

SECTION 12. ADMINISTRATION - ENFORCEMENT AND PENALTIES

Subdivision

- 12.01 Administration
- 12.02 Violations
- 12.03 Application to City Personnel
- 12.04 Additional Equitable Remedies
- 12.05 Enforcement Procedures

12.01 ADMINISTRATION: This Ordinance shall be administered and enforced by the Zoning Administrator who is appointed by the City Council or his or her designee as approved by the City Council.

12.02 VIOLATIONS: Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

12.03 APPLICATION TO CITY PERSONNEL: The failure of any officer or employee of the City to perform any official duty imposed by this Ordinance shall not invalidate this Ordinance.

12.04 ADDITIONAL EQUITABLE REMEDIES: In the event of a violation of the threatened violation of any provision of this Ordinance, or any provision or condition of a permit issued pursuant to this Ordinance, the Zoning Administrator in the name of St. Augusta may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violation.

12.05 ENFORCEMENT PROCEDURES:

- A. Upon receipt of complaint, identification of a violation of this Ordinance, or by the direction of the City Council, the Zoning Administrator shall investigate said violation to determine its validity.

- B. If it is determined that a condition or provision of this Ordinance or a permit issued

pursuant to this Ordinance has been violated, the investigator shall submit a report to the City Council and the Building Official identifying the violation, the location, and the property owner(s) responsible for the violation.

- C. Upon submission of the report, the City Building Official shall, on behalf of the City, send the property owner(s) a letter of citation informing them of said violation and ordering compliance with the provisions of this Ordinance. The letter of citation shall include a time frame in which the property owner(s) must bring the property in compliance with this Ordinance.
- D. The City Building Official shall inspect the property for compliance with this Ordinance upon expiration of the time frame outlined in the letter of citation. If the violation has not been corrected, the City Building Official shall notify the City Council.
- E. Upon notification by the City Building Official of failure to comply with this Ordinance, the City Council shall instruct the City Attorney to begin legal proceedings for enforcement of this Ordinance.

SECTION 13. RESERVED FOR FUTURE USE

SECTION 14. NON-CONFORMING BUILDINGS, STRUCTURES, USES AND LOTS

Subdivision

- 14.01 Purpose
- 14.02 General Provisions
- 14.03 Non-Conforming Uses
- 14.04 Non-Conforming Buildings and Structures
- 14.05 Non-Conforming Lots
- 14.06 Special Protection Districts

14.01 PURPOSE: It is the purpose of this section to provide for the regulation of non-conforming buildings, structures, uses, and lots, and to specify those requirements, circumstances, and conditions under which non-conforming buildings, structures, uses, and lots will be operated, maintained, and regulated. It is necessary and consistent with the establishment of this Ordinance that non-conforming buildings, structures, uses, and lots not be allowed to continue without restriction. Furthermore, it is the intent of this section that all non-conformities shall be eventually brought into conformity.

14.02 GENERAL PROVISIONS:

- A. **Conditional Uses:** Any established use, building or lot legally existing prior to October 7, 2003 and which is herein classified by this Ordinance as requiring a conditional use permit may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use or building shall however require a new conditional use permit be processed according to this Ordinance.
- B. **Interim Uses:** Any established use, building or lot legally existing prior to October 7, 2003, and which is herein classified by this Ordinance as requiring an interim use permit may be continued in like fashion and activity and shall automatically be considered as having received interim use permit approval. Any change to such a use or building shall, however, require a new interim use permit be processed according to this Ordinance.
- C. **Threats to General Welfare:** Non-conforming buildings, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:
 - 1. Be legally declared a nuisance by the City Council.
 - 2. Upon being identified by the City Council and upon the owner being notified in writing by the Zoning Administrator, the owner shall provide to the City

Council a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use investments which will result in the termination or correction of the non-conformity.

- a. The termination/correction time schedule shall be based upon, but not be limited to factors such as the initial investment and the degree of threat or danger being posed.
- b. The acceptability of the time schedule shall be determined by the City Council with right of appeal.
- c. In no case shall a time schedule exceed two (2) years.

14.03 NON-CONFORMING USES:

- A. **Effective Date:** The lawful use of buildings or land existing at the effective date of this Ordinance which does not conform to the provisions of this Ordinance may be continued; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.
- B. **Continued Use:** A lawful, non-conforming use shall not be enlarged, but may be continued at the same size and in the same manner of operation as it existed on the date it became legally non-conforming except as hereinafter specified.
- C. **Changes to Non-Conforming Uses:**
 1. When a lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
 2. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
- D. **Discontinuance:** In the event that a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

- E. Normal Maintenance: Maintenance of a building or other structure containing or used by a non-conforming use will be permitted when it includes necessary non-structural repair and incidental alterations which do not extend or intensify the non-conforming use.

14.04 NON-CONFORMING BUILDINGS AND STRUCTURES:

- A. Restoration: No lawful non-conforming building or structure which has been damaged by fire, explosion, act of God or a public enemy, to the extent of more than fifty (50) percent of its value, as determined by the City Building Official, shall be restored, except in conformity with the regulations of this Ordinance.
- B. Alterations: Alteration and normal maintenance to a lawful non-conforming building or structure may be made provided:
 - 1. The alterations do not expand the building size.
 - 2. The alterations do not change the building occupancy capacity or parking demand.
 - 3. The alteration does not increase the non-conformity of the building or the use.
- C. Expansion of Non-Conforming Buildings or Structures:
 - 1. Administrative Approvals: The following expansions of lawful non-conforming building and structures may be approved through the administrative permit process by the Zoning Administrator subject to provisions of Section 6 of this Ordinance. The Zoning Administrator shall make a determination that the building expansion will have not external negative impacts upon adjacent properties or public rights-of-way.
 - a. Expansion of buildings found to be non-conforming only by reason of height, yard setback, or lot area may be permitted provided the structural non-conformity is not increased and the expansion complies with the performance standards of this Ordinance.
 - b. Lawful non-conforming single family and two family units may be expanded to improve the livability provided the non-conformity of the structure is not increased.
 - 2. Conditional Use Permit: Lawful non-conforming commercial, industrial, public, semi-public, and multiple family structures may be expanded on the

same lot by conditional use permit provided:

- a. The expansion will not increase the non-conformity of the building or site.
- b. The new building expansion will conform with all the applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this section for a deviation from other requirements of this Ordinance unless variances are also approved.
- c. The request for conditional use permit shall be evaluated based on standards and criteria set forth in Section 4 of this Ordinance.

14.05 NON-CONFORMING LOTS:

A. Vacant or Redeveloped Lots:

1. **Lot Combination:** If an owner has an interest in more than one (1) lot of record contiguous to other lots of record, all such lots shall be combined to meet the requirements of this section or the applicable zoning district standards. If sufficient contiguous property is held in one ownership to comply with the standard of the applicable zoning district, then those more restrictive provisions will apply. In no circumstances will there be approval of any proposal for multiple lot developments based upon lots of record, and not conforming with the provisions of the existing zoning district.
2. **Single Family Detached Dwellings:** Legal non-conforming, vacant, substandard sized lots of record may be developed for single family detached dwellings upon approval of an administrative permit by the Zoning Administrator, provided that:
 - a. The lot in question was legally established in accordance with Ordinance requirements existing at the time of its creation and is a separate, distinct tax parcel with a parcel identification number.
 - b. The lot is properly zoned for single family land uses.
 - c. **Minimum Lot Size.**
 - (1) **Sewered Lots:** A lot of record having direct access to municipal sewer and water shall be considered buildable provided measurements for lot area and/or width are within seventy (70) percent of the requirements of the base zoning district.

(2) Unsewered Lots: A lot of record not having access to municipal sewer and water shall be considered buildable provided it can be demonstrated by means satisfactory to the City that no ground water, soil or other contamination will result.

- d. The lot in question has frontage on a public street.
- e. Public health concerns (potable water and sewage collection and treatment) can be adequately provided.
- f. The setback and yard requirements of the applicable zoning district or Section 16.04 of this Ordinance can be achieved while simultaneously resulting in development which complies with the character and quality of the immediate area and the objectives of the City's Comprehensive Plan and Zoning Ordinance.
- g. The lot in question and related potential development is evaluated based upon criteria outlined in Section 4.02.F and is found to be acceptable per these standards.

B. Developed Lots: An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.

14.06 SPECIAL PROTECTION DISTRICTS: Non-conforming buildings and uses within the special protection districts as described in Section 64 through 67 of this Ordinance shall be subject to the applicable regulations and standards relating to such buildings and uses in that section.

SECTION 15. GENERAL BUILDING AND PERFORMANCE REQUIREMENTS

Subdivision

- 15.01 Purpose
- 15.02 Dwelling Unit Restriction
- 15.03 Platted and Unplatted Property
- 15.04 Accessory Buildings
- 15.05 Swimming Pools
- 15.06 Fences
- 15.07 Required Fencing, Screening and Landscaping
- 15.08 Traffic Visibility
- 15.09 Drainage Plans
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- 15.11 Smoke
- 15.12 Dust and Other Particulated Matter
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- 15.14 Noise
- 15.15 Refuse
- 15.16 Outside Storage, Residential, Commercial and Industrial Uses
- 15.17 Sewage Disposal
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- 15.19 Bulk Storage (Liquid)
- 15.20 Radiation Emission
- 15.21 Electrical Emission
- 15.22 Temporary Storage of Fill
- 15.23 Sales in Residential and Agricultural Zoning Districts

15.01 PURPOSE: The purpose of this section is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent blight, deterioration, and decay; and to enhance the health, safety and general welfare of the residents of the City.

15.02 DWELLING UNIT RESTRICTION:

- A. No garage, tent, accessory building, travel trailer or motor home shall at any time be used as living quarters, temporarily or permanently, except as allowed by Section 15.02.D of this Ordinance.

- B. The basement portion of finished home may be used for habitation purposes

provided it is properly damp-proofed, complies with applicable sections of the Fire and Building Codes, and is otherwise approved by the City Building Official.

- C. Tents, play houses, recreational camping vehicles (travel trailers), motor homes or similar structures may be used only for play or recreational purposes.
- D. Temporary establishment of dwelling units is allowed by administrative permit on residential lots during reconstruction of the principal structure damaged by fire or natural disaster, provided that:
 - 1. The temporary dwelling unit is not established prior to building permit approval for the reconstruction of the principal structure.
 - 2. Occupancy of the temporary dwelling unit is limited to the residents of the prior or future principal structure.
 - 3. The applicant demonstrate an intent to proceed with reconstruction of principal structure, including construction contracts, proof of financial or other evidence of intended project completion.
 - 4. The temporary dwelling unit meet all setback requirements within the Zoning District for which the property is located, unless determined impractical by the City Building Official.
 - 5. The temporary dwelling unit shall not exceed one (1) story or fifteen (15) feet in height, whichever is least.
 - 6. The temporary dwelling housing unit is connected to a private water and sewer system approved by the City, Stearns County, and State Department of Health.
 - 7. A security is provided to ensure removal of the temporary dwelling unit upon completion of the reconstruction project. The security shall be in the amount equal to Zoning Administrator's estimated costs for removal of the temporary dwelling unit.
 - 8. The applicant submit a permit application and a site plan (to scale) showing the location of lot lines, the proposed location of the temporary dwelling unit, the principal structure and other prominent site features.
 - 9. The administrative permit provisions of Section 6 of this Ordinance are considered and satisfactorily met.

15.03 PLATTED AND UNPLATTED PROPERTY:

- A. Except if determined unnecessary by the City Council, any person desiring to

improve property shall submit to the City Building Official a Certificate of Survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to ensure conformance to City zoning provisions.

- B. All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the Comprehensive Plan and to the system and standards employed by the City. Furthermore, all buildings shall be placed so that they will not obstruct future utility routes or the potential resubdivision of the property.
- C. Except in the case of farm and hobby farm operations, or by conditional use permit, no more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in Section 2.02 of this Ordinance.
- D. On a through lot, both street lot lines shall be front yards for applying the yard and parking setback regulations of this Ordinance.
- E. When a development is proposed which is to be located on two (2) or more lots, and such lots are required to meet the minimum district area and frontage requirement and/or are required to accommodate the use, the lots shall be combined in accordance with the City's Subdivision Ordinance, prior to the issuing of a building permit.
- F. When two (2) or more lots are located in the same residential district, one (1) or more of which lack adequate area or dimensions to qualify for residential use under the current Ordinance requirements and are contiguous and held in one ownership, they shall be combined for use in order to meet the lot requirements by resubdividing the property in accordance with the City Subdivision Ordinance.

15.04 ACCESSORY BUILDINGS, USES AND EQUIPMENT:

- A. Farms are exempt from the requirements of this Subsection and are regulated by Section 23 of this Ordinance.
- B. Detached Single Family Uses:
 - 1. No accessory use, building, structure or equipment shall be allowed within a required front yard. With the exception of an attached garage, no accessory building, structure, use or equipment may be placed within a front yard on

lots less than five (5) acres. On lots of five (5) acres or larger accessory buildings or structures may be located in a front yard if it is no closer to the front lot line than the residence or principal building of adjoining properties and in no case closer than 150 feet from the front lot line

2. The area of an accessory building, structure, and/or detached garage for a single family dwelling shall not exceed twenty-five (25) percent of the area of the required rear yard.
3. For lots less than five (5) acres, no building permit shall be issued for more than one (1) detached accessory building or detached garage for each single family dwelling.
4. Attached garages shall not exceed one thousand one hundred (1,100) square feet.
5. The combined total floor area of a detached accessory building or buildings or detached garages shall not exceed the following maximum area requirements:
 - a. Within the urban service area or long range urban service area designated by the Comprehensive Plan.

Lot Area	Maximum Total Floor Area of All Detached Accessory Structures
1/3 acre or smaller	480 square feet
1/3 acre to 1/2 acre	624 square feet
1/2 acre to 2/3 acre	816 square feet”

- b. Within the urban service reserve area designated by the Comprehensive Plan:

Lot Area	Maximum Total Floor Area of All Detached Accessory Structures
1.00 ac. or smaller	1,250 square feet
1.01 to 2.00 ac.	1,500 square feet
2.01 to 4.99 ac.	2,000 square feet
5.00 to 6.99 ac.	2,500 square feet

Lot Area	Maximum Total Floor Area of All Detached Accessory Structures
7.00 ac. or larger	4,000 square feet

- c. Within the agricultural preserve-rural service area designated by the Comprehensive Plan:

Lot Area	Maximum Total Floor Area of All Detached Accessory Structures
1.00 ac. or smaller	1,250 square feet
1.01 to 2.00 ac.	1,500 square feet
2.01 to 4.99 ac.	2,000 square feet
5.00 to 6.99 ac.	2,500 square feet
7.00 to 10.00 ac	4,000 square feet
10.00 ac or larger	No Limit

6. Accessory buildings with an area of one thousand (1,000) square feet or less may encroach into the required side and rear yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required easement, or in a required side yard setback abutting a street in the case of a corner lot. In no case shall the setback be less than ten (10) feet.
- C. Except as was otherwise noted, accessory buildings and uses for all principal uses other than single family detached dwellings shall conform to the setback requirements specified for the respective zoning district in which they are located.
- D. No accessory uses or equipment such as air conditioning cooling structures or condensers which generate noise beyond established state standards may be located in a required side yard except for side yards abutting streets where equipment is fully screened from view.
- E. Height:
1. Accessory buildings shall comply with the following height limitations:

Zoning District	Maximum Height
A-1	20 feet

A-2	20 feet
R-1	20 feet
R-2	20 feet
R-3	20 feet
R-4	20 feet
R-5	20 feet
B-1	35 feet
B-2	35 feet
B-3	35 feet
B-W	35 feet
I-1	35 feet
I-2	35 feet

2. Accessory buildings may exceed the height limitations in Section 15.04.E.1 by conditional use permit subject to the provisions of Section 16.02.A of this Ordinance.

G. Building Type and Standards:

1. Architectural details for accessory buildings are to be the same or similar as for the principal building based upon (but not limited to) the following criteria:
 - a. Scale and detailing.
 - b. Roof pitch orientation and slope.
 - c. Overhang depth and details.
 - d. Window and exterior door proportion and types.
 - e. Building material.
 - f. Exterior color.
2. Pole buildings, as defined by this Ordinance, are allowed as a permitted accessory structure within the A-1 District and A-2 District provided that:
 - a. The lot is within the urban service reserve area or agriculture

preserve-rural service area designated by the Comprehensive Plan.

- b. The lot on which the building is to be located is larger than five (5) acres.

15.05 SWIMMING POOLS:

- A. Swimming pools shall be subject to the applicable requirements of Section 15.04 of this Ordinance.
- B. A permit shall be required for all permanently constructed swimming pools with a capacity of five thousand (5,000) gallons and/or two (2) feet or more of depth. Each application for a permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:
 - 1. The proposed location and its relationship to the other principal buildings on the lot.
 - 2. The size of the pool.
 - 3. Fencing and other fixtures existing on the lot, including utility location and trees.
 - 4. The location, size and types of equipment to be used in connection with the pool, including but not limited to filter unit, pump, fencing and the pool itself.
 - 5. That the requirements contained in Subd. 15.05.C and 15.05.D of this section will be satisfied.
- C. All below ground pools for which a permit is required and granted shall be provided with safeguards to prevent children from gaining uncontrolled access. This may be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four (4) feet in height. The opening between the bottom of the fence and the ground or other surfaces shall not be more than four (4) inches. Fences shall be of a non-corrosive material and shall be constructed so as to be not easily climbable. All fencing openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection.
- D. All above ground pools for which a permit is required and granted shall be provided with safeguards to prevent children from gaining uncontrolled access.

15.06 FENCES: Fences shall be permitted in all yards subject to the following:

- A. Location: All boundary line fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.
- B. Construction and Maintenance:
 - 1. Every fence shall be constructed in a professional and substantial manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.
 - 2. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the City shall commence proper proceedings for the abatement thereof.
 - 3. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.
 - 4. The decorative side of any fence which abuts an agricultural use may face inwards towards the property being fenced.
- C. Access: All fences shall be provided with a gate which affords reasonable and convenient access for public safety.
- D. Barb Wire and Electric Fences: Except as specified in this subsection, barbed wire fences and electric fences shall only be allowed when related to farming and hobby farms.
- E. All fences shall not obstruct natural drainage.
- F. Grade Modifications: Any modifications to the grade or drainage of a property in conjunction with the construction of a fence shall be subject to Subd. 15.09 of this Ordinance.
- G. Residential District Fences: All residential district fences shall be placed within the property being fenced.

1. Except in the case of a side yard on a corner lot which abuts a street, fences along side property lines shall not be more than six (6) feet in height for the distance commencing from a point on such side property line located along the rear lot line and proceeding thence along such side property line to a point thereon which would be intersected by the front wall line of the existing principal structure on the lot.
 2. Fences along or paralleling any rear property line which is also the rear property line of an abutting lot shall not exceed six (6) feet in height.
 3. Except in the case of a side yard on a corner lot which abuts a street, fences along a rear property line which line constitutes the side lot line of an abutting lot shall not exceed six (6) feet in height.
 4. The required screening provisions for residential districts shall supersede, where applicable, the provisions of this subdivision.
 5. Fences extending across required front yards or a required side yard which abuts a street on a corner lot shall not exceed forty-two (42) inches in height and shall be at least seventy-five (75) percent open space for passage of air and light, and shall maintain the traffic visibility requirements of Subd. 15.08 of this Ordinance.
- H. Commercial and Industrial District Fences: All commercial and industrial fences shall be placed within the property being fenced.
1. Fences extending across a required front yard or a required side yard which abuts a street on a corner lot shall be at least seventy-five (75) percent open for the passage of air and light and shall maintain the traffic visibility requirements of Subd. 15.08 of this Ordinance.
 2. Business and industrial fences may be erected up to eight (8) feet in height. Fences in excess of eight (8) feet shall require a conditional use permit.
 3. Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven (7) feet above the ground.
 4. The screening provisions for commercial and industrial districts shall supersede, where applicable, the provisions of this Subsection.
- I. Special Purpose Fences: Fences for special purposes and fences differing in construction, height or length may be permitted by the City by issuance of a conditional use permit as regulated by Section 4 of this Ordinance. Findings shall

be made that the fence is necessary to protect, buffer or improve the premises for which such fence is intended. The City may stipulate the height, location, construction and type of special fence thereby allowed.

15.07 REQUIRED FENCING, SCREENING AND LANDSCAPING:

- A. Fencing and Screening: Except as may be otherwise allowed by the City Council, any non-residential use except agriculture and farming (i.e., structure, parking or storage) which abuts property zoned for residential use, shall provide screening along the boundary of the residential property. Screening shall also be provided where a non-residential use is across the street from a residential zone, but not on that side of a non-residential use considered to be the front (as defined by this Ordinance). All fencing and screening specifically required by this Ordinance shall be subject to Subd. 15.08 of this Ordinance and shall consist of either a fence or a green belt planting strip as provided for below:
1. A green belt planting strip shall consist of coniferous trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen. The planting plan and type of plantings shall require the approval of the City Council.
 2. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the Zoning Administrator and the Building Official. Fences in excess of six (6) feet in height shall require approval of the City Council.
- B. Landscaping, General Residential: Fences or trees placed upon utility easements are subject to removal at the cost of the property owner if required for the maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed twenty (20) feet in height. (The planting of large trees is not recommended under overhead wires.) The amount of hard surfacing provided on a lot shall be limited to the size and area necessary to accommodate ordinance requirements and allowances.
- C. Landscaping, Semi-Public, and All Income Producing Property Uses: Except as may be otherwise allowed by the City Council, all above referenced uses shall be subject to mandatory landscape plan prior to approval of a building permit.

1. Said landscape plan shall be developed with an emphasis upon the following areas:
 - a. The boundary or perimeter of the proposed site at points adjoining other property.
 - b. The immediate perimeter of the structure.
 - c. The perimeter of parking and loading areas.
2. All landscaping incorporated in said plan shall conform to the following standards and criteria:
 - a. All plants must at least equal the following minimum size:

Balled and Burlapped, Container Grown, or Bare Root*

Shade Trees	1.5 to 2 inch diameter
Ornamental Trees (Flowering Crab, Hawthorn, etc.)	1 inch diameter
Coniferous Trees	4-6 feet
Large Deciduous Shrubs (Dogwood, Viburnum, etc.)	2-4 feet
Large Coniferous Shrubs (Globe arborvitae, migho pine, etc.)	2 feet
Small Deciduous Shrubs (spirea, potentilla, etc.)	18-24 inches
Small Coniferous Shrubs (spreading evergreens)	18-24 inches (spread)

* All trees shall be balled and burlapped (B&B) and shrubs shall be container grown unless otherwise approved by City staff.

Type and mode of planting are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, irrigation, grading, etc.).

- b. Spacing:
 - (1) Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgement of the Zoning Administrator.

- (2) Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.
- (3) Where plants or screening is intended, large deciduous and coniferous shrubs shall not be planted more than four (4) feet on center.

c. Types of New Trees. Plantings, suitable trees include, but are not limited to the following:

<u>Botanical Name</u>	<u>Common Name</u>
Quercus (varieties)	Oak
Acer platanoides (and varieties)	Norway Maple
Acer rubrum (varieties)	Red Maple
Acer saccharum	Sugar Maple
Celtis occidentalis	Hackberry
Betula (varieties)	Birch
Gleditsia Triacanthos inermis (varieties)	Honeylocust
Tilia cordata (and varieties)	Little Leaf Linden
Tilia americana (and varieties)	American Linden
Fraxinus pennsylvania (varieties)	Green Ash
Ginkgo biloba (male tree only)	Ginkgo
Gymnocladus dioicus	Kentucky Coffee Tree

d. Design:

- (1) The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).
- (2) All areas within the property lines (or beyond, if side grading extends beyond) shall be treated. All exterior areas not paved or designated as drives, parking or storage, must be planted with ornamental vegetation (lawns, ground covers or shrubs)

unless otherwise approved by the Zoning Administrator.

- (3) Slopes that are to be maintained as turf in excess of 2:1 are prohibited unless approved by the Zoning Administrator.
- (4) All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
- (5) All principal use structures shall provide an exterior water supply for use in landscape purposes.”

e. Landscape Guarantee: All new plants shall be guaranteed for two (2) full years from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.

f. Existing Trees: With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for street, buildings, utilities, drainage or active recreational purposes. Trees over six (6) inches in diameter that are to remain, are to be marked with a red band, and to be protected with snow fences or other suitable enclosure, prior to any excavation. The City may further require that the property owner and/or developer retain a professional forester to prepare a forest inventory and management plan for the development, in order to control and abate any existing or potential shade tree disease and to save trees from construction loss.

D. Mechanical Equipment: All rooftop and ground mounted mechanical equipment of non-residential buildings shall comply with the following standards:

1. All rooftop and ground mounted mechanical equipment shall be buffered so as to mitigate noise in compliance with Section 15.14 of this Ordinance.
2. All rooftop and ground mounted mechanical equipment shall be designed (including exterior color) and located so to be aesthetically harmonious and compatible with the building. Screening of the equipment may be required where the design, color, and location of the equipment are found to not effectively buffer noise or provide aesthetic harmony and compatibility. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure. Applicable requirements for access to the equipment shall be observed in the design and construction of the screening.
3. Rooftop mechanical equipment less than three (3) feet in height shall be exempt from the screening requirements of Section 15.07.D.2 of this

Ordinance.

15.08 TRAFFIC VISIBILITY:

- A. Corner Lots: On corner lots in all zoning districts, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height two (2) feet and eight (8) feet within twenty (20) feet from the intersecting property lines. Said obstruction shall not be wider than two (2) feet.
- B. Fences, Walls, and Hedges: Except as may be erected by a governmental agency, no fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way. In required front yards or a required side yard abutting a street on a corner lot, fences, walls, hedges, or structures shall be at least seventy-five (75) percent open space for passage of air and light. These regulations shall apply unless it can be demonstrated that the structure provides an unobstructed view so as not to create a safety hazards.

15.09 DRAINAGE PLANS, SOIL EROSION AND SEDIMENT CONTROL:

- A. No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facilities subject to the review and approval of the City Engineer and in accordance with storm drainage plans as may be established by the City.
- B. In the case of all residential subdivisions of three (3) or more lots, business and industrial developments, the drainage plans with appropriate spot site elevations shall be submitted to the City Engineer for review and the final drainage plan shall be subject to written approval. In the case of such uses, no modifications in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.
- C. The following standards shall apply to all development and activity that necessitates the grading, stripping, cutting, filling, or exposure of soils.
 - 1. General Standards:
 - a. The development shall conform to the natural limitations presented by

topography and soil so as to create the least potential for soil erosion.

- b. 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.
 - c. 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.
 - d. The drainage system shall be constructed and operational as quickly as possible during construction.
 - e. Whenever possible, natural vegetation shall be retained and protected.
 - f. 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.
 - g. When soil is exposed, the exposure shall be for the shortest feasible period of time. No exposure shall be planned to exceed sixty (60) days. Said time period shall be extended only if the City Engineer is satisfied that adequate measures have been established and will remain in place.
 - h. The natural drainage system shall be used as far as is feasible for the storage and flow of runoff. Storm water drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flows, erosion damage, and construction costs.
2. Exposed Slopes: The following control measures shall be taken to control erosion during any activity where soils are exposed:
- a. No slope should be steeper in grade than four (4) feet horizontal to one (1) foot vertical
 - b. Exposed slopes steeper in grade than ten (10) feet horizontal to one

(1) foot vertical should be contour plowed to minimize direct runoff of water.

- c. At the foot of each exposed slope, a channel and berm should be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- d. Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures should consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipator should be installed to prevent erosion at the discharge end.
- e. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- f. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

3. Design Standards:

a. Waterways:

- (1) The natural above ground drainage system shall be utilized to the extent possible to dispose of runoff. Storm sewers are only be used where it can be demonstrated that the use of the above ground natural drainage system will not adequately dispose of runoff. Above ground runoff disposal waterways may be constructed to augment the natural drainage system. To the extent possible, the natural and constructed waterways shall be coordinated with an open space trail system.

- (2) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten (10) inch storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
- (3) No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
- (4) The banks of the waterway shall be protected with a permanent turf vegetation.
- (5) The banks of the waterway shall not exceed five (5) feet horizontal to one (1) foot vertical in gradient.
- (6) The gradient of the waterway bed shall not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- (7) The bed of the waterway shall be protected with turf, sod, or concrete. If turf or sod will not function properly, rip rap may be used. Rip rap shall consist of quarried limestone, fieldstone (if random rip rap is used) or construction materials provided said construction materials are limited to asphalt cement and concrete. The rip rap shall be no smaller than two (2) inches square nor no larger than two (2) feet square. Construction materials shall be used only in those areas where the waterway is not used as part of a recreation trail system.
- (8) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the sidewalls. Either gravel or rip rap may be allowed to prevent erosion at these points.

b. Water Velocity:

- (1) The flow velocity of runoff in waterways shall be controlled to a velocity that will minimize erosion of the waterway.
- (2) Flow velocity shall be controlled through the installation of diversions, berms, slope drains, and other similarly effective velocity control structures.

c. Sediment Control:

- (1) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures shall be incorporated throughout the contributing watershed.
- (2) Temporary pervious sediment traps could consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures may serve as temporary sediment control features during the construction stage of a development.
- (3) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

d. Maintenance of Erosion Control System:

- (1) The erosion and velocity control structures shall be maintained in a condition that will insure continuous functioning according to the provisions of this Ordinance.
- (2) Sediment basins shall be maintained as the need occurs to insure continuous desilting action.
- (3) The areas utilized for runoff waterways and sediment basins shall not be allowed to exist in an unsightly condition. The banks of the sediment basins and waterways shall be landscaped.
- (4) Prior to the approval of any development, the developer shall make provision for continued maintenance of the erosion and sediment control system.

D. The top of any exterior foundation shall extend above the elevation of the street, gutter or inlet of an approved drainage device a minimum of twelve (12) inches plus two (2) percent. Exceptions to this standard may be approved by the City Building Official when it can be demonstrated that required drainage to the point of discharge and away from the structure is provided at all locations on the site.

15.10 GLARE: Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential use or

zone and from public streets. Direct or sky-reflected glare, where 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 or the public right-of-way. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. 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 center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four (4) foot candles (meter reading) as measured from said property.

15.11 SMOKE: The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7017.

15.12 DUST AND OTHER PARTICULATED MATTER: The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7011, as amended.

15.13 AIR POLLUTION: The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

15.14 NOISE: Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 7010, as amended.

15.15 REFUSE AND RECYCLABLE MATERIAL:

A. Removal:

1. Upon properties less than five (5) acres in size, passenger automobiles and trucks not currently licensed by the state, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period in excess of twelve (12) months, and all materials stored outside in violation of City regulations are considered refuse or junk and shall be disposed of.
2. Upon properties five (5) acres or greater in size, no more than three (3) passenger automobiles and trucks, not currently licensed by the State or

which are, because of mechanical difficulty, incapable of movement under their own power, shall be parked or stored outside.

3. Any accumulation of refuse on any premises not stored in containers which comply with City regulations, or any accumulation of refuse on any premises which has remained thereon for more than one (1) year is hereby declared to be a nuisance and may be abated by order of the Health Officer, as provided by Minnesota Statutes, Sections 145.22 and 145.23 as may be amended, and the cost of abatement may be assessed on the property where the nuisance was found, as provided by law.
4. Waste resulting from the handling, storage, sale, preparation, cooking and serving of foods with insufficient liquid content to be free flowing is considered refuse. The storage and removal of this refuse shall meet the requirements of St. Augusta.

B. Location and Screening:

1. All refuse and refuse handling equipment including but not limited to garbage cans and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye level view for all uses, except for single family residences.
2. Screening shall be at least six (6) feet in height and provide a minimum opaqueness of eighty (80) percent. Said facility shall comply with minimum setback requirements. All dumpsters, trash handling equipment, recycling containers, and enclosures shall be kept in a good state of repair with tight-fitting lids to prevent spilling and spread of debris. The construction of trash enclosures shall be per standards established by the City Building Official and all designs and construction of such enclosures shall be subject to the Building Official's approval.
3. For public health purposes, uses existing on the effective date of this Ordinance shall come into compliance no later than October 7, 2004.

C. Dumping and Disposal:

1. Except if associated with a permitted use and approved by the City Council, the use of land within the City for dumping and disposal of sewage, rubbish, scrap iron, junk garbage, ashes, slag industrial waste by-products, and petroleum contaminated soil is not permitted in any zoning district of the City.

15.16 OUTSIDE STORAGE, RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USES:

A. General Standards:

1. Except for temporary construction trailers and mobile services operated by public service agencies (i.e., bookmobile, bloodmobiles, etc.) as allowed by the City, and trailers parked in a designated and improved loading area, no vehicle may be used for office, business, industrial manufacturing, testing, or storage of items used with or in a business, commercial or industrial enterprise, unless otherwise approved by the Zoning Administrator.
2. The City Council may order the owner of the property to cease or modify open storage uses including existing uses, provided it is found that such use constitutes a threat to the public health, safety, or general welfare.

B. Residential Uses:

1. Exceptions: Except as provided in this Ordinance, all outside storage of materials and equipment for residential uses (excluding farms) shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:
 - a. Clothes lines pole and wire.
 - b. Play and recreational facilities.
 - c. Agricultural materials and equipment if these are used or intended for use on the premises within a period of twelve (12) months.
 - d. Construction and landscaping materials or equipment if these are intended for use on the premises within a period of twelve (12) months.
 - e. On and off-street parking of currently registered and operable passenger vehicles and trucks not to exceed a gross weight of twelve thousand (12,000) pounds.
 - f. Rear or side yard exterior storage of firewood for the purpose of consumption only by the person or persons on whose property it is stored.
2. Recreational Vehicle and Equipment Storage: Unless approved by the Zoning Administrator through an administrative permit, not more than four (4) recreational vehicles, as defined by Section 2.2 of this Ordinance, may be parked or stored on a residential site less than five (5) acres in size provided:
 - a. Such vehicles or equipment have affixed thereto current registration or license plates as required by law.

- b. Except upon established driveways, such vehicles shall be stored so as to comply with accessory building setbacks of the residential district.
 - c. Parking and storage comply with any other applicable City regulations.
3. Temporary Parking of Recreational Vehicles: Temporary parking of one (1) recreational vehicle per residential parcel shall be allowed upon established driveways for a period not exceeding seven (7) days within a thirty (30) day period.

C. Non Residential Uses:

- 1. Exterior Storage/Display: Outside storage shall be governed by the respective zoning district in which such use is located.
- 2. Additional Standards: All outside storage shall be screened so as not to be visible from adjoining properties and public streets except for the following:
 - a. Merchandise being displayed for sale in accordance with zoning district requirements.
 - b. Materials and equipment currently being used for construction on the premises.
- 3. Parking of Commercial Vehicles: Up to three (3) commercial vehicles such as delivery and service trucks up to twelve thousand (12,000) pounds in gross vehicle weight may be parked without screening if such vehicles relate to the principal use. Construction equipment, trailers, and vehicles over twelve thousand (12,000) pounds in gross vehicle weight shall require screening in compliance with Section 15.07 of this Ordinance.

15.17 SEWAGE DISPOSAL: The installation of on-site sewage treatment systems shall be in compliance with the provisions of Minnesota Rule 7080, the State Plumbing Code and applicable State, County and City regulations.

15.18 WASTE MATERIAL: Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system, the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State Fire Marshal, the Pollution Control Agency, and the Department of Natural Resources and the Zoning

Administrator.

15.19 BULK STORAGE (LIQUID): All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshall's, Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.

15.20 RADIATION EMISSION: All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

15.21 ELECTRICAL EMISSION: All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

15.22 TEMPORARY STORAGE OF FILL:

- A. Limitations: The temporary storage of fill from building excavations or construction projects shall be allowed in all zoning districts subject to the following conditions:
 - 1. Storage shall not exceed the term of the building permit.
 - 2. The storage shall be in compliance with requirements and approved by the City Building Inspector and/or City Engineer.
 - 3. Provisions as approved by the City Building Inspector and/or City Engineer shall be made for erosion control.
- B. The storage of fill beyond that defined in Subd. 15.22.A of this Ordinance shall be in compliance with the provisions of Section 22 of this Ordinance as may be applicable and allowed only within those zoning districts of the City where outside storage is allowed.

15.23 SALES IN AGRICULTURAL AND RESIDENTIAL ZONING DISTRICTS:

- A. Personal Vehicles, Trailers, Recreational Equipment, and Similar Items:
 - 1. Merchandise items for sale shall not be placed in any portion of the public right-of-way, public boulevard.
 - 2. For sale signs on or in such merchandise shall be limited to two (2) square feet.

B. Garage or Rummage Sales:

1. Sales shall be limited to a maximum of five (5) consecutive days and occurring no more than two (2) times within one (1) calendar year per property, unless approved by the Zoning Administrator.
2. Merchandise items for sale shall not be placed in any portion of the public right-of-way, or public boulevard.
3. Signs shall be governed by Section 31 of this Ordinance.