the surrounding neighborhood. Minimum Lot Size:

Structures containing more than one dwelling unit shall have a minimum lot area as set forth below:

Number of Dwelling Units	Min. Lot Area
2	10,000 square feet
3 or more units	2,000 additional square feet per unit

C. Manufactured Home Park

Subd. 5. LOT REQUIREMENTS AND SETBACKS. The following minimum requirements shall be observed in an R-1C district subject to additional requirements, exceptions and modifications set forth in this title:

Minimum Lot Size	4,000 SF
Minimum lot frontage	40 feet
Minimum corner lot frontage	40 feet
Minimum lot width at setback	40 feet
Minimum lot depth	100 Feet
Max. Lot Coverage with Structures (per lot)	50%
Setbacks - Dwelling	
Front (minimum)	15 feet
Front Porch or deck, enclosed or unenclosed, less than 50 sq. ft.	N/A
Garage with street frontage	Not Allowed
Garage with alley frontage	10 feet
Side to dwelling	10% of lot width, minimum 5 feet
Side to non-dwelling	10% of lot width, minimum 5 feet
Rear	25 feet

Dwelling Maximum Height	35 feet
Setback - Decks and attached open structures greater than 50 sq. feet	
Front, also side or rear to street for corner lots or through lots	30 feet
Side	10 feet
Rear	15 feet

Subd 6. SPECIAL MINIMUM REQUIREMENTS.

A. Parking Regulations:

1. A private two (2) car garage with a minimum floor area of four hundred forty (440) square feet shall be required to be built concurrent with the principal structure. The maximum footprint of the garage shall not exceed the footprint of the living area of the principal structure and detached garages must comply with all of the requirements for accessory structures.

2. Garages shall have access from alleyways, where feasible. Attached garages shall be set back from the principal structure by at least 5 feet.

3. Garage shall not comprise more than 55 percent of the ground floor street-facing linear building frontage. This standard is based on the measurement of the entire garage structure and not on a measurement of the garage door or doors only.

B. No more than 1 principal use shall be permitted on a platting lot or parcel of record.

12.17 R-1D – ANNEXATION LOW DENSITY RESIDENTIAL DISTRICT

Subd 1. PURPOSE AND INTENT. The purpose and intent of the R-1D, Annexation Single-Family Residential District is to provide for existing low-density neighborhoods that are annexed into the city. This district allows these areas to retain their existing, unique characteristics provided they are approved by the City Council pursuant to an agreement at the time of annexation. Each annexation will be numbered sequentially – R-1D-1, R-1D-2, etc., each subject to separate agreement, and shall be zoned such and annexed according to the agreement. Unless otherwise detailed setback requirements will be the same as in the R-1A District.

Subd. 2. PERMITTED USES. Within the R-1D District, no building or land shall be used except for one or more of the uses identified below:

A. Uses permitted in the R-1A District, unless modified by the City Council.

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below are customarily incidental and clearly subordinate to the permitted or approved conditional uses and therefore permitted.

A. Uses permitted in the R-1A District, unless modified by the City Council, pursuant to agreement at the time of annexation.

Subd. 4. CONDITIONAL USES. In addition to other uses specifically identified elsewhere in this title, the following are conditional uses in an R-1A district and require a conditional use permit based upon procedures set forth in and regulated by this title. Additionally, besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in this title.

A. Uses permitted in the R-1A District, unless modified by the City Council, pursuant to agreement at the time of annexation.

Subd. 5. LOT REQUIREMENTS AND SETBACKS.

A. Lot Requirements and Setbacks in the R-1A District unless modified by the City Council, pursuant to agreement at the time of annexation.

Subd 6. SPECIAL MINIMUM REQUIREMENTS.

A. Special Minimum Requirements in the R-1A District unless modified by the City Council, pursuant to agreement at the time of annexation.

Subd. 7. APPROVAL PROCEDURES AND REQUIREMENTS. The procedures and requirements for rezoning to the R-1D District shall be the same as for a Planned Unit Development.

12.18. R-2 – SINGLE-FAMILY/TWO-FAMILY RESIDENTIAL DISTRICT

Subd 1. PURPOSE. The purpose of the R-2, Single-Family/Two-Family Residential District is to provide for single-family detached and two-family attached residential dwelling units (vertically stacked) that serve as a transition between single family districts and the increased densities adjacent the central business district. In the R-2 district the city hopes to encourage urban infill and the economic advantages it brings. By encouraging residential living near the downtown the city there will be an added critical mass of people to add to the activity and diversity of the area. This district provides additional housing opportunities for the city and encourages increased, walkable density around the city's core

Subd. 2. PERMITTED USES: Within the R-2 District, no building or land shall be used except for one or more of the uses identified below:

A. Uses permitted in the R-1A District.

B. Two-family dwellings that are vertically stacked.

Subd 3. PERMITTED ACCESSORY USES: Uses such as those listed below that are customarily incidental and clearly subordinate to the permitted or approved conditional uses:

A. Uses permitted in the R-1A District.

Subd 4. CONDITIONAL USES.

A. Uses permitted in the R-1A district
B. Bed and breakfast inns within 600' of the CBD District.
C. Manufactured Home Parks

Subd. 5. LOT REQUIREMENTS AND SETBACKS. The following minimum requirements shall be observed in an R-2 district subject to additional requirements, exceptions and modifications set forth in this title:

Minimum Lot Size	6,500 SF
Minimum lot frontage	50 feet
Minimum corner lot frontage	50 feet
Minimum lot width at setback	50 feet
Minimum lot depth	110 Feet
Max. Lot Coverage with Structures (per lot)	45%
Setbacks- Dwelling	
Front (minimum)	25 feet
Front Porch or deck, enclosed or unenclosed of less than 50 sq. ft.	20
Garage with street frontage	25 feet and at least as far back as the principal structure
Garage with alley frontage	10 feet
Side to dwelling	10% of lot width, minimum 5 feet
Side to non-dwelling	10% of lot width, minimum 5 feet
Rear	35 feet
Dwelling Maximum Height	35 feet
Setbacks - Decks and attached open structures of greater than 50 feet	

Front, also side or rear to street for corner lots or through lots	30 feet
Side	10 feet
Rear	15 feet

Front Yard: The minimum front yard setback for living area in an R-2 district shall be twenty five (25'). The setback may be reduced to twenty feet (20') if the following conditions are met:

1. The setback reduction is for an attached living area or porch to the principal structure which does not exceed a total of fifty (50) square feet of above grade finished livable space. Such area may not include a garage.

2. The exterior materials of the proposed living area or porch are consistent or complementary in color, texture and quality with those visible at the front of the dwelling.

3. The roof of the proposed living area or porch is properly proportioned to and integrated with the roof of the dwelling.

Subd 6. SPECIAL MINIMUM REQUIREMENTS.

A. Parking Regulations:

1. A private two (2) car garage with a minimum floor area of four hundred forty (440) square feet shall be required to be built concurrent with the principal structure. The maximum footprint of the garage shall not exceed the footprint of the living area of the principal structure and detached garages must comply with all of the requirements for accessory structures.

2. Alley access or side entry garages are required.

3. Garage shall not comprise more than 55 percent of the ground floor street-facing linear building frontage. This standard is based on the measurement of the entire garage structure and not on a measurement of the garage door or doors only.

4. Attached garages shall be set back a minimum of the same distance as the principal structure.

5. Two additional surface parking spaces shall be provided in a driveway location.

B. No more than 1 principal use shall be permitted on a platting lot or parcel of record.

C. All developed properties shall display the street address on at least one street frontage.

12.19 R-3 – MEDIUM – HIGH DENSITY RESIDENTIAL DISTRICT

Subd. 1. PURPOSE. The purpose of the R-3, High Density Residential District is to provide for development of multi-family residential neighborhoods that are served by municipal sewer and water.

Subd. 2. PERMITTED USES. Within the R-3 District, no building or land shall be used except for one or more of the uses identified below:

A. Dwelling, multiple-family (apartment, condominium, cooperative) not to exceed 8 units, provided that stairways to all units are internal to the building and the outside entrances to the buildings are at least two (2) feet above the adjacent street if practical;

B. Public Parks, trails, playfields, playgrounds, and directly related buildings and structures;

C. Licensed residential facility serving 7 – 16 persons.

D. Licensed day care facility serving from 13 – 16 persons.

E. Public infrastructure, such as well houses, lift stations, etc.

F. More than one principal building on a base lot.

G. Townhomes with no more than six (6) dwelling units per structure if in a row or no more than four (4) dwelling units if back to back, with each having a separate private exterior entrance.

Subd. 3. PERMITTED ACCESSORY USES: Uses such as those listed below that are customarily incidental and clearly subordinate to the permitted or approved conditional uses:

A. Accessory uses permitted in the R-1A District.

B. Only those accessory buildings, structures, or fences owned and maintained by a homeowners' association shall be erected on a common base lot.

Subd. 4. CONDITIONAL USES.

A. Conditional uses permitted in the R-1A district.

B. Dwelling, multiple-family (apartment, condominium, cooperative) exceeding 8 units, provided that stairways to all units are internal to the building and the outside entrances to the buildings are at least two (2) feet above the adjacent street if practical;

C. Age restricted, senior residential living facility including assisted living.

D. Rooming and Boarding Houses

E. Mortuaries and Funeral Homes

F. Manufactured Home Parks

Subd. 5. LOT REQUIREMENTS AND SETBACKS. The following minimum requirements shall be observed in an R-3 district subject to additional requirements, exceptions and modifications set forth in this title:

Minimum lot frontage	80 feet
Minimum corner lot frontage	80 feet
Minimum lot width at setback	80 feet
Minimum lot depth	120 Feet
Max. Lot Coverage (per lot)	60%
Setbacks- Dwelling	
Living Area	25 feet
Front Porch or deck, enclosed or unenclosed, of less than 120 square feet)	N/A
Garage with street frontage Garage with alley frontage	30 feet 15 feet
Side to dwelling	10% of lot width, minimum 5 feet
Side to non-dwelling	10% of lot width, minimum 5 feet
Rear	35 feet
Dwelling Maximum Height	40 feet
Setbacks – Decks and attached open structures of greater than 50 sq. ft.	
Front, also side or rear to street for corner lots or through lots	30
Side	10 feet
Rear	15 feet

A. Minimum Lot Size: Structures containing more than one dwelling unit shall have a minimum lot area as set forth below:

Number of Dwelling Units	Min. Lot Area Per Unit
2	10,000 square feet
3 or more units	2,000 additional square feet lot area per unit

Subd. 6. SPECIAL MINIMUM REQUIREMENTS.

A. Unit Size: The following unit size shall apply:

1. Floor Area: A minimum of five hundred (500) square foot minimum floor area for efficiency apartment units is required. A minimum of eight hundred (800) square feet is required for a one-bedroom unit plus one hundred (100) square feet for each additional bedroom. A minimum floor area of seven hundred (700) square foot is required for one-bedroom apartment dwelling units in retirement housing developments, plus one hundred (100) square feet for each additional bedroom. Garages, breezeways and porch floor spaces shall not be credited in determining the required floor area of units.

B. Unit Width: The minimum width of a dwelling unit within the R-3 district shall be twenty-five (25) feet.

C. Unit Construction:

1. Subdivision Requests: Building elevations and floor plans shall be furnished with subdivision requests illustrating exterior building material and colors to demonstrate compliance of this title. Building floor plans shall identify the interior storage space within each unit.

2. Decks or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.

3. Minimum Overhang: In case of a gable roof, a minimum twelve inch (12") soffit shall be required.

4. Exterior Building Finish: The exterior building finish shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance including the following requirements:

a. A minimum of twenty five percent (25%) of the combined area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone. This percent shall increase to forty percent (40%) for all two story structures and above and any buildings with four or more units.

b. Except for brick, stucco, and/or natural or artificial stone, no single building facade shall have more than seventy five percent (75%) of one type of exterior finish.

c. For the purpose of this section and material calculations:

1) The area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.

2) Variations in texture or style (i.e., lap siding versus shake shingle siding) shall be considered as different materials meeting the requirements of this section.

3) Integral colored split face (rock face) concrete block shall not qualify for meeting the brick, stucco and/or natural or artificial stone material requirements.

D. Color. Each building shall feature a broad array of colors, including earth tones, muted natural colors found in surrounding landscape or other colors consistent with the adjacent neighborhood.

E. Facades and walls: Each building shall be articulated with projections, recesses, covered doorways, balconies, covered box or bay windows or other similar features, dividing large facades and walls into human scaled proportions.

F. Roofs. Each building shall feature a combination of primary and secondary roofs. Primary roofs shall be articulated by at least one of the following elements:

1. Changes in place and elevation

2. Dormers or gables

3. Transitions to secondary roofs over entrances, garages, porches, bay windows.

G. Garages:

1. Each dwelling unit shall include at least one garage parking space unless modified by Conditional Use Permit. Conditions for removal required parking spaces may include provision of additional storage space for each unit or issues deemed appropriate by the City Council

2. Garages shall comply with the following minimum size standards:

a. For dwellings with basements: Four hundred forty (440) square feet.

b. For dwellings without basements: Five hundred forty (540) square feet.

H. Outside Storage: Outside storage shall be allowed only in designated areas which are screened in accordance with the screening requirements of this title. Outside storage shall be under the ownership of the property owners' association or rental building owner, as applicable.

I. Utilities:

1. Underground Or Exterior Service: All utilities serving an R-3 subdivision, including telephone, electricity, gas and cable shall be installed underground. Exterior utility meters and/or fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right of way.

2. Public Utility Service: Separate public utility services shall be provided to each unit unless building is intended for single entity ownership (rental apartments, etc.).

3. Water Connection: Individual unit shutoff valves shall be provided.

4. Sewer Connection: Where more than one unit is served by a sanitary sewer service, all maintenance and cleaning shall be the responsibility of the property owners' association or building owner, as applicable.

J. Parking Regulations. A total of two off street parking spaces per unit shall be required on site, one of which shall be provided for guests and visitors at locations dispersed within the development to provide convenient access to individual dwelling units. A garage space is considered one of the two required spaces. The design and location of the off street parking shall be in a manner compatible with surrounding dwelling units, including (but not limited to) a minimum fifteen foot (15') setback from principal buildings, decks, patios or other open spaces intended for active use. Guest parking areas shall be screened in conformance with the requirements of this title.

K. Parking Lot Screening:

1. The light from automobile headlights and other sources shall be screened whenever it may be directed onto residential windows.

2. When required parking areas adjoin any residential district, the edge nearest the lot line shall be completely screened to a height of at least three and one-half feet (31/2') above the parking grade. Such screening shall either be constructed of durable building materials designed in harmony with the principal structure or accomplished through use of earth berms and/or landscape materials as approved.

3. When the design of the site is such that parking occurs in the front yard, a minimum of ten feet (10') landscaped area shall be provided between parking and building, in addition to the required setbacks.

Subd. 7. COMMON AREAS. The following minimum requirements shall be observed in the R-3 district governing common areas:

1. Ownership: All common areas within an R-3 development not dedicated to the public including, but not limited to, open space, driveways, private drives, parking areas, play areas, etc., shall be owned by a single entity which owns the associated building or buildings or condominium ownership pursuant to Minnesota statutes 515A.1-106.

A. Homeowners' Association: For any multiple family development with multiple unit ownership (condominiums, for sale townhomes, etc.), a homeowners' association (or equivalent) shall be established subject to review and approval of the city attorney. The homeowner's association shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common.

12.20 RESIDENTIAL DISTRICTS STANDARDS TABLE

General

	R-1A (3)	R-1B	R-1C	R-1D	R-2	R-3
Minimum Lot Size	8,400 SF	6,500 SF	4,000 SF	8,400 SF	6,500 SF	See Note 2
Minimum lot frontage	65 feet	50 feet	40 feet	65 feet	50 feet	80 feet
Minimum corner lot frontage	65 feet	50 feet	40 feet	65 feet	50 feet	80 feet
Minimum lot width at setback	65 feet	50 feet	40 feet	65 feet	50 feet	80 feet
Minimum lot depth	110 Feet	110 Feet	100 Feet	110 Feet	110 Feet	120 Feet
Max. Lot Coverage with Structures (per lot)	30%	35%	50%	30%	45%	60%
Dwelling Maximum Height	35 feet	35 feet	35 feet	35 feet	35 feet	40 feet
(4) Special rules apply to Shoreland parcels in R-1A						
Setbacks - Dwelling						
	R-1A (3)	R-1B	R-1C	R-1D	R-2	R-3
Front (minimum)	25 feet	25 feet	15 feet	25 feet	25 feet	25 feet
Front (maximum)	35 feet	NA	NA	35 feet	NA	NA
Deck or Front Porch, enclosed or unenclosed, of less than 50 sq. ft.	N/A	20	15	N/A	20	N/A

Front Porch less than 120 sq. ft.	N/A	N/A	N/A	N/A	N/A	20
Side to dwelling	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet
Side to non-dwelling	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet	10% of lot width, min. 5 feet
Rear	35 feet	35 feet	25 feet	35 feet	35 feet	35 feet

Setbacks - Garage

	R-1A (3)	R-1B	R-1C	R-1D	R-2	R-3
Garage with street frontage (see note 1)	25 to 35 feet depending on location of principal structure	25 feet and minimum equal to set back of principal structure	Not Allowed	25 to 35 feet depending on location of principal structure	25 feet and minimum equal to set back of principal structure	30 feet
Garage with alley frontage	N/A	10 feet minimum	10 feet minimum	N/A	10 feet minimum	15 feet minimum

Setbacks - Decks and Attached or unattached Open Structures greater than 50 feet

	R-1A (3)	R-1B	R-1C	R-1D	R-2	R-3
Front, also side or rear to street for corner lots or through lots	30 feet	25 feet	20 feet	30 feet	30 feet	30
Side	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Rear	25 feet	15 feet	15 feet	25 feet	15 feet	15 feet

1. Attached garages shall be set back at least as far as the principal structure. This standard does not apply to structured parking.
2. Minimum lot area is 10,000 sq. ft. for the first 2 dwelling units (5,000 sq. ft. per unit) and 2,000 sq. ft. additional lot area per unit thereafter.
3. See 12.10 Subd. 15 for setbacks in Shoreland Residential District.

12.21 RESIDENTIAL DISTRICTS USES TABLE

Use	R-1A	R-1B	R-1C	R-1D	R-2	R-3
Single Family Dwelling	P	P	P	P	P	
Two Family Dwelling					P	
Multiple Family Dwellings, not to exceed 8 Units						P
Multiple Family Dwellings, exceeding 8 units						C
Manufactured Home Park			C		C	C
Public Parks, Trails, Playfields, and related buildings/structures	P	P	P	P	P	P
Home Occupations requiring a permit	C	C	C	C	C	C
Schools, public and private	C	C	C	C	C	C
Places of Assembly	C	C	C	C	C	C
Licensed Daycare Facilities, serving 12 or fewer persons	P	P	P	P	P	
Licensed Daycare Facilities, serving 13 -16 persons						P
Licensed Residential Facility, serving 6 or fewer persons	P	P	P	P	P	
Licensed Residential Facility, serving 7 -16 persons						P
Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.	P	P	P	P	P	P
Bed and Breakfast Inn, within 600’ of the CBD		C				
More than one principal building on a lot						P
Nursing and Rest Homes						C
Rooming and Boarding Houses						C
Mortuaries and Funeral Homes						C

12.22 CBD – CENTRAL BUSINESS MIXED USE DISTRICT (CBD-1 and CBD-2)

Subd. 1. PURPOSE AND INTENT. The purpose of the CBD Mixed Use district is to provide an area for compact, mixed use development in La Crescent's central business district. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian friendly environment envisioned for the CBD. Minimum heights will ensure an appropriate urban character and the mix of uses is intended to provide a critical mass of housing to support area businesses.

To achieve urban density on the scarce land in the Central Business District developers are encouraged to consider occupied second stories, apartments, condominiums, cooperatives, and (especially along the east side of the Walnut Street) consider 3 story occupied structures that might include roof-top gardens and 2 level homes over street grade commercial businesses.

Subd. 2. PERMITTED USES. Within the CBD district, no structure or land may be used, except for one or more of the following uses:

A. Bakery.

B. Copy shop.

C. Financial services, without drive-through.

D. Hotels, motels, inns and bed and breakfast establishments serving transient guests.

E. Multi-family attached residential dwellings, with a minimum density of 8 units per acre, which may include units combining living and working space within the unit, if all units on the same floor of a building are such.

F. Office, including medical and dental.

G. Public buildings.

H. Public infrastructure.

I. Restaurants, without drive-through.

J. Retail goods and services within a fully enclosed building.

Subd. 3. CONDITIONAL USES. Within the CBD district, no structure or land may be used for one or more of the following except by Conditional Use permit:

A. Taverns.

B. Childcare.

C. Dry cleaning drop-off, incidental pressing and repair without on-site

cleaning.

D. Financial services, with drive through.

E. Health clubs and fitness centers.

F. Laundromats.

G. Mortuary or funeral home.

H. Multi-family attached residential dwellings, with a minimum density of 8 units per acres, if purely residential units and units combining living and working space within the units are mixed on the same floor of a building.

I. Museum.

J. Manufactured Home Park.

K. Theater with a maximum of one screen or stage.

Subd. 4. PERMITTED ACCESSORY USES. Within the CBD district, the following uses shall be permitted accessory uses:

A. Buildings temporarily located for purposes of construction on the premises for a period not to exceed the time necessary to complete construction.

B. Bus shelter subject to the provisions of this code.

C. Incidental accessory uses as permitted by this title.

D. Incidental repair, processing, or storage necessary to conduct a permitted principal use.

E. Outdoor seating.

F. Private garages, off street parking and loading spaces as regulated by this title.

G. Signs regulated by this title.

H. Single satellite earth station antennas one meter (1 m) or less in diameter and single antennas designed to receive direct broadcast services or multichannel, multipoint distribution services one meter (1 m) or less in diameter and antennas designed to receive television broadcast signals, as regulated by this title.

I. Therapeutic massage businesses.

J. Antennas mounted on an existing structure, if integrated architecturally into the design of a building, not exceeding five feet (5') above the highest point of the structure, as regulated by this title.

K. Places of assembly.

L. Drive-through lanes serving permitted or conditional uses, except for restaurants, for which drive-through lanes are not allowed in the CBD district, provided that:

1. Drive-Through Lanes: Drive-through or drive-in lanes are not allowed within the build-to line or in front of any building; they must be located to the side or rear of a building. This does not pertain to driveways.

2. Adequate stacking distance shall be provided, as determined by the city engineer, which does not interfere with other driving areas, parking spaces, or sidewalks.

3. Electronic speaker devices, if used, shall not be audible beyond the property being served and shall not be operated between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.

4. Screening shall be provided of automobile headlights in the drive-through lane to adjacent properties. Such screening shall be at least three feet (3') in height and fully opaque, consisting of a wall, fence, dense vegetation, berm, or grade change.

5. A bypass lane shall be provided for each drive-through use, allowing cars to leave the drive-through lane from the stacking area.

M. Essential service structures, such as lift stations, utility meters, power substations.

N. Exterior light poles, light fixtures, or other light sources over sixteen feet (16') above the ground, provided that such light source shall be effectively contained within the development and shall not cause glare or light spillover to any adjacent residential unit.

O. Liquor stores subject to the requirements of this code.

P. Multi-family attached residential dwellings, with a minimum net density of eight (8) units per acre, if purely residential units and combined living and working units are mixed on a given floor.

Q. Outdoor seating within the public right of way or public open space for a permitted or conditional use, provided that:

1. A sidewalk area at least six feet (6') wide is maintained free of seating in the area.

2. An outdoor seating plan is prepared and approved by the city council on the recommendation of the planning commission, on finding that the plan will not compromise public health, safety, or welfare. The plan may also include seasonal temporary landscaping and features such as planter

boxes, hanging baskets, low partitions, roped off areas, and other approved elements.

Subd. 5. INTERIM AND TEMPORARY SEASONAL USES. Within the CBD district, the following use(s) may be allowed by temporary seasonal permit, as regulated by this title:

A. Farmers' markets

B. Street vendors

C. Fertilizers, softener salt, planting soils

D. Other uses as approved by the City Council

Sub. 6. LOT

A. Principal Structure:

Yard	Setback
Front yard	Build-to line (see below)
Side yard/interior	0 foot minimum
Side yard/corner	Same as front yard
Rear yard	0 foot minimum

B. Accessory Structure:

Yard	Setback
Front yard	Build-to line (see below)
Side yard	0 foot minimum
Side yard (street)	Same as front yard
Rear yard	0 foot minimum

C. Parking:

Yard	Setback
Front yard	Build-to line (see below)
Side yard	0 foot minimum
Side yard (street)	Same as front yard
Rear yard	5 foot minimum

D. Front Yard Build-To Line Established: In the CBD district in the front yard, a build-to line is established which provides a minimum and maximum front setback for buildings and other structures, from the right of way or property line. For parking, the minimum setback applies, but not the maximum. The minimum setback shall be zero feet (0') and the maximum shall be three feet (3') from the right of way or property line.

1. In the CBD district at least fifty percent (50%) of the street frontage of any lot shall be occupied by building facades meeting the build-to line. Other portions of a building beyond the fifty percent (50%) may be set back farther than required by the build-to line.

2. The length of the building facade shall be measured as the maximum width of the building projected to the front lot line on lines perpendicular to the front lot line

3. On lots with more than one street frontage, the build-to line shall apply on each side fronting a street.

4. At least the first and second floor must meet the build-to line. Arcades and terracing are encouraged.

5. The build-to line may be met either with an enclosed building or an arcade constructed with a permanent roof of the same materials as the remainder of the building.

6. At a minimum, the first fifty feet (50') of the lot frontage on either side of a street intersection must be occupied by buildings meeting the build-to line. Parking or other open space open to the sky are not allowed within this first fifty feet (50').

E. Screening Of Parking Areas: Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements, to a minimum height of three feet (3') and a maximum height of four and one-half feet (41/2') above the level of the parking lot, at the build-to line.

F. Parking Structures: A new parking structure shall maintain a setback equal to the setbacks required in this title for other structures, except that where such parking structure is adjacent to other parking in a side or rear yard condition, the parking structure may have a zero setback. Where a new parking structure is adjacent to an existing use in a side or rear yard condition, the parking structure must maintain at least a ten foot (10') setback.

G. Drive-Through Lanes: Drive-through or drive-in lanes are not allowed within the build-to line or in front of any building; they must be located to the side or rear of a building. This does not pertain to driveways.

H. Lot Area: Six thousand five hundred (6,500) square feet minimum.

I. Lot Width: fifty feet (50').

J. Lot Depth: One hundred thirty feet (130').

K. Height Limit: The CBD District is divided into districts for the purpose of regulating minimum building height. In the CBD-1 District the minimum building height shall be fourteen feet (14'), and in the CBD-2 District the minimum building height shall be twenty-four feet (24'). This standard may be modified with a variance in unique or hardship situations if the intent is preserved. The maximum building height in both CBD Districts shall be no more than sixty feet (60). Equipment and other structures may extend beyond the maximum height in accordance with Section 12.52, Subd. 18.

L. Residential Uses on First Floor: Whenever residential uses are included on the first floor of a building in the CBD district, the first floor elevation shall be a minimum of two feet six inches (2'6") above the sidewalk elevation immediately adjacent to the front of the residential unit. This standard may be modified with a variance in unique or hardship situations if the intent is preserved. In addition, each first floor unit must have an individual private entrance at street level. All such residential units must meet ADA and other applicable access requirements.

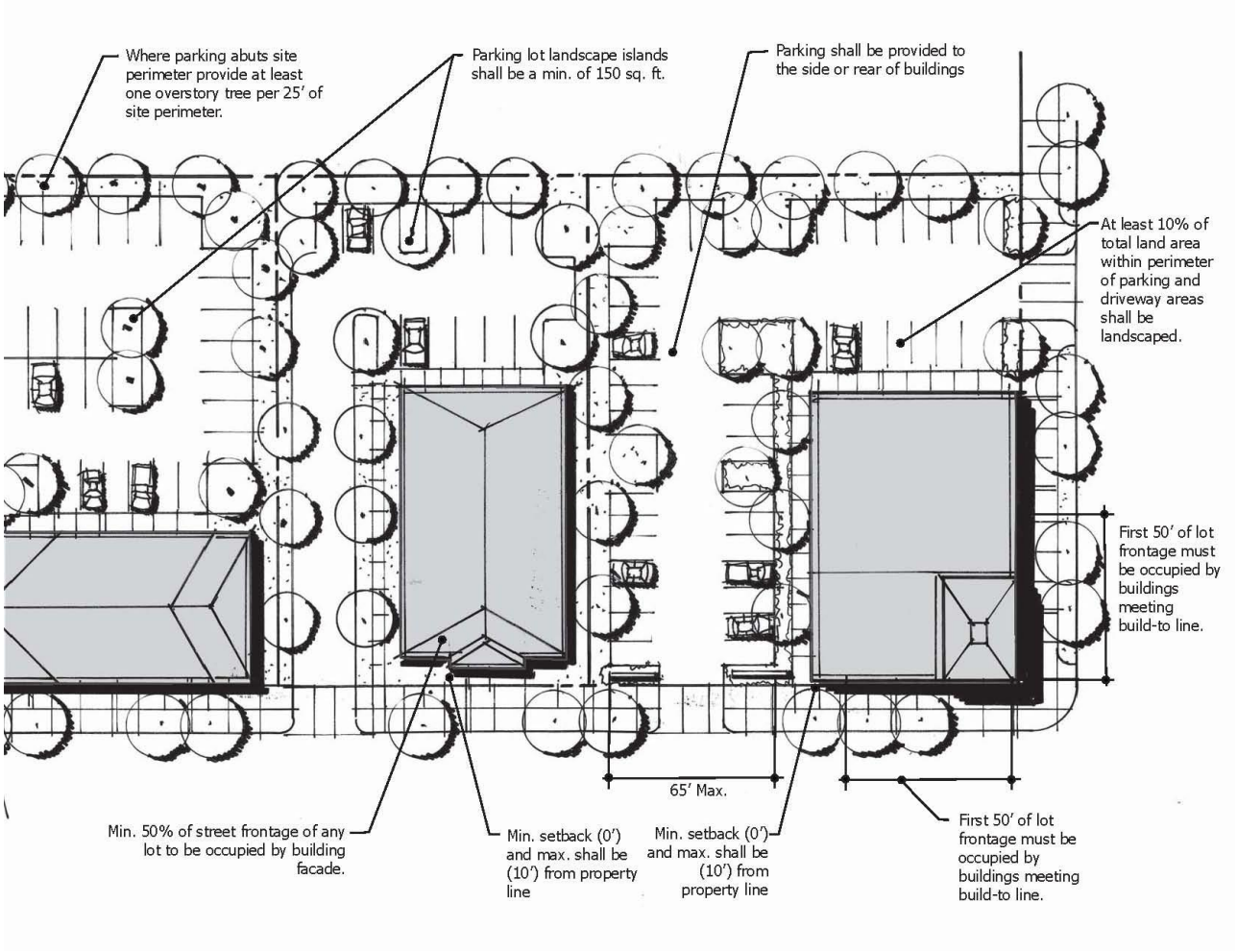
M. Any structure in the CBD-2 3 stores or more above grade plane shall be fully sprinklered.

Subd. 7. PARKING REQUIREMENTS.

A. Off-street parking for non-residential uses shall be provided as required by this title, unless there is a finding by the City Council that there is sufficient public parking readily for the development to reduce or eliminate the parking requirement. Reference 12.52 Performance Standards, especially subd. 9,10,11 and 12.

B. Parking for residential units in the CBD District shall be provided on-site, and shall be calculated as required under by this title. These residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office, or other uses on-site or nearby, and shall not be counted as part of any shared parking or joint parking arrangement.

C. On grade parking is prohibited in the front yard directly in front of a building. Parking shall be provided to the side or rear of buildings in mid-block areas. Where parking fronts a public street the maximum parking lot width shall be sixty five feet (65') measured at the lot frontage. Parking in driveways in front of garages at the rear of residential uses may be counted towards the requirements of this title if it does not interfere with other traffic movement.



A. Building Design And Materials:

1. Building materials in the CBD district shall be attractive in appearance, durable with a permanent finish, and of a quality that is consistent with high standards of development. Where appropriate, buildings shall carry over materials and colors of adjacent buildings, with the exception of prohibited materials.

2. All buildings shall include the following four (4) elements:

   a. Accent materials, which shall be wrapped around walls that are visible from a public street or open space;

   b. Buildings containing office and retail uses on the first floor shall maintain forty percent (40%) minimum window coverage on each first floor front up to 10 feet in height that faces a street or public open space;

   c. Complementary major material colors;

d. A combination of vertical and horizontal pattern designs in the building facade.

3. Any exterior building wall adjacent to or visible from a public street, public open space, or abutting property may not exceed sixty feet (60') in length without significant visual relief consisting of one or more of the following:

   a. The facade shall be divided architecturally by means of significantly different materials or textures, or

   b. Horizontal offsets of at least four feet (4') in depth, or

   c. Vertical offsets in the roofline of at least four feet (4'),

   d. Fenestration at the first floor level which is recessed horizontally at least one foot (1') into the facade.

4. Exterior building materials shall be classified either primary, secondary, or accent materials. Primary materials shall cover at least sixty percent (60%) of the facade of a building. Secondary materials may cover no more than thirty percent (30%) of the facade. Accent materials may include door and window frames, lintels, cornices, and other minor elements, and may cover no more than ten percent (10%) of the facade. Allowable materials are as follows:

   a. Primary exterior building materials may be brick, stone, architectural precast concrete or glass. Bronze tinted or mirror glass are prohibited as exterior materials in the CBD district.

   b. Secondary exterior building materials may be any of the primary building materials above or decorative block, integrally colored stucco, or fiber cement siding (color impregnated or painted) in vertical panel design only with hidden seams.

   c. Synthetic stucco may be permitted as a secondary material on upper floors only.

   d. Accent materials may be wood, metal or fiber cement when used in trim, fascia or soffit if appropriately integrated into the overall building design and not situated in areas which will be subject to physical or environmental damage.

   e. All primary and secondary materials shall be integrally colored, except where otherwise stated.

   f. Primary exterior building materials for townhome buildings where all units contain an exterior entrance: Allowable primary exterior building materials for townhome buildings shall include brick, stone, glass, integrally colored stucco or fiber cement siding in lap or panel (integrally colored or painted). Fiber cement seam lines on panels

shall be architecturally integrated into the building design so that they are not visible. Seam lines can be filled, covered by other accent materials or other method thereby making the seam lines invisible.

g. Decorative block shall be colored only by means of a pigment integral to the block material, not applied to the surface.

h. Sheet metal, corrugated metal, asbestos, iron, shakes, plain flat concrete block (whether painted or integrally colored or not) are not acceptable as exterior wall materials on buildings within the CBD district.

5. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screened from the ground level view of adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal building.

6. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building.

7. All buildings containing non-residential uses on the ground floor shall meet the following standards:

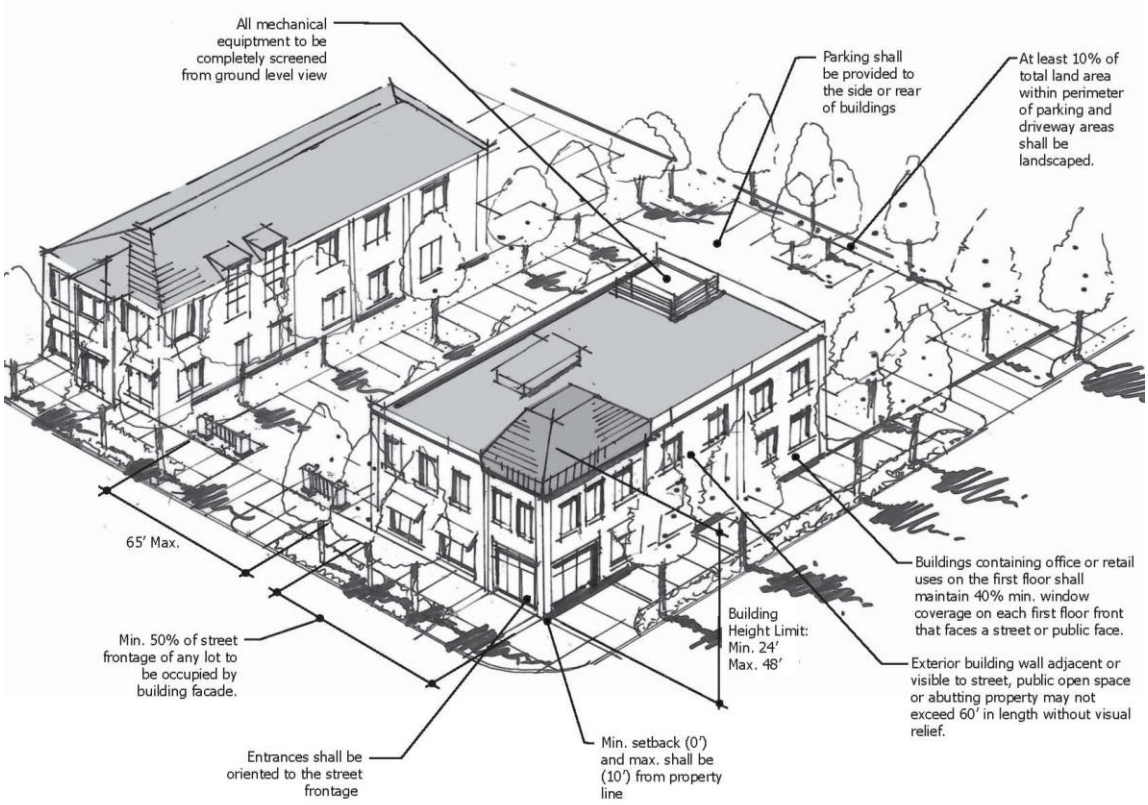
   a. The building shall have entrances to a street or public open space spaced no more than one hundred fifty feet (150') apart.

   b. Entrances shall be oriented conveniently to the street frontage and to on-street and off-street parking serving the use.

8. Trash Handling: All trash, recyclable materials, and equipment for handling them, including compactors, shall be totally screened from ground level view from public streets and adjacent properties, whether in the front, side or rear, either by being stored within the principal structure, one hundred percent (100%) screened from view by the principal building, or stored within an accessory structure enclosed by a roof and readily served through swinging doors or an overhead door on tracks.

9. Loading Areas: Loading areas or loading docks shall be provided for all commercial uses according to their anticipated needs, as determined by the City Council, such loading areas being sufficient in size and location so as to prevent service vehicles from blocking public streets, sidewalks or alleys.

10. Loading Docks: Loading docks shall not be located in the front yard and shall be completely screened from ground level view of public streets and public open spaces, by means of landscaping which is at least eighty percent (80%) opaque at the time of installation, or by a screen wall of the same materials and colors as the principal building.



B. Landscaping:

1. All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surfaces shall be sodded or mulched and landscaped with approved ground cover, flowers, shrubbery and trees.

2. At least ten percent (10%) of the total land area within the perimeter of private parking and driveway areas shall be landscaped. Landscaped areas provided within the build-to line may be credited toward this ten percent (10%) landscaping requirement on a square foot for square foot basis, for up to half of the ten percent (10%) requirement, or five percent (5%).

3. Parking lot landscaped islands shall be a minimum of one hundred fifty (150) square feet in area and include at least one over-story or evergreen tree meeting the requirements of this title.

4. Where parking abuts the site perimeter there shall be provided at least one over-story tree per twenty five feet (25') of site perimeter.

5. At least one over-story tree shall be provided for every five hundred (500) square feet of landscaped area on the entire site

6. The landscape plan shall include a full complement of over-story, ornamental and evergreen trees, shrubbery, and ground covers which are hardy and appropriate for the locations in which they are planted, and

which provide year round color and interest.

7. The following trees may not be used to satisfy the landscaping requirement of this section:

Acer negundo	Box elder
Acer saccharinum	Silver maple
Catalpa speciosa	Northern catalpa
Elaeagnus angustifolia	Russian olive
Ginkgo biloba	F. ginkgo (female prohibited, male permitted)
Morus alba	Mulberry
Populus deltoides	Cottonwood
Populus species	Poplars

8. The following trees may be used to satisfy the landscaping requirement of this section, but only in areas that are reasonably protected from winter wind conditions:

Picea pungens glauca	Colorado blue spruce
Pinus resinosa	Red pine
Pinus strobus	White pine

9. The following trees, or other species approved as City Policy, may be used to satisfy the landscaping requirement of this Section, but only in areas that are not on, or immediately adjacent to, a public street or boulevard:

Tilia cordata	Little leaf linden

C. Signage:

1. All signs erected on any building or land within the CBD District must comply with the provisions of the City's Sign Ordinance (#417) and the provisions of Chapter 12 (Zoning Ordinance) except as hereinafter provided.

2. Freestanding signs are prohibited in the CBD district, except directional signs at driveways and within parking areas, if no more than five feet (5') in height and no more than six (6) square feet in area. Directional signs must be set back at least two feet (2') from rights of way, lot lines, and parking spaces.

D. Lighting:

1. All exterior lighting in the CBD District shall be downcast cutoff-type fixtures, and shall follow the styles and types identified in the framework manual. No light source may be more than sixteen feet (16') above the ground, except by conditional use permit for buildings more than twenty feet (20') in height.

2. The applicant shall provide a photometric lighting diagram prepared by a qualified professional showing light levels, in foot-candles, from all exterior artificial lighting for all points on and within ten feet (10') of the site.

3. Lighting levels in exterior parking areas shall average one-half (1/2) foot-candle, with a minimum of one-tenth (1/10) foot-candle in all locations.

4. Lighting levels in interior parking areas shall average two (2) foot-candles, with a minimum of one-half (1/2) foot-candle in all locations.

5. Lighting levels shall comply with the glare provisions of this Title.

12.23 C-1 HIGHWAY COMMERCIAL DISTRICT

Subd. 1. PURPOSE AND INTENT. The purpose of the C-1 Highway Commercial District is to provide areas with excellent access and visibility to the regional highway system for high quality commercial and related uses serving La Crescent residents, businesses and visitors. While visitors and passersby on the highways may patronize these businesses, the intent is to create an extension of the City's downtown area with an attractive place for La Crescent residents to meet their needs.

Subd. 2. PERMITTED USES. Within any C-1 Highway Commercial District, no structure or land shall be used except for one or more of the following uses:

A. Bakery

B. Bowling Alley with no more than eight (8) lanes

C. Copy Shop

D. Financial Services, without drive through

E. Health clubs and fitness centers

F. Hotels, Motels, Inn

G. Office, including Medical and Dental

H. Public Buildings

I. Public Infrastructure

J. Restaurants, without drive through

K. Retail goods and services within a fully enclosed building

L. Temporary/seasonal outdoor sales uses, subject to the provisions of this title.

Subd. 3. PERMITTED ACCESSORY USES. Within any C-1 district, the following uses shall be permitted accessory uses:

A. Buildings temporarily located for purposes of construction on the premises for a period not to exceed time necessary to complete construction.

B. Incidental accessory uses as permitted by this title.

C. Incidental repair, processing, or storage necessary to conduct a permitted principal use subject to standards in this title.

D. Private garages, off street parking and loading spaces as regulated in this title.

E. Signs as regulated in this title.

F. Single satellite earth station antenna one meter (1 m) or less in diameter and single antenna designed to receive direct broadcast services or multichannel, multipoint distribution service one meter (1 m) or less in diameter and antennas designed to receive television broadcast signals.

G. Tenant restaurants, cafeterias and retail service limited to tenants of the building, provided that they be essentially limited to providing service to the users of the permitted use, and that no signs or other evidence of these uses are visible from the exterior of the building.

Subd. 4. CONDITIONAL USES. Within a C-1 district, no structure or land shall be used for the following uses except by a conditional use permit:

A. Animal hospital

B. Auto filling station, car wash or oil change, and auto repair and maintenance.

C. Auto sales and rental. Provided such sales are ancillary to an auto related business and sale vehicles are setback at least 20’ from any right-of-way and are limited to a maximum of 20 vehicles.

D. Childcare

E. Dry cleaning drop-off, incidental pressing and clothing repair without on-site cleaning

F. Financial services, with drive through

G. Garden supply store or greenhouse with or without outdoor storage or display

H. Laundromats

I. Mortuary or funeral home

J. Museum

K. Pawn shops, provided the operator meets license requirements established by the City Council and provided a list of inventory in the shop is provided on a weekly basis to the Chief of Police.

L. Personal Services, such as beauty shops

M. Private clubs and lodges

N. Repair shops, excluding engine repair

O. Restaurants, with drive through

P. School

Q. Showroom (indoors only)

R. Theater, assembly hall or arena

Subd. 5. LOT AREA, LOT WIDTH AND YARD REQUIREMENTS:

A. Setbacks

1. Front 30'

2. Side 10'

3. Rear 10'

B. B. Lot Dimensions

1. Lot Area 12,000 sq. ft.

2. Lot Width 80'

3. Lot Depth 120'

C. Building Height 40' maximum and minimum height equal to CBD 2

Subd. 6. GENERAL PROVISIONS.

A. Building Design and Materials:

1. Building materials in the C-1 district shall be attractive in appearance, durable with a permanent finish, and of a quality that is consistent with high standards of development. Where appropriate, buildings shall carry over materials and colors of adjacent buildings, with the exception of prohibited materials.

2. All buildings shall include the following four (4) elements:

   a. Accent materials, which shall be wrapped around walls that are visible from a public street or open space;

   b. Buildings containing office and retail uses on the first floor shall maintain forty percent (40%) minimum window coverage on each first floor front that faces a street or public open space;

   c. Complementary major material colors;

   d. A combination of vertical and horizontal pattern designs in the building facade.

3. Any exterior building wall adjacent to or visible from a public street, public open space, or abutting property may not exceed sixty feet (60') in length without significant visual relief consisting of one or more of the following:

   a. The facade shall be divided architecturally by means of significantly different materials or textures, or

   b. Horizontal offsets of at least four feet (4') in depth, or

   c. Vertical offsets in the roofline of at least four feet (4'),

   d. Fenestration at the first floor level which is recessed horizontally at least one foot (1') into the facade.

4. Exterior building materials shall be classified primary, secondary, or accent materials. Primary materials shall cover at least sixty percent (60%) of the facade of a building. Secondary materials may cover no more than thirty percent (30%) of the facade. Accent materials may include door and window frames, lintels, cornices, and other minor elements, and may cover no more than ten percent (10%) of the facade. Allowable materials are as follows:

   a. Primary exterior building materials may be brick, stone, architectural precast concrete or glass. Bronze tinted or mirror glass are prohibited as exterior materials in the C-1 district.

b. Secondary exterior building materials may be any of the primary building materials above, decorative block, integrally colored stucco, or fiber cement siding (color impregnated or painted) in vertical panel design only with hidden seams.

c. Synthetic stucco may be permitted as a secondary material on upper floors only.

d. Accent materials may be wood, metal or fiber cement when used in trim, fascia or soffit if appropriately integrated into the overall building design and not situated in areas which will be subject to physical or environmental damage.

e. All primary and secondary materials shall be integrally colored, except where otherwise stated.

f. Primary exterior building materials for townhome buildings where all units contain an exterior entrance: Allowable primary exterior building materials for townhome buildings shall include brick, stone, glass, integrally colored stucco or fiber cement siding in lap or panel (integrally colored or painted). Fiber cement seam lines on panels shall be architecturally integrated into the building design so that they are not visible. Seam lines can be filled, covered by other accent materials or other method thereby making the seam lines invisible.

g. Decorative block shall be colored only by means of a pigment integral to the block material, not applied to the surface.

h. Sheet metal, corrugated metal, asbestos, iron, shakes, plain flat concrete block (whether painted or integrally colored or not) are not acceptable as exterior wall materials on buildings within the C-1 district.

i. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screened from the ground level view of adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal building.

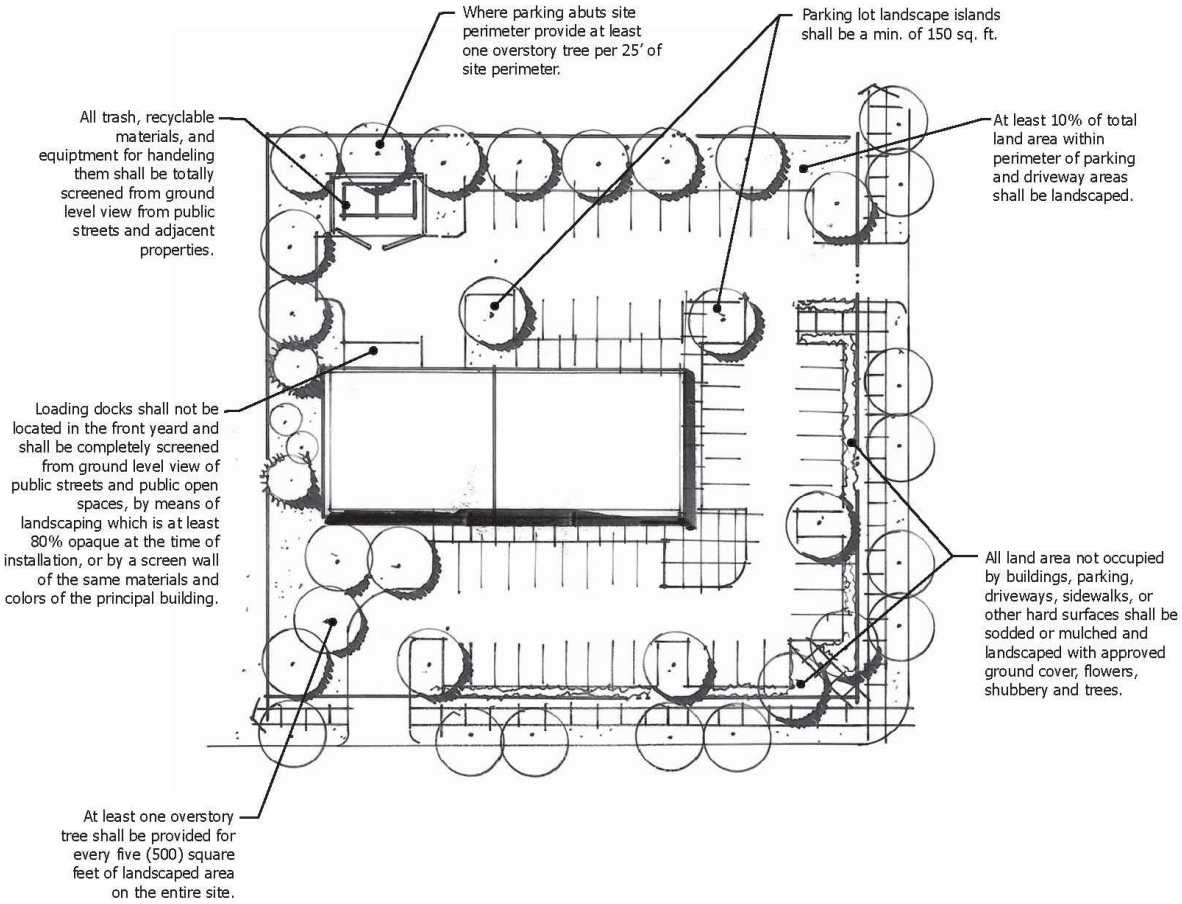
j. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building.

B. Trash Handling: All trash, recyclable materials, and equipment for handling them, including compactors, shall be totally screened from ground level view from public streets and adjacent properties, whether in the front, side or rear, either by being stored within the principal structure, one hundred percent (100%) screened from view by the principal building, or stored within an accessory structure enclosed by a roof and readily served through swinging doors or an overhead door on tracks.

C. Loading Areas: Loading areas or loading docks shall be provided for all

commercial uses according to their anticipated needs, as determined by the City Council, such loading areas being sufficient in size and location so as to prevent service vehicles from blocking public streets, sidewalks or alleys.

D. Loading Docks: Loading docks shall not be located in the front yard and shall be completely screened from ground level view of public streets and public open spaces, by means of landscaping which is at least eighty percent (80%) opaque at the time of installation, or by a screen wall of the same materials and colors as the principal building.



E. Landscaping:

1. All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surfaces shall be sodded or mulched and landscaped with approved ground cover, flowers, shrubbery and trees.

2. At least ten percent (10%) of the total land area within the perimeter of private parking and driveway areas shall be landscaped. Landscaped areas provided within the build-to line may be credited toward this ten percent (10%) landscaping requirement on a square foot for square foot basis, for up to half of the ten percent (10%) requirement, or five percent (5%).

3. Parking lot landscaped islands shall be a minimum of one hundred fifty (150) square feet in area and include at least one over-story or evergreen tree meeting the requirements of this title.

4. Where parking abuts the site perimeter there shall be provided at least one over-story tree per twenty five feet (25') of site perimeter.

5. At least one over-story tree shall be provided for every five hundred (500) square feet of landscaped area on the entire site.

6. The landscape plan shall include a full complement of over-story, ornamental and evergreen trees, shrubbery, and ground covers which are hardy and appropriate for the locations in which they are planted, and which provide year round color and interest.

F. Parking Requirements as specified in 15.52

12.24 C-PD COMMERCIAL PLANNED DEVELOPMENT OVERLAY

Subd. 1. PURPOSE AND INTENT. The purpose of the C-PD Planned Development District is to promote planned, high quality development in the commercial area along Highway 61 at the east gateway to the City, as a Planned Unit Development.

Subd. 2. USES. Permitted, accessory and conditional in the C-PD District shall be the same as the respective permitted, accessory and conditional uses in the C-1 except for the following additional Conditional Use.

a. Auto Repair

b. Auto Sales and Rental

c. Construction Yards, for the storage of construction equipment and materials, are conditionally permitted, as well as any necessary buildings for the storage of construction equipment and construction materials, which comply with zoning and applicable building codes. The conditions for approval are as follows and no other conditions are placed on this Conditional Use, including those in 12.06, that are not listed below:

1) that the construction yard be proximal to a construction company's primary office and not be located on the highway frontage.

2) that construction materials be stored on racks or pallets in an orderly and safe manner with perimeter screening of the site by a secure fence and landscaping so the outside storage is screened from view from of public right-of-ways and adjacent properties.

Subd. 3. DEVELOPMENT STANDARDS. Lot standards and general provisions for development within the C-PD shall be the same as for the C-1 District, except for the setback of buildings to the Highway 14/61 frontage, which shall require a build-to line of twenty feet (20') minimum and forty feet (40') maximum.

Subd. 4. MASTER PLAN REQUIRED. All rezonings, plats, site plan approvals or redevelopment plans will be approved by the City within the C-PD District only if a master development plan is submitted and approved which comprises at least three (3) acres of land and is agreed to by all property owners within the master plan area. Such master plan shall be prepared and reviewed according to the Planned Unit Development (PUD) standards of this title.

Subd. 5. WAIVER. The City Council may waive the requirement that a master plan be prepared and reviewed in accordance with the Planned Unit Development (PUD) standards of this title, if what is proposed for the site is in accordance with all other provisions of the Zoning Ordinance, is consistent with the City's Comprehensive Plan and is presented to the Planning Commission, who shall hold a public meeting, and provide a recommendation prior to City Council action.

Subd. 8. USES IN COMMERCIAL DISTRICTS

Use – P = Permitted, C = Conditional	C-1	CBD	C-PD
Animal hospitals	C		
Auto filling station, car wash or oil change and auto repair and maintenance.	C		
Auto sales and rental. Provided such sales are ancillary to an auto related business and sale vehicles are setback at least 20’ from any right-of-way and are limited to a maximum of 20 vehicles.	C		C
Bakery	P	P	P
Bowling Alley no more than 8 lanes	P		P
Childcare	C	C	C
Copy shop	P	P	P
Dry cleaning drop-off, incidental pressing and repair without on-site cleaning	C	C	C
Financial services, without drive through	P	P	P
Financial services, with drive through	C	C	C
Garden supply store or greenhouse with or without outdoor storage or display	C		C
Health clubs and fitness centers	C	C	C
Hotels, motels, inns, bed and breakfast	P	P	P
Laundromats	C	C	C
Mortuary or funeral home	C	C	C
Multi-family attached residential dwellings, with a minimum density of 8 units per acres, which may include units combining living and working space within the unit, if all units on the same floor of a building are such		P	
Multi-family attached residential dwellings, with a minimum density of 8 units per acres, if purely residential units and units combining living and working space within the units are mixed on the same floor of a building		C	
Museum	C	C	C
Office, including medical and dental	P	P	P
Outdoor seating within the public right-of-way		C	
Personal services, such as beauty shops	C	C	C
Private clubs and lodges	C	C	C

Use – P = Permitted, C = Conditional	C-1	CBD	C-PD
Public buildings	P	P	P
Public infrastructure	P	P	P
Repair shops, excluding engine repair	C	C	C
Restaurants, without drive through	P	P	P
Restaurants, with drive-through	C		C
Retail goods and services in a fully enclosed building	P	P	P
School	C	C	C
Showroom (indoors only)	C	C	C
Tavern		C	
Theaters, assembly halls, and arenas	C	C	C
Auto Repair			C
Auto Sales and Rental			C
Construction yards (with limitations)			C

12.25 I - INDUSTRIAL DISTRICT

Subd. 1. PURPOSE AND INTENT. It is the purpose and intent of the I - Industrial. District to establish areas within the City of La Crescent for primarily industrial and related uses. The primary function of the I - Industrial District is to provide locations that will not conflict with other uses, are suitable for industrial uses and have good transportation access.

Subd. 2. PERMITTED USES. Within the Industrial District, no building or land shall be used except for one or more of the uses identified below:

A. Wholesaling

B. Light manufacturing, no emission industries

C. Automobile repair and similar uses

D. Office

E. Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.

F. Public parks, trails, playfields, and related buildings/structures

G. Adult uses as regulated by this title

Subd 3. PERMITTED ACCESSORY USES: Uses such as those listed below that are customarily incidental and clearly subordinate to the permitted or approved conditional uses:

A. Garages and accessory buildings in conformance with district requirements.

B. Fences

C. Signs

Subd 4. CONDITIONAL USES.

A. Heavy manufacturing, no emission industries

B. Food processing industries

C. Manufacturing industries with emissions

D. Waste disposal sites and facilities

E. Bulk fuel storage facilities

F. Mini Storage Buildings.

G. Other industrial uses

Subd. 3. SETBACKS

A.	Front	15'
B.	Side	10'
C.	Rear	15'

Subd. 4. LOT AREA, WIDTH, DEPTH AND BUILDING HEIGHT

A.	Lot Area	12,000 sq. ft.
B.	Lot Width	80'
C.	Lot Depth	120'
D.	Building Height	48' maximum

Subd. 5. PARKING REGULATION. As provided in 12.52

Subd. 6. USES IN THE INDUSTRIAL DISTRICT

Use – P = Permitted, C = Conditional	
Wholesaling	P
Light manufacturing, no emission industries	P
Automobile repair and similar uses	P
Office	P
Public parks, trails, playfields, and related buildings/structures	P
Public infrastructure, such as well houses, lift stations, water towers, booster stations, etc.	P
Heavy manufacturing, no emission industries	C
Food processing industries	C
Manufacturing industries with emissions	C
Waste disposal sites and facilities	C
Bulk fuel storage facilities	C
Other industrial uses	C
Adult uses as regulated by this title	P
Mini Storage Buildings	C

12.26 CONSERVATION DEVELOPMENT DISTRICT

Subd. 1. PURPOSE AND INTENT. The Conservation Development District is intended to prescribe and mandate a residential development pattern in areas of the City at an eight hundred sixty (860) foot elevation and higher and in other areas where municipal water and service services will not be extended. This will be accomplished through the grouping of houses in clusters to preserve environmentally sensitive areas and open space to meet the following purposes:

A. To provide efficient use of the land use while maintaining contiguous blocks of economically viable agricultural land, natural woodlands, open space, preservation of historical features, scenic views, natural drainage systems and other desirable features of the natural environment.

B. To require the grouping of houses on sites that has low agricultural potential and low scenic and recreational appeal.

C. To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.

D. To minimize the amount of infrastructure needed for the development of residential housing sites. Roads, wells, septic systems, and other needed

improvements to be designed and constructed to minimize their impacts on the environment.

E. To encourage innovation and promote flexibility, economy and creativity in this low impact residential development.

F. To create neighborhoods with direct access to open space, distinct identifies and sense of community.

G. To maximize the conservation and maintenance of open space by requiring large, aggregated, undeveloped lands.

H. Will provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.

I. To preserve scenic views of the river valley from bluff top lands, scenic view of bluff top land from the river valley, and elements of the City's natural character.

J. To minimize the visual impacts of development from surrounding lands and roadways.

K. To reduce erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes.

L. To minimize storm water runoff impacts on sensitive bluff resources by maintaining pre-existing hydrological conditions to the greatest extent possible.

M. To implement the City's Comprehensive Plan.

Subd. 2. Allowable Uses. Within the Conservation Development District, no building or land shall be used except for one (1) or more of the uses shown on the chart entitled "Uses-Conservation Development District."

USES — CONSERVATION DEVELOPMENT DISTRICT P = Permitted Uses, C = Conditional Uses	
Single Family	P
Farms and farmsteads	P
Commercial gardening nurseries, orchards, similar agriculture	C
Accessory buildings	P
Home occupations	C
Parks, playgrounds, golf courses, other recreational uses	P
Seasonal produce sales stands for sale of fruit/vegetable products grown on site	P
Public and semi-public utilities and facilities	C
Cemeteries	C

Subd. 3. Provisions.

A. The Planning Commission and City Council shall consider the purpose of this section in its review of the development.

B. On-site, community septic systems and community wells shall have adequate reservoir capacity for fire suppression are mandated in Conservation Development Districts,

C. The provisions of this section shall apply if the principal structure is located at or above elevation eight hundred sixty (860). All portions of the development, including portions of the development above elevation eight hundred sixty (860), shall be subject to all other applicable requirements of Chapter 12 Zoning Regulations, Chapter 13 Subdivision Regulations, and Section 12.185 Storm Water Pollution and Erosion Control.

D. Where the provisions of this section conflict with the requirements of other sections in Chapter 12 Zoning Regulations and Chapter 13 Subdivision Regulations, the provisions in this section shall apply.

E. The following items shall be submitted as a part of the application:
   1. A Resource Inventory Plan including the following:

      a. Topography at two (2) foot contour intervals. Areas at or above elevation eight hundred sixty (860) shall be clearly labeled.

      b. Slopes greater than fifteen (15) percent.

      c. Slopes exceeding thirty-five (35) percent and land within twenty (20) feet of slopes exceeding thirty-five (35) percent shall be left in a natural and undisturbed state.

      d. Soil type locations and identification of characteristics such as building capability and wastewater disposal systems as applicable.

      e. Geologic conditions.

      f. Hydrologic characteristics including surface water bodies, floodplains, wetlands, natural swales, and drainage-ways.

      g. Vegetation.

      h. Current land use.

      i. Visual resources.

      j. Cultural resources.

      k. Other sensitive areas.

   2. A Preservation Plan based on the Resource Inventory Plan that identifies

critical areas for protection.

3. A Concept Subdivision Plan indicating which areas are to be protected.

4. The open space areas indicating which areas are to be protected.

5. Boundaries of areas to be developed and proposed street and lot layout.

6. Identify the buildable area of each lot.

7. Identify the amount of area of each lot to be disturbed, recognizing that no land within twenty (20) feet of slopes exceeding thirty-five (35) percent may be disturbed.

8. Identify the maximum amount of impervious surface proposed on each lot.

9. Identify the location, type, and size of trees to be removed.

10. Identify the location, type and size of trees to be planted.

11. Number and type of housing units proposed.

12. Areas proposed for storm water management and sewage treatment as applicable.

13. A Phasing Plan. Conservation development may be phased in accordance with the development plan for the entire tract meeting the following requirements:

    a. A Phasing Plan identifying the sequence of development showing approximate areas with a description of each phase.

    b. The Phasing Plan shall be made part of the development and is effective for five (5) years from the date of preliminary plat approval. If a final plat is not approved within five (5) years of any phase indicated in the preliminary plat, it shall become null and void.

14. Density and Dimensional Standards.

    a. Conservation development shall not exceed a gross density of one (1) dwelling unit for every three (3) acres of the total land area in the proposed development. Maximum density should be that of the underlying or pre-existing zoning in dwellings per acre. The dedicated open space shall be part of the total land area.

    b. Minimum Spacing Between Dwellings: Forty (40) feet.

    c. Minimum Lot Width: Eighty (80) feet.

    d. Minimum Street Frontage: Twenty (20) feet.

e. Maximum Height: Thirty (30) feet.

f. Principal Structure Setbacks:

i. Front: Twenty-five (25) feet.

ii. Side: Twenty (20) feet.

iii. Rear: Twenty-five (25) feet.

iv. Top of Bluff: Thirty (30) feet

15. Open Space.

a. A minimum of fifty (50) percent open space shall be dedicated as open space in large, aggregated, undeveloped land areas as part of the development subject to the following requirements:

i. Open space calculation must not include dwelling units or sites, road right-of-way; land covered by road surfaces, parking areas or structures and landscaped islands.

ii. The minimum required open space shall be held in common ownership, subject to a permanent conservation and/or scenic easement and used for the purposes as defined by this section. The easement shall be dedicated to an acceptable land trustee or other similar organization as approved by the City. The easement may also be dedicated to the City itself.

iii. No more than fifty (50) percent of the required open space may consist of water ways or bodies, floodplains, wetlands, or slopes greater than twenty-five (25) percent.

iv. The development of lands under this zoning district does not alleviate the park dedication provisions contained in the Subdivision Regulations, Section 13.07.9, unless waived by the City Council.

F. Homeowner's Association.

1. A homeowner's association shall be established if the open space is owned by a homeowner's association. Membership in the association is mandatory for all purchases of homes in the development and their successors.

2. A homeowner's association agreement, guaranteeing continuing maintenance, shall be submitted to the City as part of the data required. The homeowner's association documents or the declaration of covenants, conditions and restrictions shall contain the following information:

a. The legal description of the common lands or facilities;

b. The restrictions placed upon the use and enjoyment of the lands or facilities including the persons or entities entitled to enforce the restrictions;

c. The mechanism for resolving disputes among the owners or association members;

d. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums;

e. The conditions and timing of transfer of ownership and control of land or facilities to the association or to common ownership;

f. Any other matter the developer deems appropriate;

g. The management of collector sewage treatment systems and community wells;

h. Open space provision specifying and guaranteeing that property (space) must be maintained in perpetuity only and shall not be improved with any buildings, structures or appurtenant facilities. This restriction shall run with the land and be binding on the successors and assigns of guarantee.

G. Design of Water Facilities. Water facilities shall be provided by individual or community wells. Community wells are the preferred method of water provision. Each and every well is required to meet or exceed the Minnesota Department of Health and Minnesota Pollution Control Agency's (MPCA) water quality standards. Evidence of Minnesota Department of Health approval of wells shall be provided to the City. Community wells shall have adequate reservoir capacity for fire suppression or individual homes must be equipped with fire sprinkler systems.

H. Design of Sewage Facilities. Community sewage treatment facilities shall be provided on-site and may be located in commonly held or identified open space preservation areas of the development and protected with easements as determined necessary. All City, County and Minnesota Pollution Control Agency's standards for their design and maintenance, specifically including standards outlined in the MPCA document entitled "Individual Sewage Treatment Standards, Chapter 2080" are applicable.

I. Design of Storm Water Facilities. Storm water facilities shall be designed into the development to properly manage surface water runoff. Runoff should be channeled through natural drainage-ways and created natural landscapes. All storm water facilities shall incorporate Best Management Practices (BMPs) and be subject to all applicable permits as required by the Minnesota Pollution Control Agency (MPCA).

J. Design of Roadways. Roadways shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.

1. The applicant must demonstrate the access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.

2. Right-of-way widths shall be wide enough to provide for all public services, including drainage, trails, sidewalks, utilities, and snow storage. The right-of-way shall be in accordance with the following minimums:

    a. Two-Way Roadway: Fifty (50) feet.

    b. Cul-de-sac Diameter: One hundred thirty (130) feet.

    c. Cul-de-sac Radius: Sixty-five (65) feet.

3. Additional Standards:

    a. Road grades shall not exceed ten (10) percent.

    b. Pavement Strength: Seven (7) tons.

    c. Minimum Pavement Width: Street - twenty-eight (28) feet; Cul-de-sac — one hundred ten (110) feet.

4. Roadways and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening.

5. Roads, driveways and parking areas must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

6. Roadway Buffers. The purposes of roadway buffers are to provide a "greened" edge along perimeter roadways and to prevent direct access to arterial and collector roadways from individual lots.

7. A buffer yard shall be provided along the following road rights-of-way as defined in the Comprehensive Plan:

    a. Major Arterial: Two hundred (200) feet.

    b. Minor Arterial: Two hundred (200) feet.

    c. Collector: Fifty (50) feet.

    d. Buffer yards shall be planted with trees at the rate of one (1) tree per ten (10) feet of lineal right-of-way frontage. Tree plantings shall be located within the buffer yard and planted in locations to prevent a

mature canopy from extending into the road right-of-way unless otherwise approved by the City of La Crescent. It is encouraged that plant materials be planted in natural clusters to provide privacy while preserving the natural character of hillsides and bluffs to the extent possible. Planting varieties shall consist of boulevard trees such as linden, maple or other types as appropriate with the development plan and existing vegetation and as approved by City Council.

e. Buffer yards shall be protected through protective easements and may be held in common or private ownership.

12.27 PLANNED UNIT DEVELOPMENTS (PUD)

Subd. 1. PURPOSE. A Planned Unit Development (PUD) is a tract of land, which is developed as a unit under single or unified ownership or control and which generally includes two or more principal buildings or uses but which may consist of one building containing a combination of principal and supportive uses. A PUD may be requested in any zoning district under the provisions set forth in this Section. Each approved Planned Unit Development shall be considered a separate zoning district and shall not be considered an 'overlay' to the existing district.

The purposes of this section are as follows:

A. To encourage a more creative and efficient development of land and its improvements through the preservation of natural features and amenities than is possible under the more restrictive application of zoning requirements. This section may allow modifications such as non-standard lot sizes, private streets and driveways, reduced rights-of-way and street widths, housing types, zero lot lines and building setbacks. These changes shall meet the standards and purposes of the comprehensive plan while preserving the health, safety, and welfare of the citizens of the city.

B. To allow for the potential mixture of uses in an integrated and well planned area when such mixing of land uses could not otherwise be accomplished under this title.

C. To ensure concentration of open space into more usable areas, and a preservation of the natural resources of the site.

D. Protects natural features in private, common and public open space.

E. To facilitate the economical provision of streets and public utilities.

F. To facilitate mixed use developments, and/or affordable housing, recreational uses and institutional uses.

Subd. 2. STANDARDS AND REGULATIONS FOR A PLANNED UNIT DEVELOPMENT. A rezoning will be required of all planned unit developments, as they are not considered an overlay on the underlying zoning district and are reflected as a separate district on the official zoning map. The city may approve the planned unit development only if it finds that the development satisfies all of the following standards:

A. The planned unit development is consistent with the comprehensive plan of the city.

B. The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation or creation of unique amenities such as natural streams, stream banks, wooded cover, rough terrain, manmade landforms or landscaping and similar areas.

C. The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site. The development plan will not have a detrimental effect upon the neighborhood or an in which it is proposed to be located.

D. The planned unit development provides transitions in land use in keeping with the character of adjacent land use, and provides variety in the organization of site elements and building design.

E. The tract under consideration is under single ownership or control.

F. The tract is at least ten acres in size unless the applicant can show that a PUD of less acreage meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the city and that all of the following conditions exist:

    1. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.

    2. The proposal would benefit the area surrounding the project to greater degree than development allowed within the then existing zoning district(s).

    3. The proposal would provide mixed land use and/or site design flexibilities while enhancing site or building aesthetics to achieve an overall, workable higher quality of development than would otherwise occur in the then existing zoning district.

    4. The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.

G. The public benefits, such as but not limited to, improved site or architectural design, open space preservation, improved parks, trails, recreation facilities or other amenities, a mix of compatible land uses which foster Comprehensive Plan goals, of the Planned Unit Development justify rezoning from the primary zoning ordinance provisions and performance standards.

H. The Planned Unit Development will not create an excessive burden on parks,

schools, streets, or other facilities and utilities that serve or are proposed to serve the Planned Unit Development.

Subd. 3. PERMITTED USES. Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official comprehensive land use plan unless otherwise approved in the development plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan.

Subd 4. COORDINATION WITH SUBDIVISION REGULATIONS. Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD if subdivision of property is required to implement the development. The plans required under this title shall be submitted in a form which will satisfy the requirements of the subdivision ordinance for the preliminary and final plat.

Subd 5. PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT (PUD).

A. All Planned Unit Development Applications shall follow the procedural requirements set forth in this Subsection. Prior to issuance of any permits for development within a PUD the following must occur:

    1. A concept sketch plan review may be completed pursuant to this Subsection if so desired by the applicant. This review provides helpful insight and preliminary review and recommendation by the Planning Commission and City Council.

    2. A General Development Plan application and preliminary plat shall be submitted according to the procedures outlined in the following items subject to review and recommendation of the Planning Commission and approval by the City Council.

    3. A Final Development Plan application and final plat shall be submitted according to the procedures outlined in the following items subject to review and recommendation of the Planning Commission and approval by the City Council.

B. Concept Sketch Plan: The purpose of the concept stage is to inform the City of the applicant's intentions and to inform the applicant as to the general acceptability of the proposal before extensive costs are expended by the applicant.

    1. A concept sketch plan review is optional, however it is highly encouraged as it aids in the review process.

    2. The approval is non-binding, on the part of both the applicant and the City. Any approval or denial shall in no way bind the City to subsequent action on more detailed plans.

3. Concept Sketch plan review application information:

    a. An application for concept sketch plan review on City application form and all applicable fees, signatures and information.

    b. A general plan and statement of the concept explaining the land use proposed, density, public and private parks and open space, natural resources or other public benefits and tentative staging or schedule.

4. Concept Sketch plan review:

    a. Planning staff shall submit a written review along with the applicant's plans to the Planning Commission for their consideration.

    b. The Planning Commission shall hold ~~and~~ informational public meeting(s) of all interested parties.

    c. The Planning Commission shall make its recommendations to the City Council.

    d. The City Council will take action on the concept sketch plan review. Approval of the concept sketch plan review shall be limited to the general acceptability of the land uses proposed and their interrelationship. The action shall in no way bind the City Council to subsequent action on more detailed plans.

C. General Development Plan: In addition to criteria and standards set forth in this title for granting of a rezoning, the following additional findings shall be made before the approval of a General Development Plan.

1. An applicant shall make an application for a planned unit development following the procedural steps as set forth in this title.

2. The proposed PUD is in conformance with the comprehensive plan. The PUD is in conformance with <u>12.52 Performance Standards</u> unless expressly exempted.

3. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.

4. Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.

5. The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities, which serve or are proposed, to serve the area.

6. The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

7. The following exhibits and written narratives shall be submitted to the City by the proposed developer as a part of the application for a General Development Plan PUD:

    a. An explanation of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations including public benefits it is providing.

    b. A list of the present ownership of all the land included within the planned development and a list of property owners within 500 feet of the outer boundaries of the property.

    c. A general indication of the expected schedule of development including progressive phasing and time schedule.

    d. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street right-of-ways, utilities, and buildings for the property and for the area 500 feet beyond.

    e. Natural features, maps or maps of the property and area 500 feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil, and subsoil conditions.

    f. A map indicating proposed land uses and corresponding areas including housing units, total densities and types, area devoted to nonresidential uses, area devoted and number of off street parking and loading spaces and related access, and common and private parks and open space uses.

    g. Circulation including vehicular and pedestrian movement throughout the site, relationship to the City thoroughfare plan and the adjoining land.

    h. Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water systems, streets and other public utilities.

    i. An engineering report presenting results of percolation tests and soil analysis of the site.

    j. Any additional information requested by the city staff, the planning and zoning commission and city council that may be required for clarification of the proposed project.

    k. 4 copies of all required information shall be submitted.

l. The applicant shall also submit a preliminary plat and all the necessary documentation as required under the Subdivision Ordinance of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the PUD and preliminary plat may be combined into one hearing or may be held concurrently

8. Care and Maintenance of Public Space and Service Facilities: When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

9. Restrictive Covenants: Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

D. Final Development Plan. After approval of the general development plan and preliminary plat the applicant may apply for final development plan approval for all or a portion of the PUD. The applicant shall submit the following material for review by the Planning Commission and City Council.

1. The final development plan with recommended modifications, if any, and if necessary, the modified preliminary plat, shall be filed with the Building Official containing the information required in the general development plan plus any changes recommended by the planning and zoning commission and the city council as a result of the public hearing.

2. The applicant shall also submit a final plat (according to the requirements in the subdivision regulations for all or that portion to be platted. Such plats may be submitted in smaller increments as may be economical to finance or construct at one time.

3. The final general development plan shall be submitted with the first final plat which shall conform to the approved general development plan and approved preliminary plat. This plan shall include any recommended changes by the planning and zoning commission or city council to the original general development plan and original preliminary plat.

4. The city council shall review the final development plan and final plat. Upon approval the following items shall occur:

a. The final development plan and all supporting documents will be filed with the PUD agreement and together they will form the conditions of approval.

b. If the final plat is not recorded with Houston County and the development contract is not fully executed with all required bonds posted within 18 months of the date of the final plat and development contract were approved by the City Council, then the PUD shall become null and void.

E. Building permits. Building permits shall not be issued for any structures and land alterations shall not be made until the following conditions are met:

1. Public open space has been deeded to the City and officially recorded

2. A development contract has been approved and executed by all required parties with all required bonds posted.

3. The Homeowners Association by-laws, covenants and deed restrictions have been approved by the City Attorney and officially recorded

4. The final plat has been approved by the City and recorded with appropriate governmental agencies as required by law.

F. Conveyance and maintenance of common open space.

1. All land shown on the final development plan as common open space must be conveyed to homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowners association or similar organization subject to covenants to be approved by the city attorney which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

2. If a homeowners association is created, the applicant shall submit any required homeowner association documents at the time of the first final plat of development to the city attorney and city staff which explain:

a. Ownership and membership requirements.

b. Articles of incorporation and bylaws.

c. Time at which the developer turns the association over to the homeowners.

d. Approximate monthly or yearly association fees for homeowners.

e. Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

3. Standards for common or open space. No open area may be approved as common open space under the provisions of this article unless it meets the following standards:

4. The location, shape, size, and character of the common open space must be suitable for the planned development.

a. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

b. Common open space must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

c. Outlots to be dedicated for park, ponding or other purposes shall be deeded to the city, or a City approved conservation or preservation corporation, before the final plat is released for recording.

G. Review and amendments.

1. From time to time the Building Official may review PUDs within the city and may make a report to the city council on the status of non-compliance for a particular PUD. If the Building Official finds that the development has not commenced within one year after the original approval of the conditional use for the PUD, the Building Official may recommend that the city council extend the time or revoke the PUD approval as set forth in this title. Prior to cancellation or revocation of this permit, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

2. For additional phases of the PUD, if within five years the project has not progressed, the Building Official may recommend that the city council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PUD, the city council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

3. Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the Building Official if required by engineering or other circumstances not foreseen at the time the final plan was approved.

4. Approval of the planning commission and city council shall be required for other changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

5. Any amendment to the PUD shall require the same procedures as for the application for a PUD as set forth in this title.

12.28 ADULT USES

Subd. 1. AUTHORITY. The United States Supreme Court has ruled that sexually-explicit speech, including nude dancing, is entitled to some level of protection under the First Amendment to the United States Constitution. As a result, municipalities may not ban adult establishments. However, the Supreme Court has ruled that cities may adopt content-neutral zoning and licensing provisions to regulate and control the adverse secondary effects of adult establishments on the community.

Subd. 2. FINDINGS OF THE CITY COUNCIL. The Minnesota Attorney General's Office and the cities of St. Paul, Alexandria, and Rochester, Minnesota, as well as Indianapolis, Indiana; Phoenix, Arizona; Los Angeles, California; Seattle, Washington, St. Croix County, Wisconsin; and Adams County, Colorado; have conducted studies of the impact of adult establishments on their respective communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of La Crescent is relying on the studies, many of which were conducted in larger cities, recognizing that the same or similar adverse impacts could occur in a smaller city such as the City of La Crescent. The findings are based upon the experiences of other cities where such businesses have located. Based on these studies, the City Council makes the following findings regarding the need to regulate adult establishments:

A. Adult establishments have adverse secondary impacts of the types set forth above.

B. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by location and licensing requirements.

C. The city may adopt regulations to promote the public health, safety, morals and general welfare.

D. The public health, safety, morals and general welfare will be promoted by regulations governing adult establishments.

E. Adult establishments can contribute to increased criminal activity and police calls in the area in which they are located, taxing law enforcement services.

F. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk.

G. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

H. Many members of the public perceive areas within which adult establishments are located as less safe than other areas that do not have such uses.

I. The adverse impact that adult establishments have on the surrounding area

diminishes as the distance from the adult establishments increases.

J. A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable regulation on the owners and the operators of the adult establishment. A licensing procedure will place an incentive on the operators to see that the adult establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring therein.

K. The fact that an applicant for an adult use license has been convicted of a sexually-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Section.

L. The barring of individuals with sexually-related criminal convictions from the management of adult establishments for a period of years serves as a deterrent to and prevents conduct which may lead to the transmission of sexually-transmitted diseases.

M. The general health, safety, and welfare of the community is promoted by prohibiting nudity in adult establishments. This prohibition is based on concerns of potential adverse effects such as prostitution, the transmission of sexually-transmitted diseases, exposure to minors, obscenity and unsanitary conditions in public places.

N. Small cities experience many of the same adverse impacts of adult establishments present in larger communities.

Subd. 3: PURPOSE. It is the purpose of this Section to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

A. Prevent criminal activity within the City;

B. To allow for efficient and effective law enforcement services in the City;

C. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;

D. To locate adult establishments away from residential areas, schools, day care centers, and places of worship;

E. To provide a content-neutral, objective, licensing scheme that allows the City to monitor adult establishments for violations of building and health codes; and

F. Prevent ownership of adult establishments by persons with prior, relevant criminal convictions.

Subd. 4. Reasonable Opportunity. The provisions of this Section do not prohibit adult establishments from having a reasonable opportunity to locate in the city. This Section is not for the purpose of, nor is it intended to, impose a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is neither the intent nor effect of this Section 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.

Subd. 5. DEFINITIONS. For purposes of this Section the terms defined in this section have the meanings given them.

A. “Adult Establishment" means:

1. Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or

2. Any business that engages in any Adult Use as defined in Subdivision 2 of this section.

B. “Adult Use” means any of the activities and businesses described below:

1. "Adult Body Painting Studio." An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

2. “Adult Bookstore." An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

3. "Adult Cabaret." A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

4. “Adult Car Wash.” A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or other persons to appear in a state of partial or total nudity in terms of Specified Sexual Activities or Specified Anatomical Areas.

5. "Adult Companionship Establishment." A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

6. "Adult Conversation/Rap Parlor." A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

7. "Adult Health/Sport Club." A health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

8. "Adult Hotel or Motel." A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

9. “Adult Use Miscellaneous.” Any establishment, business, or service whose products or services are substantially or significantly distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

10. “Adult Use Mini-Motion Picture Theater.” A building or portion of a building with a capacity for less than 50 persons used for presenting material if such material is distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas. The phrase “used for” in this definition means a regular and substantial course of conduct and not a one-time presentation of such material.

11. "Adult Massage Parlor/Health Club." A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

12. "Adult Modeling Studio." A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

13. "Adult Motion Picture Arcade." Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture

machines, projectors, or other image-producing devices are used 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 motion picture theater that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.

15. "Adult Novelty Business." An establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly-displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.

16. "Adult Sauna." A sauna that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

17. "Adult Steam Room/Bathhouse Facility." A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

C. “Nude” or “Specified Anatomical Areas" means:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

D. "Specified Sexual Activities" means:

1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;

2. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed;

3. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed; and

4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

E. "Substantial or Significant Portion" means 25% or more.

F. "Premises" means the real property and all building and structures located on the real property.

Subd. 6. APPLICATION OF THIS SECTION. No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in the establishment that is prohibited by any ordinance of the City of La Crescent, the laws of the State of Minnesota, or the United States of America. Nothing in this Section shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

Subd. 7. LOCATION OF ADULT ESTABLISHMENTS.

A. Adult establishments may only be located within the Industrial District, and as further regulated in this title.

B. No adult establishment may be located less than two hundred fifty (250) feet from the nearest property line of any land in a residential zone or in a planned unit development zone developed for residential use or an existing residential use, or of any daycare center, school, establishment with a liquor license, library, public parks, religious institution, playground or other public recreational facility in any zoning district, whether within the city limits of La Crescent or not. This spacing requirement does not apply to open space or trails that are not otherwise part of a public park facility.

C. No adult establishment may be located less than two hundred fifty (250) feet from any other adult establishment, whether within the city limits of La Crescent or not. Measurements shall be made in a direct line from the property line of the premises where each use is located.

Subd. 8. EXISTING ADULT ESTABLISHMENTS. Except as otherwise provided in this Section, existing Adult Establishments must comply with all requirements of this Section immediately upon its effective date.

Subd. 9. HOURS OF OPERATION. No Adult Establishment shall be open to the public from the hours of 2:00 a.m. until 10:00 a.m. weekdays and Saturdays, or at any time on Sundays or national holidays.

Subd. 10. OPERATION. Adult Establishments are subject to the following business regulations.

A. Off-site Viewing. An Adult Establishment must prevent off-site viewing of its merchandise or any materials depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

B. Prohibition on Liquor.

1. Adult Establishments shall not sell or dispense intoxicating liquor or 3.2 percent malt liquor nor shall the Adult Establishment be located in a building or on a premises that contains a business that sells or dispenses intoxicating liquor or 3.2 percent malt liquor.

2. The sale and consumption of alcohol is prohibited on the premises of an Adult Establishment, including, but not limited to, any parking areas or lots that are owned or leased by the Adult Establishment or its owner, or used by patrons when they are at the Adult Establishment.

C. Entrances. All entrances to an Adult Establishment, with the exception of emergency fire exits, which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

D. Layout. The layout of any display areas shall be designed so that the management of the Adult Establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.

E. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

F. Signs. Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation. An Adult Establishment must prominently display at the entrance of the business, or no more than two feet from the door-opening device of the establishment, a sign that states "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign must contain letters between three-eighths (3/8) inch and two (2) inches in height.

G. Access by Minors. No minor shall be permitted on the premises of an Adult Establishment. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

H. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:

1. No dancer, live entertainer or performer shall be under 18 years old

2. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.

3. No dancer or performer shall perform any dance or live entertainment closer than 3 feet to any patron.

4. No dancer or performer shall fondle, caress, or touch any patron and no patron shall fondle, caress, or touch any dancer or performer.

5. No patron shall pay or give any gratuity to any dancer or performer.

6. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

Subd. 11. LICENSE REQUIRED.

A. It is unlawful for any person or entity to own, lease, rent, manage or operate an Adult Establishment without a valid license issued by the City pursuant to this Section.

Subd. 12. EXISTING BUSINESSES.

A. Existing Businesses. Within ten (10) working days of the effective date of this Section, any existing Adult Establishment must apply for a license from the City. Failure to apply for a license is a violation of this Section and is subject to penalty. An existing Adult Establishment may continue to operate pending review of the license application by the City.

Subd. 13. LICENSE APPLICATION.

A. An application for a license must be made on a form provided by the City. The completed application must contain the following information:

1. All applicants. For all applicants:

a. Whether the applicant is a natural person, corporation, partnership, or other form of organization.

b. The legal description of the premises to be licensed, along with a sketch or diagram showing the floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

c. The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minn. Stat. § 333.01 shall be submitted.

d. Whether the applicant has had a previous Adult Establishment license suspended or revoked.

2. Applicants who are natural persons. If the applicant is a natural person:

a. The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.

b. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.

c. The street and city addresses at which the applicant has lived during the preceding two years.

d. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.

e. Whether the applicant has ever been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses, or Adult Establishments.

3. Applicants that are partnerships. If the applicant is a partnership:

a. The name(s) and address(es) of the partnership, the name(s) and address(es) of all partners and all of the information concerning each partner that is required of applicants in paragraph (b) of this section.

b. Whether the partnership is general or limited.

c. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. § 333.01, a certified copy of the certificate shall be attached to the application.

4. Corporate or other applicants. If the applicant is a corporation or other organization:

    a. The name of the corporation or business form, and if incorporated, the date and state of incorporation.

    b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and Bylaws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn. Stat. § 303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the Articles of Organization and any Membership Agreements shall be attached to the application.

    c. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in paragraph (b) of this section.

    d. Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.

    e. The name of the registered corporate agent and the address of the registered office for service of process.

5. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city clerk-treasurer in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

B. DISQUALIFICATIONS and REQUALIFICATION. The City will issue a license to an applicant within 30 days of the application unless one or more of the following conditions exist:

1. The applicant is under 18;

2. The applicant failed to supply all of the information requested on the license application;

3. The applicant gives false, fraudulent, or untruthful information on the license application;

4. The applicant has been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or Adult Establishments;

5. The Adult Establishment is not in full compliance with the La Crescent City Code and all provisions of state and federal law;

6. The applicant has not paid the required license fee;

7. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;

8. The applicant is not the proprietor of the establishment for which the license is issued; or

9. The Adult Establishment premises holds an intoxicating liquor, beer or wine license.

C. An applicant may qualify for a license:

1. After one year has elapsed in the case of a previous license revocation;

2. After two years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor or gross misdemeanor offense;

3. After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or

4. After five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.

D. EXPIRATION AND RENEWAL.

1. Expiration. An Adult Establishment license expires at the end of the calendar year.

2. Renewal. A licensee may renew a license by completing an application. The applicant will be allowed to continue business until the City has determined that the applicant meets the criteria for renewal of the license. If the City denies the renewal, the applicant shall not be issued a license for one year from the date of denial.

E. SUSPENSION. The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

1. Violated or is not in compliance with any provision of this Section;

2. Allowed or engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel;

3. Refused to allow an inspection of the Adult Establishment as authorized by this Section; or

4. Knowingly permitted unlawful gambling by any person on the Adult Establishment premises.

F. NOTICE OF SUSPENSION. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

G. REVOCATION. The City may revoke a license if a cause of suspension occurs and the license has been suspended at least once before within the preceding 12 months.

1. Causes of Revocation. The City may revoke a license if it determines that:

a. A licensee gave false or misleading information in the material submitted to the City during the application process;

b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

c. licensee or an employee has knowingly allowed prostitution on the premises;

d. A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended;

e. A licensee has been convicted of an offense listed in this section, for which the applicable time period required in has not elapsed; or

f. Except in the case of an Adult Hotel or Motel, a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

2. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

3. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the

applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked due to a criminal conviction under this section, an applicant may not be granted another license until the appropriate number of years required has elapsed.

H. PROCEDURES FOR APPEAL. Non-renewals, suspensions and revocations of an Adult Establishment license are governed by the following:

1. Notice and Hearing. In the event that the City proposes not to renew, suspend or revoke a license, the City will notify the licensee in writing of the basis for the action. The council will hold a hearing for the purpose of determining whether to not renew, suspend, or revoke the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to not renew, suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.

2. Suspension or Revocation. If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, the suspension or revocation is stayed until the conclusion of such action.

3. Non-renewal. If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within the 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

4. Prompt Judicial Review. After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction. The court shall promptly review such action.

I. POSTING. The license, if granted, must state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the Adult Establishment. The license must be posted in a conspicuous place at or near the entrance to the Adult Establishment.

J. FEES. The annual license fee for Adult Establishments is $ 5,000. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half the regular amount. The fee is non-refundable.

K. INSPECTION.

1. Access. An applicant or licensee shall permit health officials,

representatives of the police department, fire department, and building inspector, to inspect the premises of an Adult Establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.

2. Refusal to Permit Inspections. Refusal to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, or building inspector at any time it is occupied or open for business is a violation of this Section. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license.

3. Exceptions. The provisions of this section do not apply to areas of an Adult Hotel or Motel that are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

L. TRANSFER OF LICENSE. A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Establishment under the authority of a license at any place other than the address designated in the application.

M. PENALTY. Any person violating any provision of this Section shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The City may also enforce any provision of this Section by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

N. SEVERABILITY. Every section, provision, or part of this Section is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Section be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

12.29 BUILDING RELOCATION.

Section I. MOVING OF BUILDINGS WITHIN, OUT OF, OR INTO THE CITY

Subd. 1. PERMIT REQUIRED. It shall be unlawful to move any building or structure into the City from any place outside the City, within the City from one lot or parcel to another, or from the City to a point outside the City without first making application to the Building Official and securing a permit hereinafter provided.

Subd. 2. EXCEPTION. No permit shall be required for moving any building or structure that does not exceed the State Building Code permit requirements.

Subd. 3. PERMIT APPLICATION.

A. Contents. The applicant shall supply the following:

1. Legal description of the land upon which the building is to be placed and a drawing showing the proposed location with reference to the property lines and building in the vicinity.

2. Nature of the building to be moved and a picture of the building.

3. Such information as is required concerning the size, location, and method of construction as is required for new construction.

4. The equipment proposed to be used in the moving, the proposed route the proposed length of time that the building will be upon City Streets, the days and hours when such moving is to be made, the financial responsibility of the applicant, and proof of the required insurance coverage.

5. Whenever it shall be necessary to interfere with wires or cables of a public utility in moving a building, the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given. Proof of such approvals and bond shall be provided in writing by the applicant as part of the application.

6. The application shall include an insurance policy insuring against liability for: personal injury or death occurring in the course of such moving with limits of liability not less than five hundred thousand dollars ($500,000) for each individual and one million dollars ($1,000,000) for each occurrence; and, property damage with limits of liability of not less than one hundred thousand dollars ($100,000) for each occurrence.

7. The applicant shall give access to said building or structure to the Building Official for the purpose of inspection and shall permit the Building Official to inspect the equipment to be used in such moving.

8. Upon the approval of the application for such permit, but before the issuance thereof the applicant shall post a cash bond in an amount to be included as a condition for approval and based upon the estimate of risk of damage, as recommended by the Building Official, for any damage to City streets caused by such travel thereon.

B. Hearing. The Planning Commission shall hold a public hearing prior to acting on the application in the same fashion as with an application for a Variance. The processing of the application shall be treated the same as an application for a Variance as provided under Ordinance and shall pay the same fee as is required under that Ordinance.

C. Approval.

1. No permit shall be granted except upon the order of the City Council after recommendation by the Planning Commission.

2. Any approval will be conditioned upon the posting by the applicant of a security bond, cash bond, or letter of assurance by the mortgagee of an executed construction mortgage conditioned upon and guaranteeing that the structure will be installed and brought into conformity to the Building Code within 90 days of the issuance of the permit. The penalty of the bond shall be an amount equal to 150% of the estimated cost of bringing the structure into conformity with all codes.

3. No such application for a moving permit shall be granted by the City Council unless such building or structure can be moved with reasonable safety to persons or property within the City. The Building Official may impose such conditions as are necessary to assure compliance with the Ordinances of this City and to assure the public's safety.

4. No approval may be granted without first obtaining the input of the City Chief of Police and City Engineer. After examination of said application, annexes, and all facts relative thereto, if the Building Official shall be satisfied that the Ordinances of the City will not be violated by such moving and the public safety will not be jeopardized thereby, he or she shall refer the application to the Chief of Police and the City Engineer.

5. The City Engineer and Chief of Police shall examine such application and the facts relative thereto to determine the advisability of any proposed use of the City streets from the viewpoint of traffic and public safety on the day and hours when the proposed moving would be taking place. In order to assure public safety including the integrity of any fire alarm wires, and traffic control they may impose conditions with respect to the days and hours of moving, or the route to be followed and the traffic or safety devices to be used.

Subd. 4. Conformity of Building or Structure to Building Code Required. Whether or not a permit is required, no building or structure shall be moved to a location within the City unless it conforms to the building codes of the City relating to new structures. If construction, alternations, or repair work on such building or structure will be necessary to make it conform to such regulations, permits for such work shall be obtained before such building or structure is moved, which permits shall make provision for the doing of such work within 90 days after such building or structure is located in this City. Failure to make such building or structure conform to construction regulations within the 90 day period commencing on the date the building is moved shall constitute a violation and each day that such violation continues shall constitute a separate offense. (Refer to the Ordinance No. 373, B. #8 concerning enforcement.)

Subd. 5. Conformity of Building or Structure to Zoning Required. No such building or structure shall be moved to a location within the City unless it will conform to the zoning regulations of the City, will comply with setback and lot requirements, and will be a building that is compatible with the general character and appearance of other structures in the vicinity.

Subd. 6. Procedures for Moving Buildings:

A. Lights and Warning Devices:

1. Whenever a street or alley is blocked by a house or structure that is being moved, warnings to that effect shall be placed by the permit holder so as to warn vehicles and persons from entering that portion of the street which is so blocked.

2. The person moving any building through the street shall keep warning signs and lanterns or lights at night on the building so as to guard against any person or vehicle from colliding with it.

B. Utility Wires or Cables: Whenever is shall be necessary to interfere with wires or cables of a public utility in moving a building, the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given.

C. Fire Alarm Wires: When any such building shall approach any fire alarm wire or pole which shall be endangered by the removal of such building, it shall be the duty of the mover to notify the Chief of the Fire Department at least 3 working days before reaching such wire or pole so that they may be removed or cared for by the proper authorities.

Section II. MOVING BUILDINGS THROUGH CITY:

Subd. 1. Permit Requirements.

A. Permit Required. It shall be unlawful to move any building or structure on, through or over any City street, alley, sidewalk or other public place in the City without first making application to the Building Official and securing a permit hereinafter provided.

B. Permit Application. Applications shall state thereon the proposed route and the number of days it is intended that the building shall occupy any portion or any street, alley, sidewalk or other public place.

C. Permit Fees: Upon the approval of the intended route, a fee as determined by the City for each day or fraction thereof that it is intended that the building shall occupy any such portion of any such public place shall be paid and the permit issued. An additional payment as determined by the City for each day or fraction thereof over and above the time stated on the permit, during which any building shall occupy any such public place, shall be paid.

D. Bond Requirements. Every person applying for a permit under this Section shall submit with the application a bond in the sum of fifty thousand dollars ($50,000), conditioned on applicant's compliance with all provisions and agreeing to pay and holding the City harmless from any judgments, cost and expense which may be made against it and covering any damage to the City streets that may occur during the move of the structure or building through the City.

Subd. 2. Procedures for Moving Buildings.

A. Lights and Warning Devices:

1. Whenever a street or alley is blocked by a house or structure which is being moved, warnings to that effect shall be placed by the permit holder so as to warn vehicles and persons from entering that portion of the street which is so blocked.

2. The person moving any building through the street shall keep warning signs and lanterns or lights at night on the building so as to guard against any person or vehicle from colliding with it.

B. Utility Wires or Cables: Whenever is shall be necessary to interfere with wires or cables of a public utility in moving a building, the terms of any special or franchise ordinance governing shall apply and the bond therein specified shall be given.

C. Fire Alarm Wires: When any such building shall approach any fire alarm wire or pole which shall be endangered by the removal of such building, it shall be the duty of the mover to notify the Chief of the Fire Department at least 3 working days before reaching such wire or pole so that they may be removed or cared for by the proper authorities.

12.30 FLOODPLAIN.

Subd, 1. STATUTORY AUTHORIZATION. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 1O3F and Sections 412,191, 462.351 to 462.364 and 471.62, Minnesota General Statutes delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Subd. 2. FINDINGS OF FACT.

A. The flood hazard areas of La Crescent, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. Methods Used to Analyze Flood Hazards. This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

Subd, 3. STATEMENT OF PURPOSE. It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in 12.29, Subd, 2a by provisions contained herein.

Subd. 4. GENERAL PROVISIONS.

A. Lands to Which Section Applies: This section shall apply to all lands within the jurisdiction of the City of La Crescent shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the

Floodway, Flood Fringe or General Flood Plain Districts.

B. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section. The material shall include the Flood Insurance Study for the City of La Crescent prepared by the Federal Insurance Administration dated November 2, 1982 and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated May 2, 1983 therein. The Official Zoning Map shall be on file in the Office of the City Clerk—Administrator, City of La Crescent.

C. Regulatory Flood Protection Elevation: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

D. Interpretation:

1. In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Building Official, the Planning Commission shall make the necessary interpretation and this Planning Commission interpretation may be appealed to the Zoning Board of Appeals. All decisions will be based on elevations on the regional (100—year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence,

Subd. 5. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

Subd. 6. WARNING AND DISCLAIMER OF LIABILITY. This Section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section shall not create liability on the part of the City of La Crescent or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made there under.

Subd. 7. SEVERABILITY. If any section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

12.31 ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

Subd. 1. Districts:

A. Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map as adopted.

B. Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map as adopted.

C. General Flood Plain District. The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map as adopted.

Subd. 2. COMPLIANCE. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses, shall be prohibited. In addition, a caution is provided here that:

A. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section.

B. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Section; and

C. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section.

12.32. FLOODWAY DISTRICT (FW)

Subd. 1. PERMITTED USES.

A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

B. Industrial—commercial loading areas, parking areas, and airport landing strips.

C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and

nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

D. Residential lawns, gardens, parking areas, and play areas.

Subd. 2. STANDARDS FOR FLOODWAY PERMITTED USES.

A. The use shall have a low flood damage potential.

B. The use shall be permissible in the underlying zoning district if one exists.

C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

Subd. 3. CONDITIONAL USES.

A. Structures accessory to the uses listed Subd. 1 above and the uses listed in Subd. 3, b through h below.

B. Extraction and storage of sand, gravel, and other materials.

C. Marinas, boat rentals, docks, piers, wharves, and water control structures.

D. Railroads, streets, bridges, utility transmission lines, and pipelines.

E. Storage yards for equipment, machinery, or materials.

F. Placement of fill,

G. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subd. 3 of this Section.

H. Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10—year frequency flood event.

Subd. 4. STANDARDS FOR FLOODWAY CONDITIONAL USES.

A. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100—year or regional flood or cause an increase in flood damages in the reach or reaches affected.

B. All floodway Conditional Uses shall be subject to the procedures and

standards contained in 12.38, Subd, 4 of this section.

C. The Conditional Use shall be permissible in the underlying zoning district if one exists.

D. Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method,

2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long—term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

3. As an alternative, and consistent with Subsection 2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on—site storage of fill or other materials which would have caused an increase to the stage of the 100—year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

E. Accessory Structures:

1. Accessory structures shall not be designed for human habitation.

2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

   a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

   b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP—l or FP—2 flood proofing classifications in the State Building Code, As an alternative, an accessory structure may be flood proofed to the FP—3 or FP—4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

   a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

F. Storage of Materials and Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

G. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community—wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

H. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100—year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

12.33 FLOOD FRINGE DISTRICT (FF)

Subd. 1. PERMITTED USES. Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre—existing, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe "Permitted Uses" and the standards for all Flood Fringe "Permitted and Conditional Uses" listed.

Subd. 2. STANDARDS FOR FLOOD FRINGE PERMITTED USES.

All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

A. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with 15,16, Subd, 4, e 3).

B. The cumulative placement of fill where at any one time in excess of one—thousand (1,000) cubic yards of fill is located on the parcel shall be allowable

only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with this section.

C. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

D. The provisions of this section shall apply.

Subd. 3. CONDITIONAL USES. Any structure that is not elevated on fill or flood proofed in accordance with this section, or any use of land that does not comply with the standards, shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in this Section.

Subd. 4. STANDARDS FOR FLOOD FRINGE CONDITIONAL USES.

A. Alternative elevation methods other than the use of fill may be utilized to elevate a structures lowest flood above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above—grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above—grade and not a structures basement or lowest floor if: 1) if the enclosed area is above—grade or at least one side of the structure; 2) is designed to internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above—noted alternatives elevation methods are subject to the following additional standards:

1. Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of Flooding.

2. Specific Standards for Above—grade, Enclosed Areas — Above—grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

   a. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one—foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

   b. That the enclosed area will be designed of flood resistant materials in accordance with the FP—3 or FP—4 classifications in the State

Building Code and shall be used solely for building access, parking of vehicles or storage.

B. Basements, shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

2. Nonresidential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with 12.33, Subd. 4, c, of this Section,

C. All areas of nonresidential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP—l or FP—2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP—3 or FP—4 classification shall not be permitted.

D. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on—site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100—year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage of Materials and Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

F. The provisions of 12.33, Subd. 5, of this title shall also apply.

Subd. 5. Standards for All Flood Fringe Uses.

A. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses — accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

C. Manufacturing and Industrial Uses — measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in 12.33, Subd, 5, b, above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

D. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method, The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100—year flood elevation — FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi—structure or multi—lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

E. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

F. Standards for travel trailers and travel vehicles are contained in Section 9.3.

G. All manufactured homes, where permitted, must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over—the—top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

12.34 GENERAL FLOOD PLAIN DISTRICT

Subd. 1. PERMISSIBLE USES.

A. The uses listed in 12.32, Subd. 1, of this title shall be permitted uses,

B. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to 15, 18, Subd, 2, below. Section 4.0 shall apply if the proposed use is in the Floodway District and Subd. 2 shall apply if the proposed use is in the Flood Fringe District.

Subd. 2. PROCEDURES FOR FLOODWAY AND FLOOD FRINGE DETERMINATIONS WITHIN THE GENERAL FLOOD PLAIN DISTRICT.

A. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Building Official for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District,

1. A typical valley cross—section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross—sectional areas to be occupied by the proposed development, and high water information.

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 — 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.

2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5 shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of

encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

C. The Building Official shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the Governing Body shall refer the matter back to the Building Official who shall process the permit application consistent with the applicable provisions of 12.32 and 12.33 of this title.

12.35 SUBDIVISIONS

Subd. 1. REVIEW CRITERIA: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this title and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

Subd. 2. FLOODWAY/FLOOD FRINGE DETERMINATIONS IN THE GENERAL FLOOD PLAIN DISTRICT: In the General Flood Plain District, applicants shall provide the information required in 12.34, Subd, 2 of this title to determine the 100—year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

Subd, 3. REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION:

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100—year flood elevation, FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi—structure or multi—lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

12.36 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

Subd. 1. PUBLIC UTILITIES. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

Subd. 2. PUBLIC TRANSPORTATION FACILITIES. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with 12.32 and 12.33 of this

title. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

Subd. 3. ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS: Where public utilities are not provided: a) On-site water supply systems must be designated to minimize or eliminate infiltration of flood waters into the systems; and b) New or replacement on—site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on—site sewage treatment systems shall be determined to be in compliance with this Section,

12.37 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

Subd. 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by this title.

Subd. 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with this title. If vehicular road access for pre—existing manufactured home parks is not provided in accordance with 12.33, Subd. 5, a, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

A. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over—the—top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces,

Subd. 3. Travel trailers and travel vehicles that do not meet the exemption criteria specified in 12.37, Subd. 3, a, below shall be subject to the provisions of this Ordinance and as specifically spelled out in 12.37, Subd. 3, c & d below,

A. Exemption — Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in 12.37, Subd, 3, b, below and further they meet the following criteria:

1. Have current licenses required for highway use,

2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

3. The travel trailer or travel vehicle and associated use must be permissible in any pre—existing, underlying zoning use district.

B. Areas Exempted for Placement of Travel/Recreational Vehicles if not in conflict with other sections of this title:

1. Individual lots or parcels of record.

2. Existing commercial recreational vehicle parks or campgrounds.

3. Existing condominium type associations.

C. Travel trailers and travel vehicles exempted in 12.37, Subd. 3, a, lose this exemption when development occurs on the parcel exceeding $500.00 for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in 12.32 and 12.33 of this title.

D. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 5.51 of this title. No fill placed in a floodway to meet the requirements of this Section shall increase flood stages of the 100—year or regional flood.

2. All new or replacement travel trailer or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of 12.38, Subd, 4, of the title. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100—year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with 12.36, Subd. 3 of this title,

12.38 ADMINISTRATION.

Subd. 1. BUILDING OFFICIAL: A Building Official designated by the Governing Body shall administer and enforce this title. If the Building Official finds a violation of the

provisions of this title, the Building Official shall notify the person responsible for such violation in accordance with the procedures stated in 12.40 of the title.

Subd. 2. PERMIT REQUIREMENTS:

A. Permit Required. A Permit issued by the Building Official in conformity with the provisions of this title shall be secured prior to the erection, addition or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

B. Application for Permit. Application for a Permit shall be made in duplicate to the Building Official on forms furnished by The Building Official and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

C. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Building Official shall determine that the applicant has obtained all necessary State and Federal Permits.

D. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Building Official stating that the use of the building or land conforms to the requirements of this title,

E. Construction and Use to be as provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this title, and punishable as provided by 12.40 of this title.

F. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this title. Flood proofing measures shall be certified by a registered professional engineer or registered architect,

G. Record of First Floor Elevation. The Building Official shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Building Official shall also maintain a record of the elevation to which

structures or alterations and additions to structures are flood proofed.

Subd. 3. BOARD OF ADJUSTMENT:

A. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

B. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this title.

C. Variances. Any variances from the floodplain requirements should follow the requirements and procedures for zoning variances outlined in this title, including the definition of "hardship". No Variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

D. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Building Official, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

E. Decisions. The Board shall arrive at a decision on such appeal or Variance within 60 days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Building Official or other public official, It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in 15, 22, Subd. 4, f, which are in conformity with the purposes of this title. Violations of such conditions and safeguards, when made a part of the terms under which this title is granted, shall be deemed a violation of this title punishable under 12.40. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

F. Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and Minnesota Statutes.

G. Flood Insurance Notice and Record Keeping. The Building Official shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and

2. Such construction below the 100—year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Subd. 4. CONDITIONAL USES. The City Council shall hear and decide applications for Conditional Uses permissible under this title; Applications shall be submitted to the Building Official who shall forward the application to Planning Commission for consideration.

A. Hearings. Upon filing with the Planning Commission an application for a Conditional Use Permit, the City Building Official shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

B. Decisions, The Planning Commission shall arrive at a recommendation on a Conditional Use within 30 days. In granting a Conditional Use Permit the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 10.46, which are in conformity with the purposes of this title. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this title punishable under 12.40. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action

C. Procedures to be followed by the City of La Crescent in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.

1. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:

a. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.

b. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

2. Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

3. Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

D. Factors Upon Which the Decision of the Planning Commission Shall be Based. In passing upon Conditional Use applications, the Planning Commission and the City Council shall consider all relevant factors specified in other sections of this title, and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the community.

6. The requirements of the facility for a waterfront location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

12. Such other factors which are relevant to the purposes of this title.

E. Time for Acting on Application. The Planning Commission shall act on an application in the manner described above within 30 days from receiving the application, except that where additional information is required pursuant to 12.38, Subd. 4, d, of this title. The Planning Commission shall render a written decision within 30 days from the receipt of such additional

information.

F. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this title, the City Council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this title. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.

2. Limitations on period of use, occupancy, and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

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

12.39 NONCONFORMING USES,

Subd. 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this title but which is not in conformity with the provisions of this title may be continued subject to the following conditions:

A. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

B. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP—l thru FP—4 flood proofing classifications) allowable in the State Building Code, except as further restricted in 12.39, Subd, 1, c, below.

C. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of this title, (these code provisions) must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor, If the current cost of all previous and proposed alterations and additions since the adoption of this title exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of 12.32 or 12.33 of this title for new structures depending upon whether the structure is in the

Floodway or Flood Fringe, respectively.

D. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this title. The assessor shall notify the Building Official in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

E. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this title. The applicable provisions for establishing new uses or new structures in 12.32, 12.33, or 12.34 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively. Improvements nonconforming regardless of percentage of destruction thereof may be reconstructed if the site whereon located is filled to the Regulatory Flood Protection Elevation.

12.40 PENALTIES FOR VIOLATION.

Subd. 1 Violation of the provisions of this title or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

Subd. 2 Nothing herein contained shall prevent the City of La Crescent from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

A. In responding to a suspected ordinance violation, the Building Official and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after—the—fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

B. When an ordinance violation is either discovered by or brought to the attention of the Building Official, the Building Official shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

C. The Building Official shall notify the suspected party of the requirements of this title and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Building Official may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is

already completed, then the Building Official may either 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or 2) notify the responsible party to apply for an after-the-fact permit/ development approval within a specified period of time not to exceed 30-days.

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

12.41 AMENDMENTS

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

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

12.42. SHORELAND MANAGEMENT DISTRICT.

12.43 AUTHORIZATION AND PURPOSE

Subd. 1. AUTHORIZATION. This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 105, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

Subd. 2. PURPOSE. The uncontrolled use of shoreland in the City of La Crescent affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interest of the public health, safety, and welfare to provide for the wise development of the shoreland of public waters. The Legislature of Minnesota has delegated responsibility to the municipalities of the state to regulate the subdivision, use, and development of the shoreland of public waters and thus preserve and enhance the quality of surface waters, preserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. The responsibility is hereby recognized by the City of La Crescent; all public waters in this municipality have been given a shoreland management classification.

12.44 DEPARTMENT OF NATURAL RESOURCES NOTIFICATIONS.

Subd. 1. HEARING NOTICES. Copies of all notices of any public hearings to consider variances, amendments or special use permits under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivision plats must include copies of the subdivision plat.

Subd. 2. FINAL DECISIONS. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or special use permits under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of the final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

12.45 SHORELAND CLASSIFICATION AND LAND USE.

Subd. 1. SHORELAND OVERLAY DISTRICT. The shorelands of the City of La Crescent are hereby designated as a Shoreland Overlay District.

Subd. 2. SHORELAND MANAGEMENT CLASSIFICATION. In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the City have been given a shoreland management classification.

These protected waters of the City have been classified by the Commissioner of Natural Resources as follows:

Protected Waters	
General Development Lakes	Inventory I.D.#
U.S. Lock and Dam No. 8 Pool	28-0005 00
Blue Lake	28-0005 03
Tributary Streams	Location
Pine Creek	From: City Limits, Sec. 15,
	T1O4N, R4W To: City Limits
	Sec. 15, T1O4N, R4W

All other non-classified watercourses as shown on county protected waters inventory map and list shall be considered tributary.

12.46 ZONING PROVISIONS AND DESIGN CRITERIA

Subd. 1. LAND USE DISTRICT DESCRIPTIONS. All permitted, conditional and accessory uses shall be regulated by the applicable zoning districts underlying this shoreland overlay district.

Subd. 2. LOT AREA AND WIDTH STANDARDS. The lot area and width standards for residential, commercial and industrial lots with the shoreland area shall be as found in the applicable sections of the La Crescent Zoning Code. Only land above the ordinary high water level of public waters can be used to meet lot area standards.

Subd. 3. PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES. 7

A. Structure Placement. When more than one setback applies to a site, structures and facilities shall be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

B. Setbacks. Structure and on-site sewage system setbacks from the ordinary high water level shall be as follows:

	Structures	Sewage Treatment	
Public Water	Unsewered	Sewered	System
General Development Lakes	75 feet	50 feet	50 feet
Tributary Rivers	100 feet	50 feet	75 feet

One water-oriented accessory structure designed in accordance with Section

12.46 Subd. 4, B of this title may be set back at a minimum distance of ten (10) feet from the ordinary high water level.

C. Additional Setbacks. The following additional structure setbacks apply, regardless of the classification of waterbody:

Setback From:	Setback (feet)
Top of Bluff	30
Unplatted Cemetery	50

D. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, are prohibited within bluff impact zones.

E. Building Height. Building height shall be regulated in conformance with the applicable provisions of the La Crescent Zoning Code.

F. Impervious Cover. Impervious surface coverage of lots in the residential zones shall not exceed thirty (30%) percent of the lot area. Impervious

surface coverage in the commercial and industrial zones shall not exceed thirty percent (30%) of the lot area. In such zones, areas covered by an approved stormwater management plan shall not have impervious surface coverage that exceeds seventy five percent (75%) of the total lot area.

Subd. 4. DESIGN CRITERIA FOR STRUCTURES.

A. High Water Elevations. Structures must be placed in accordance with floodplain regulations applicable to the site.

B. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback if the water-oriented accessory structure complies with all of the following:

1. The structure or facility may not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks may not exceed eight (8) feet above grade at any point.

2. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet.

3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

6. As an alternative for the Blue Lake and U.S. Lock and Dam No. 8 Pool shoreland areas, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

C. Standards for Commercial, Industrial, Public and Semi-public Uses. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

1. Uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

2. Uses that require short-term watercraft mooring for patrons must centralize such facilities and design them to be of minimum size and in such a manner to avoid obstructions of navigation.

3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information providing that no signs are placed in or upon public waters. Signs may be placed within the shore impact zone if they are of minimum size and convey the location and name of the establishment and the general types of goods and services available. Such signs shall comply with the La Crescent Sign Ordinance. Lights shall be shielded or directed to prevent illumination out across public waters.

D. 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 on residential lots shall not exceed four (4) feet in width with landings not exceeding 32 square feet in area. Wider stairways may be used for commercial properties and public open space recreational properties. Canopies or roofs are not allowed on stairways, lifts or landings.

   Stairways, lifts arid landings must be located in the most visually inconspicuous portion of the lot and shall be built in a manner that ensures control of soil erosion.

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

Subd. 5. SHORELAND ALTERATIONS. The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Shoreland alterations are allowed in accordance with the following standards:

A. Permanent Vegetation. Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local Soil and Water Conservation District.

B. Intensive Vegetation Clearing. Within shoreland bluff zones and/or steep slopes, intensive vegetation clearing is not permitted. Intensive clearing within shoreland areas but outside of bluff zones and steep slope areas is permitted, subject to City approval of an erosion and sedimentation control plan consistent with MPCA's Best Management Practices for Minnesota.

C. Limited Clearing. Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access, and to provide a view to the water from a principal dwelling site shall be permitted provided

the screening of structures, as viewed from the water, is not substantially reduced. These provisions do not apply to the removal of tree limbs or branches that are dead or pose a safety hazard.

D. Grading and/or Filling. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten or more cubic yards of material or involving more than 50 cubic yards of material elsewhere in a shoreland area shall require the submission of a shore impact plan and issuance of a grading and filling permit. Approval of the plan shall be granted only if the following conditions are met:

1. Any filling or grading in any Type 2, 3, 4, 5, 6, 7, or 8 wetland shall be in conformance with the Wetland Conservation Act of 1991 and shall require consideration of how extensively the proposed activity will affect the following functional qualities of a wetland.

    a. Sediment and pollution trapping and retention.

    b. Storage of surface runoff to prevent or reduce flood damage.

    c. Fish and wildlife habitat and endangered plants and animals.

    d. Recreational use.

    e. Shoreline or bank stabilization.

    f. Historical significance.

2. The smallest amount of bare ground is exposed for the shortest time possible.

3. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established.

4. Methods to prevent erosion and trap sediment during construction are employed.

5. Altered areas are stabilized to accepted erosion control standards.

6. Fill is not placed so as to create unstable slopes.

7. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability.

8. Alterations below the OHWL require authorization from the Commissioner of the Minnesota Department of Natural Resources per Minnesota Statutes, Section lO3G.245.

9. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical. Permits

granted by the DNR or other agencies with applicable jurisdiction shall control both the extent and height of rip rap placement.

10. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.

E. Roads, Driveways and Parking Areas. Roads, driveways and parking areas should meet structure setbacks. Such facilities shall not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

F. Stormwater Management. The following standards shall apply:

1. When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge into public waters.

2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3. When development density, topographic features, soil and/or vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such a diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.

G. Agricultural Use Standards. The following standards shall apply to agricultural activities in Shoreland Areas:

1. Shore Impact Zone. The shore impact zone for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.

2. Agricultural Activities. General cultivation, farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local Soil and Water Conservation District or the United States Soil Conservation Service.

3. Feedlots and Manure Storage. Feedlots and manure storage are not permitted within 300 feet of an OHWL.

4. Pesticides and Fertilizers. The use of pesticides, fertilizers, or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or

vegetation.

12.47 CONDITIONAL USES - SHORELAND MANAGEMENT

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Section 12.06. The following additional evaluation criteria and conditions apply within shoreland areas:

Subd. 1. EVALUATION CRITERIA. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

B. The visibility of structures and other facilities as viewed from public waters is limited.

C. The site is adequate for water supply and public sewage treatment.

D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

Subd. 2. CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS. Upon the consideration of the criteria listed above and the purposes of this title, the City of La Crescent shall attach such conditions to the issuance of a conditional use permit as it deems necessary to fulfill the purposes of this title. Such conditions may include, but not be limited to the following:

A. Increased setbacks from the ordinary high water level.

B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

C. Special provisions for the location, design, and use of structures, watercraft launching and docking areas, and vehicle parking areas.

12.48 WATER SUPPLY AND SEWAGE TREATMENT.

Subd. 1. WATER SUPPLY. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

Subd. 2 SEWAGE TREATMENT. Any premises used for human occupancy must be provided with an adequate method of sewage treatment as follows:

A. Publicly-owned sewer systems must be used where available.

B. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment

Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be part of this ordinance.

C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 12.46, Subd. 3, B of this title.

D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in items 1 - 4 below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. Evaluation criteria include:

1. Depth to the highest known or calculated ground water table or bedrock.

2. Soil conditions, properties and permeability.

3. Slope.

4. The existence of lowlands, local surface depressions, and rock outcrops.

E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section 12.50, Subd. 4 of this title.

12.49 PLANNED UNIT DEVELOPMENT (PUD□).

Residential planned unit developments shall be permitted in shoreland areas subject to the information and procedural requirements of this title. Densities shall be calculated in accordance with this section.

Subd. 1. MINIMUM SIZE. All residential PUD's shall contain at least five dwelling units.

Subd. 2. ESTABLISHMENT OF TIERS FOR DENSITY CALCULATION. For the purpose of calculating dwelling unit or site density, the following shoreland tiers are established by locating one or more lines approximately parallel to a line that represents the ordinary high water level:

General Development Lakes - First Tier	200 feet
General Development Lakes - Second and Third Tier	267 feet
Tributary Streams	300 feet

Subd. 3. RESIDENTIAL PUD DENSITY EVALUATION. The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

The suitable area within each tier is divided by the single residential lot size standard (8,400 sq. ft.). Suitable land shall exclude wetlands, bluffs, and land lying below the ordinary high water level. Proposed locations and numbers of dwelling units or sites for

the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 12.49, Subd. 5.

Subd. 4. DENSITY INCREASE MULTIPLIERS. The following density increase multipliers shall apply.

A. Increases to the dwelling unit base densities previously determined are allowable if the dimensional standards in Section 12.46 are met or exceeded and the design criteria in Section 12.49, Subd. 5 are satisfied. The allowable density increases in Item B. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the City of La Crescent and the setback is at least 25 percent greater than the minimum setback.

B. Allowable Dwelling Unit Increases for Residential Planned Development

Areas:

Density Evaluation Tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Density Evaluation Tiers	Maximum density increase within each tier (percent)
Fourth	200
Fifth	200

Subd. 5. DESIGN CRITERIA. The following criteria will be applied to planned unit developments within the shoreland area.

A. At least fifty percent (50%) of the total project area shall be preserved as open space. The open space computation shall not include road rights-of-way, or land covered by roads, structures or parking surfaces.

B. Open space shall include areas having physical characteristics which are unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.

C. Open space may contain outdoor recreational facilities for use by the owners of residential units or the public.

D. The appearance of open space areas, including topography, vegetation and

allowable uses, shall be preserved.

E. Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback.

F. Water-oriented accessory structures and facilities may be allowed if they meet or exceed the provisions identified in Section 12.46, Subd. 4, B.

G. The shore impact zone, based on normal structure setbacks, must be included as open space. At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state.

Subd. 6. PUBLIC UTILITIES REQUIRED. PUD's shall be connected to public water supply and sanitary sewer systems.

Subd. 7. MAINTENANCE AND ADMINISTRATION REQUIRED. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.

12.50 NONCONFORMITIES, SUBSTANDARD LOTS AND STRUCTURES, AND NONCONFORMING ON-SITE SEWAGE TREATMENT SYSTEMS WITHIN SHORELAND AREAS.

Subd. 1. NONCONFORMING USES. Nonconforming uses shall not be expanded, changed, enlarged or altered in any way except as provided for in the La Crescent Zoning Code.

Subd. 2. NONCONFORMING STRUCTURES. The expansion or enlargement of a nonconforming structure shall meet the provisions of the La Crescent Zoning Code except as follows:

A. The extension, enlargement or alteration of a nonconforming structure or sanitary facility may be permitted without a variance on the side of the structure or facility facing away from the OHWL.

B. An improvement to a nonconforming structure or sanitary facility may be allowed to extend laterally when the improvement is in compliance with the other dimensional standards of this title. In no case shall the improvement extend closer to the ordinary high water level than the existing structure.

C. Decks may be allowed without a variance under the following circumstances:

1. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure;

2. The deck encroachment toward the OHWL does not exceed 15 percent of the existing shoreline setback of the structure from the OHWL or does

not encroach closer than 30 feet, whichever is more restrictive, and

3. The deck is constructed primarily of wood and is not roofed or screened.

D. If a nonconforming structure is demolished, replacement shall comply with the dimensional standards of this title.

Subd. 3. NONCONFORMING LOTS. A lot of record shall be deemed a buildable lot if the following conditions can be met:

A. It has frontage on a public street,

B. It has public sewer or it can be demonstrated that an acceptable sewage disposal system (MPCA Chapter 7080) can be installed,

C. The proposed structure will occupy no portion of the shore or bluff impact zones,

D. The proposed structure can meet the required side yard setbacks of this title, and

E. The lot is a separate parcel with a separate property identification number and the parcel was compliant with the official controls in effect at the time that it was subdivided.

Subd. 4. NONCONFORMING ON-SITE SEWAGE TREATMENT SYSTEMS.

A. A sewage treatment system not meeting the requirements of Section 12.48, Subd. 2 of this title must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's setback from the ordinary high water level.

B. The City of La Crescent will implement a notification or education program that is oriented toward convincing property owners to evaluate their sewage systems and voluntarily upgrade such systems if they are found to be nonconforming.

C. Systems that are identified as part of the program described in Section 12.50, Subd. 4 (B) shall be upgraded or replaced within 2 years of the identification of their nonconforming status.

D. Sewage systems installed according to all applicable local and State standards may be considered conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

12.51 SUBDIVISIONS AND ADMINISTRATIVE PROCEDURES.

Subd. 1. SUBDIVISIONS. No land shall be subdivided which is held unsuitable by the City for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

Subd. 2. PLATS. Any proposed plat in shoreland areas which is inconsistent with the provisions of this title shall be reviewed by the Commissioner of Natural Resources before approval by the City of La Crescent. Such review shall require that proposed plats be received by the Commissioner of Natural Resources at least ten (10) days before a hearing is called by the municipality for consideration of approval of a final plat. Copies of all plats within shoreland areas shall be submitted to the Commissioner of Natural Resources within ten (10) days of final approval of the municipality.

12.52 PERFORMANCE STANDARDS

Subd. 1. PURPOSE. The performance standards established in this section are designed to encourage a high standard of development by enhancing the compatibility of neighboring land uses. The performance standards are designed to prevent and eliminate those conditions that cause blight and to enhance and protect the health, safety, welfare and appearance of the community consistent with established policies and standards. All future development in any district shall be required to meet these standards. The standards shall also apply to existing development where so stated. The Building Official shall be responsible for enforcing the standards.

Before any building permit is approved, the Building Official shall determine whether the proposed use will conform to the performance standards. The applicant shall supply all data necessary to demonstrate such conformance.

Subd. 2. REFUSE. In all districts, all waste material, with the exception of debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse. Existing uses shall comply with this provision within six months following enactment of this Section.

Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding ninety-six (96) hours; inoperative shall mean incapable of movement under their own power and in need of repairs or removal to junk yard. All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by provisions of this title shall be prohibited and considered refuse.

Subd. 3. SCREENING AND BUFFERING. Screening shall be required in all residential zones where (a) any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and/or (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

Where any business, structure, parking or storage is adjacent to property zoned or developed for any residential use, that business or industry shall provide screening along its boundary with the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front, as determined by the Zoning Code.

All exterior storage in commercial districts shall be screened. The exceptions are: (1) merchandise being displayed for sale; (2) materials and equipment presently being used for construction on the premises; and (3) merchandise located on service station pump islands.

Required screening or buffering may be achieved with fences, walls, earth berms, hedges or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to employ materials which provide an effective visual barrier during all seasons.

All required screening or buffering shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering shall be located on any public right-of-way or within ten feet of the traveled portion of any street or highway.

Screening or buffering required by this section shall be of a height needed to accomplish the goals of this section without impairing safe sight distances at intersections, driveways and other critical locations.

Subd. 4. LANDSCAPING AND TREE PRESERVATION Minimum Landscaping Requirements. All open areas of a lot which are not used or improved for required parking areas, drives or storage shall be landscaped with a combination of over-story trees, ornamental trees, shrubs, flowers, ground cover, decorative walks or other similar site design materials in a quantity and placement suitable for the site. A reasonable attempt shall be made to preserve as many existing trees as is practicable and to incorporate them into the development.

A. Minimum Number of Trees - Landscaping. The minimum number of over-story trees on any given site shall be as indicated below. These are minimum requirements that are typically supplemented by other understory trees, shrubs, flowers and ground covers deemed appropriate for a complete quality landscape treatment of a site. Commercial, Industrial, and Institutional sites shall contain at a minimum; the greater of:

    1. One (1) tree per 1,000 square feet of gross building floor area

    2. One (1) tree per 50 lineal feet of site perimeter

B. Minimum size of plantings - landscaping. Required trees shall be of the following minimum planting size:

1. Deciduous trees - 2.5 inches of caliper diameter

2. Coniferous trees - 6 feet in height.

3. Deciduous shrubs - 2 feet in height.

4. Evergreen shrubs - 2 feet in height or 2 feet in width, whichever applies

C. Species – Landscaping

1. All trees used in site developments shall be indigenous to the appropriate hardiness zone and physical characteristics of the site.

2. All deciduous trees proposed to satisfy the requirements herein shall be long-lived hardwood species.

3. The compliment of trees fulfilling the landscaping requirements shall be not less than 25 percent deciduous and not less than 25 percent coniferous.

D. Sodding and Ground Cover - Landscaping. All areas not otherwise improved in accordance with approved site plans shall be sodded or seeded.

E. Maintenance - Landscaping. In all districts, required landscaping shall be maintained so as not to be unsightly or present harmful health or safety conditions. Dead or diseased plant materials shall be replaced promptly.

F. Tree Preservation Policy – Landscaping

1. It is the intent of the City of La Crescent to preserve wooded areas throughout the city and with respect to future site development, to retain as far as practicable, substantial existing tree cover.

2. Credit for the retention of existing trees which are of acceptable species, size and location may be given to satisfy the minimum number requirements set forth in this section.

3. The following restrictions shall apply to all development occurring in wooded areas.

a. Structures shall be located in such a manner that the maximum number of trees shall be preserved.

b. Prior to the granting of a building permit, it shall be the duty of the person seeking the permit to demonstrate that there are no feasible or prudent alternatives to the cutting of trees on the site.

c. Forestation, reforestation or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

d. Development including grading and contouring shall take place in such a manner that the root zone aeration stability of existing trees shall not be affected and shall provide existing trees with a watering equal to one-half the crown area.

e. Notwithstanding the above, the removal of trees seriously damaged by storms, or other natural causes, shall not be prohibited.

Subd. 5. GLARE. In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed .4 foot candles (meter reading) as measured from said property line.

Subd. 6. BULK STORAGE. All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids shall require a conditional use permit in order that the governing body may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare). All existing, above ground liquid storage tanks having a capacity in excess of ten thousand (10,000) gallons shall secure a conditional use permit within twenty-four (24) months following enactment of this Section. The City Council may require the development of dikes around said tanks. Dikes shall be suitably sealed, and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the capacity of the largest, single tank.

Subd. 7. SOIL EROSION AND SEDIMENTATION CONTROL

A. General Standards

1. All development shall conform to the natural limitations presented by the topography and soil as to create the best potential for preventing soil erosion and general welfare and comply with the most recent edition of the Minnesota Fire Safety Code.

2. Development on slopes with a grade over twelve percent shall be carefully reviewed to insure adequate measures have been taken to prevent erosion, sedimentation, and structural damage.

3. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

4. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction

progresses. The smallest practical area of land shall be exposed at any one period of time.

5. The drainage system shall be constructed and operational as quickly as possible during construction.

6. Whenever possible, natural vegetation shall be retained and protected.

7. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. The soil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

8. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed 30 days. Said time period may be extended only if the City Council is satisfied that adequate measures have been established and will remain in place.

9. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout development areas shall be encouraged to reduce peak flow, erosion damage, and construction cost.

10. Building Drainage. All roof drainage systems shall be so designed that the discharge will not drain towards adjoining properties nor shall any roof drainage system, or extension thereof, be permitted to extend into any public right-of-way.

Subd. 8. TRAFFIC CONTROL. The traffic generated by any use shall be channelized and controlled in a manner that will avoid: (1) congestion on the public streets, (2) traffic hazards, and (3) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets.

Subd. 9. PARKING, OFF STREET. Required off-street parking areas for three or more automobiles shall be so designated, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unmarked without moving another. This section does not apply to driveways and garages for single family residential units or townhomes.

Subd. 10. PARKING, NON-RESIDENTIAL. Off-street parking spaces shall be provided in the ratio of 1 parking stall for:

A. Each sleeping accommodation in any motel/hotel.

B. Each 6 beds in any convalescent home or similar establishment.

C. Each doctor in any medical or dental clinic, plus 1 parking stall for each 3 employees and 1 for each 3 patients of the total patients in the clinic at any one time.

D. Each 4 seats or other accommodations for customers and those in attendance in any restaurant, theater, auditorium, stadium, church, entertainment or recreation use, hall for meeting, dancing, social or athletic events, and other places where such accommodations may be used by 12 or more persons at the same time, provided that for any public or private school the number of parking spaces shall not be less than one space for each 8 classroom seats, plus those required for employees. In accordance with the requirements of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), the City Council can modify this requirement if it determines that the requirement would create a "substantial burden" as defined by the Act and that other, less restrictive remedies are available.

E. Each 500 square feet of ground floor area in business or commercial use, each 1000 square feet of upper floor area and each 1000 square feet of basement floor area in such use, provided that for such establishments as drive-in markets and for similar and other businesses and uses catering to drive-in patronage, and for uses in C and CBD Districts, the required ratio shall be 4 parking stalls for each 2500 square feet of total area in business or commercial use within buildings and outside.

F. Each 2 persons, including proprietors, of maximum employment on the main shift and those on any immediately preceding or following shift, whichever is larger in any Institutional, public, business or industrial use

Subd. 11. PARKING IN RESIDENTIAL AREAS. Unenclosed off-street parking facilities accessory to a residential use shall be utilized solely for the parking of licensed and operable vehicles.

Subd. 12. PARKING, STANDARDS. Each parking stall shall not measure less than 9 feet by 18 feet.

A. Access driveways to a single stall or parking lot shall be no less than 12 feet nor more than 24 feet in width where crossing the front property line from a street or road, except that driveways serving parking spaces for residential uses shall be not less than 10 nor more than 20 feet in width.

B. Required parking stalls for residential uses shall be located on the same premises as the use they serve. For nonresidential uses, parking shall be located on the premises or within a 500 foot distance provided that stalls required for employees may be located within 1000 feet of distance from the place of employment.

C. The number of parking stalls required for serving several uses is the sum of the separate requirements. Upon application to the City Council showing that the parking demands of different uses served occur at different times, the Council may approve a reduction in the number of stalls required to that

which will serve the maximum demand at any one time.

D. Required parking spaces provided on a lot or in a building shall be kept available for parking during the times of parking demand and shall not be reduced in number.

E. Parking stalls, truck loading spaces, aisles and access driveways shall be so graded and surfaced as to be smooth and to be free of dust and dirt.

F. Truck loading spaces and truck parking and storage spaces off the street shall be provided as needed in connection with all buildings and uses delivering and receiving goods, materials and supplies by trucks.

G. Drives within parking areas shall meet the following minimum widths:

Angle of Parking	Width	
90°	24	feet
60°	18	feet
45°	14	feet
30°	12	feet

H. All parking lots shall have areas reserved for snow storage that will not reduce the number of spaces available.

Subd. 13. TRAFFIC VISIBILITY ZONE - CORNER LOTS. On any corner lots in all districts except C.B.D. there is established a traffic visibility zone at the intersection of two or more streets. The traffic visibility zone shall include that part of a corner lot that is within the areas bounded by the intersection street right-of-way lines and a diagonal line intersecting said street right- of-way lines at a distance of twenty-five (25) feet from the corner (the point of intersection of the right-of-way lines of two intersecting streets) and shall include the abutting portion of the boulevard. In any traffic visibility zone no fence, structure, earth bank, hedge, planting, or other obstruction shall be erected, planted or maintained that is more than a height of two and one-half (2-1/2) feet above the property line grade as established by the City.

Subd. 14. DRIVE-IN BUSINESS DEVELOPMENT STANDARDS.

A. The following standards shall apply to drive-in businesses in all districts.

1. The entire area of any drive-in business shall have a drainage system approved by the city engineer.

2. The entire area other than that occupied by structures or plantings shall be surfaced with a hard surface material which will control dust and drainage.

3. A fence or screen of acceptable design not over six (6) feet in height or less than four (4) feet shall be constructed along the property line abutting a residential district and such fence or screen shall be adequately maintained. The fence shall not be required in front of the setback line.

B. General - Drive-in Businesses

1. Any drive-in business serving food or beverages may also provide, in addition to vehicular service areas, indoor food and beverage service seating area.

2. The hours of operation shall be set forth as a condition of any conditional use permit for drive-in business.

3. Each drive-in business serving food may have outside seating.

4. Each food or beverage drive-in business shall place refuse receptacles at all exits as well as one (1) refuse receptacle per ten (10) vehicle parking spaces within the parking area.

C. Location

1. No drive-in shall be located within four hundred (400) feet of a public or parochial school, church, public recreation area, or any residential district.

2. No drive-in business shall be located such that it may increase traffic volumes on nearby residential streets.

3. No drive-in shall be located on any street other than one designated as a thoroughfare or business service road in the Comprehensive Plan.

4. The design of any structure shall be compatible with other structures in the surrounding area.

5. Electronic devices such as loudspeakers, automobile service order devices, car speakers and similar instruments shall not be located within four hundred (400) feet of any residentially zoned or used property, nor within two hundred (200) feet of any adjacent lot regardless of use of zoning district.

6. No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

7. No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.

8. No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation. No access drive shall be within fifty (50) feet of intersecting street curb lines.

D. The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use.

Subd. 15. ACCEPTABLE BUILDING MATERIALS

A. SUBMITTAL REQUIREMENTS. The application for a building permit in addition to other information required shall include exterior elevations of the proposed structure. The information shall be of sufficient detail to adequately and accurately indicate the height, size, design and the appearance of all elevations of the proposed building and description of the construction materials to be used therein.

B. POLE BUILDINGS. A Pole Building which shall be understood to mean any building using wood or metal poles as a principal structural support to achieve alignment and bearing capacity shall be prohibited in Residential and Central Business Districts. Corrugated metal siding is an ascetically unacceptable building material unless expressly permitted by the Building Official.

C. ADDITIONAL SUBMITTAL. When required by the Building Official, applicants for building permits shall be required to submit exterior elevations of the proposed structure and photographs of the front exterior of neighboring structures. A list of exterior finish materials and colors may also be required.

D. APPEALS PROCESS. Any person aggrieved by a decision of the Building Official regarding the use of certain materials or regarding questions of architectural design shall be entitled to appeal the Building Official's decision to the Planning Commission.

Subd. 16. MINIMUM SIZE OF RESIDENTIAL STRUCTURES. Single family residential structures shall have a minimum width of twenty (20) feet and a minimum foundation area of 900 square feet. This requirement does not apply to manufactured homes that are located within a manufactured home park that is licensed by the State Department of Health.

Subd. 17. MINIMUM ROOF PITCH. The minimum roof pitch of single family homes shall be 4:12, or 4 inches rise for every 12 inches horizontal run. This requirement does not apply to manufactured homes that are located within a manufactured home park that is licensed by the State Department of Health.

Subd. 18. HEIGHT LIMIT EXCEPTIONS. Established building height limits shall not apply to belfries, cupolas, spires, monuments, radio or television antennae, flag poles, chimneys or flues, water towers, or to poles, towers and other structures for essential services. Any other similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more than 25 percent of the area of such roof as projected onto a horizontal plane are also exempt from height requirements in any district.

When permitted in a district, public buildings, community buildings, schools, places of assembly, hospital and other institutions, public utility, wind turbines and public service buildings and those for essential services, may be erected to a height not exceeding 75 feet. However, this is only allowed provided the side yard width and the rear yard depth

are each increased 1 foot over and above the district requirement for each 2 feet of structure height above the building height limit. Wind turbines must also be sized and located so that they do not create sound audible at the property line.

12.53. FEES.

The City Council may establish by resolution, fees for rezonings, variances, conditional use permits or other actions requiring administrative time or public expenditures under any section of the zoning ordinance.

12.54. ENFORCEMENT

Subd. 1. VIOLATIONS. The violation of any provision of this Title or the violation of any permit issued pursuant to this Title shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine or imprisonment or both. Violations may, at the discretion of the City, be charged petty misdemeanors and upon conviction thereof, punishable as provided by law.

Subd. 2. PENALTIES. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues constitutes a separate offense.

Subd. 3. CIVIL REMEDIES. The City Council may institute actions in abatement or to enjoin violations and such actions shall not preclude prosecution as misdemeanors or petty misdemeanors nor shall prosecution on the criminal side of the Court preclude a subsequent action for abatement or injunction.

12.55 SUPREMACY, EFFECTIVE DATE AND REPEALER

Subd. 1. SUPREMACY, When any condition imposed by any provision of this Section on the use of land or buildings or an the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other county or state ordinance, regulation, or statute, the more restrictive condition shall prevail.

This Section is not intended to abrogate any easements, restrictions, or covenants relating to the use of land or imposed on lands within the county by private declaration or agreement, but where the provisions of this Section are more restrictive than any such easement, restriction or covenant, or the provision of any private agreement, the provisions of this Section shall prevail.

Subd. 2. EFFECTIVE DATE. This title shall be in full force and effect from its passage and publication according to law.

Subd. 3. REPEALER. Upon the effective date of this title, all provisions and sections contained in Chapter 12 of the City Code; along with other ordinances including incorporation and amendments to: Ordinance 217 (Shoreland); Ordinance 282 (Floodplain); Ordinance 287 (Moving of Buildings); Ordinance 390 (Conditional Use in R-1); Ordinance 391 (Building Drainage); Ordinance 399 (Timeframe for Submittals); Ordinance 409 (Setbacks); Ordinance 432 (Interim Use); and Ordinance 451 (Conservation Development District); and adopted prior to the effective date of this title are hereby repealed.