

WABASHA PLANNING COMMISSION

March 13, 2018 6:00 PM

MEETING AGENDA

- 1) Call to Order
- 2) Approval of Minutes- February 13, 2018
- 3) Changes or Additions to Agenda
- 4) Public Comment
- 5) Public Hearings
- 6) Old Business
 - a) Zoning Ordinance
 - b) Solar Stone Update
- 7) New Business
 - a) Mining Ordinance
- 8) Board of Adjustment Business
- 9) Other Business
- 10) Next Regular Meeting Date - April 10, 2018
- 11) Adjourn

Planning Commission

2)

Meeting Date: 03/13/2018

SUBJECT: Approval of Minutes February 13, 2018

DEPARTMENT: Planning & Zoning

TITLE:

Approval of Minutes- February 13, 2018

PURPOSE:

Attachments

PC Minutes 2-13-18

WABASHA PLANNING COMMISSION

February 13, 2018 6:00 PM

MEETING MINUTES

Commission Members:	Tim Wallerich, Chair	Scott Durand
	Jim Miller, Vice Chair	Sharon Burke
	Craig Falkum	Vacancy
	Lynn Schoen	

Present: Chair Tim Wallerich; Sharon Burke; Scott Durand; Craig Falkum; Lynn Schoen

Absent: Vice Chair Jim Miller

Also Present: Kristi Clarke, Contracted City Planner; Wendy Busch, Planning & Zoning Assistant

1) Call to Order

Chair Wallerich called the Planning Commission meeting to order at 6:01 pm on Tuesday February 13, 2018.

2) Approval of Minutes- January 9, 2018

Commissioner Burke pointed out that Commissioner Bricher is still on the header of the minutes template. Staff will correct.

Motion made by Scott Durand, seconded by Lynn Schoen to approve the minutes from January 9, 2018 with the removal of Commissioner Brichers name from the minutes header.

Vote: 5 - 0 Adopted - Unanimously

Other: Vice Chair Jim Miller (ABSENT)

3) Changes or Additions to Agenda

Commissioner Falkum would like to add item 6 b. Solar Stone Solar Garden to Old Business.

4) Public Comment

5) Public Hearings

6) Old Business

a) Zoning Ordinance - Phase 3

Kristi indicated we are down to phase 3. The wellhead protection and a section on excavation and filling still needs to be reviewed by Brian Malm of Bolton & Menk as well as MPCA. Kristi would like to put phase 2 and 3 together and provide it one last time in March and move into public hearing in April and first and second reads at City Council in May and June. The commission reviewed the phase 3 documents.

b) Solar Stone Solar Garden

Commissioner Falkum would like to revisit the Solar Stone CUP and the conditions not being met. Screening along County Road 30 and along 17th Street is not adequate. The vines along the fence are not growing and the shrubs are not providing the amount of screening to adjacent property. Staff will contact the applicant regarding the concerns.

7) New Business

8) Board of Adjustment Business

9) Other Business

a) Main Street Project

Commission Falkum spoke to the Main Street project that is happening in the community. It's a national organization that we are making efforts to become a member, which will open up the opportunities to grants and funding to benefit the downtown.

10) Next Regular Meeting Date - March 13, 2018

11) Adjourn

Motion made by Scott Durand, seconded by Sharon Burke to adjourn at 6:44 pm.

Vote: 5 - 0 Adopted - Unanimously

Other: Vice Chair Jim Miller (ABSENT)

Respectfully submitted by: _____
Wendy Busch, Planning & Zoning Assistant

Adopted Date

Planning Commission

6)a)

Meeting Date: 03/13/2018

SUBJECT: Zoning Ordinance

DEPARTMENT: Planning & Zoning

TITLE:

Zoning Ordinance

PURPOSE:

Attachments

Zoning Ordinance



Memorandum

Office of the City Planner

To: Planning & Zoning Commissioners
From: Kristi Clarke, Consultant City Planner
Date: March 7, 2018
Subject: Zoning Ordinance Review – Final Phase Completed

The Planning Commission reviewed the final detailed section of the Zoning Ordinance last month with their review of the off-street parking standards. Attached is a complete review of all section within the Zoning Ordinance, *except* Section 305.09 DEFINITIONS which have already been reviewed and approved by City Council.

For ease of review, *all changes are shown in RED and original text that is proposed to be eliminated is shown with a ~~line through it~~ and highlighted in yellow.*

The Table of Contents can provide a summary of all amended changes. All edited sections are shown in RED.

Staff Recommendation: If there are no significant changes after the Planning Commissioner's review of the final amended Zoning Ordinance; staff recommends that we schedule a public hearing for these suggested changes during our regular meeting to be held on April 10, 2018.

I look forward to our discussion on this Tuesday evening.

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The City of Wabasha does ordain:

The Zoning & Shoreland Ordinance dated December 18, 2007

305.01 INTRODUCTION.

Subd. 1 Title.

This Section shall be known as, referred to, or cited as "ZONING ORDINANCE, City of Wabasha, Minnesota".

Subd. 2 Authority.

In accordance with the authority granted by Chapter 462 of the Minnesota Statutes, the City Council of the City of Wabasha, Minnesota, does hereby ordain this Zoning & Shoreland Ordinance.

Subd. 3 Purpose

This section is adopted for the purpose of promoting the public health, safety, morals, prosperity, aesthetics, and general welfare, of the City of Wabasha by regulating on the earth's surface, in the air space above the surface, and in subsurface areas, the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands access to direct sunlight for solar energy systems, flood control or other purposes.

305.02 GENERAL PROVISIONS.

Subd. 1 Effective Date.

This Section shall be effective after notice, publication, hearing, and adoption by the City Council as required by Minnesota Statutes and City Charter.

Subd. 2 Jurisdiction.

Jurisdiction of this Section shall include all lands and water within the corporate limits of the City of Wabasha, Minnesota.

Subd. 3 Abrogation and Greater Restrictions.

It is not the intent of this Section to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, Ordinances, rules, or permits previously adopted or issued pursuant to law with the exception of previous zoning and shoreland ordinances which are hereby repealed. However, wherever this Section imposes greater restrictions, the provisions of this Section shall apply.

Subd. 4 Interpretation.

The provisions of this Section shall be interpreted and applied as minimum requirements, shall be construed in favor of the City, and shall not be deemed a limitation or repeal of any power granted by Minnesota Statutes.

Subd. 5 Repeal.

All other Ordinances or parts of Ordinances of the City inconsistent or conflicting with this Section to the extent of their inconsistency only are hereby repealed.

Subd. 6 Rules & Definitions

A For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.

B The word “person” shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

C The word “shall” is mandatory and not discretionary.

D The word “may” is permissive.

E The word “lot” shall include the words “plot”, “piece”, and “parcel”.

F The words “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.

G Definitions

Unless specifically defined in Section 305.09, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

~~Exception on Setback Requirements. Where structures exist on adjoining lots or within a distance of one hundred (100) feet, the required front yard for the lot shall be set at the average yard (setback) of the improved lots and no variance is needed to conform~~

Subd. 7 Use and Site Restrictions.

A Whenever in any zoning district a use is ~~not neither specifically permitted nor allowed through a conditional or interim~~ use permit reference, the use shall be considered prohibited. In such cases, the City Council, Planning Commission, or property owner may request a study by the City to determine if the use is acceptable and, if so, what zoning would be most appropriate and the determination as to conditions and

standards relating to development of the use. The study shall include consideration of the adopted Comprehensive ~~and Land Use~~ Plan (s) of the City. The City of Wabasha Planning Commission, upon receipt of the staff study may initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the district or the city.

- B Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged, or structurally altered, and use of any land, shall be in compliance with the regulations established herein for the district in which such buildings or lands are located.
- C No lot shall be so reduced that the dimensions and yard requirements imposed by this Section cannot be met. No part of the yard or open space required for a given building shall be included as part of the yard or open space required for another building, ~~and no lot shall be used for more than one principal building except for districts where explicitly stated as allowed.~~
- D Allowable Obstructions: Every part of a required yard shall be open to the sky unobstructed, except for minor and temporary structures and the ordinary projection of sills, cornices, roof overhangs, gutters, and ornamental features projected not more than 48 inches; except that in commercial areas a permanent awning and its accessory columns or struts may project not more than five (5) feet into a required front or side yard.
- E Only one principal use is allowed per lot or parcel unless mixed uses, multi-family dwellings, or other such uses are explicitly allowed for that zoning district.
- F For uses that are allowed with a maximum square footage, the maximum square footage applies to newly constructed and/or pre-existing structures.
- G Open or enclosed fire escapes may project into a required yard not more than five (5) feet and into a required court not more than three and one half (3½) feet, provided it be so located as to not obstruct light or ventilation. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, tanks, water towers, ornamental towers, spires, wireless or communication towers (in districts where they are specifically allowed), masts or aerials, and necessary mechanical appurtenances are hereby excepted from the height regulations of this Section, and may be erected in accordance with other regulations or Ordinances of the City.

Subd. 8 Separability.

It is hereby declared to be the intention of the City Council that ~~the~~ several provisions of this Section are separable in accordance with the following:

- A If any court of competent jurisdiction shall adjudge any provision of this Section to be invalid, such judgment shall not affect any other provisions of this Section not specifically included in said judgment.
- B If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Section to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Subd. 9 Exception on Setback Requirements.

Where structures exist on adjoining lots or within a distance of one hundred (100) feet, the required front yard for the lot shall be set at the average yard (setback) of the improved lots and no variance is needed to conform.

305.03 VIOLATIONS AND PENALTIES.

Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than \$1,000 or imprisonment for not more than ninety (90) days, or both. Each day a violation exists or continues, shall constitute a separate offense.

305.04 ORDINANCE ADMINISTRATION.

Subd. 1 Administration and Enforcement.

The City Council hereby designates that it is the duty of the Planning Administrator ~~or designee~~ **Department** to enforce the provisions of this Section. The specific duties of staff in zoning administration shall be detailed in position descriptions and overseen by the City Administrator, but shall generally include:

- A Providing zoning information and city applications to the public upon request,
- B Receiving and reviewing such applications to determine if they comply with the provisions of City Code and/or State Statute,
- C Issuing or denying applications when authorized by Code, or referring such application to the appropriate public body for review,
- D Notifying affected property owners of the required hearings and publishing notice of such hearings as required under City Code, City Charter, and/or State Statute,

- E Conducting inspections and research and providing findings to the appropriate public body,
- F Investigating violations and notifying property owners of violation and code requirements or bringing violation matters to the appropriate public body,
- G Overseeing the keeping of the zoning map and text up-to-date and the provision of this information to the public in the most effective and efficient means possible, and
- H Identifying and tracking of non-conformities, as defined under section 305.08 within the City.

Subd. 2 Planning Commission Establishment & Duties

A Establishment

A Planning Commission for the City of Wabasha is hereby continued as previously established by the City Council. The Planning Commission, which is a planning agency as allowed and defined by Minnesota State Statute Chapter 462.354, shall be advisory directly to the City Council, except for other powers and duties that are imposed on it by statute, by charter, or by ordinance consistent with the municipal charter.

B Composition

Such Planning Commission shall consist of seven (7) members who shall be appointed by the City Council and may be removed by a two-thirds vote of the City Council. Terms for Planning Commission members shall be three (3) years. All members shall hold their offices until their successors are appointed and qualified. Vacancies during the term shall be filled by the City Council for the unexpired portion of the term. All members shall serve without compensation.

C Organization and Meetings

The Planning Commission shall elect a chairperson from among its appointed members for the term of one year; and the Planning Commission may create and fill such other offices as it may determine necessary. The Planning Commission shall hold at least one regular meeting each month which shall be rescheduled from its original date if there is a lack of quorum. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which shall be a public record. From time to time through the course of a year, the Planning Commission shall submit to the City Council a report of its work activities or projects during the preceding year. Expenditures of the Planning Commission shall be within amounts appropriated for such purposes by the City Council.

D Adoption of Program of Work.

The Planning Commission shall prepare and adopt a program of work which may be revised from time to time. This program will outline activities proposed to be undertaken in the exercise of the Planning Commissions powers and the performance of its duties consistent with the goals and strategies adopted in the Comprehensive Plan.

E Preparation of Comprehensive Plan

1. It shall be the ~~function and~~ duty of the Planning Commission to prepare and recommend to the City Council for adoption a Comprehensive Plan for the physical development of the City as allowed and regulated under Chapter 462 of State Statute. The Planning Commission shall periodically review the plan and recommend amendments to the City Council as allowed under State Statute.
2. Procedure for Adoption or Amendment of the Comprehensive Plan. Before final recommendation for Comprehensive Plan adoption or amendment to the City Council, the Planning Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given publication in a newspaper of general circulation at least ten (10) days before the day of the hearing. The adoption of the Comprehensive Plan or any section or any amendment thereof shall be by resolution of the City Council, approved by a two-thirds vote of all of its members.
3. Means of Executing the Comprehensive Plan: Upon adoption of the Comprehensive City Plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the City Council reasonable and practicable means for putting into effect such plan or section thereof. Such means shall consist of a zoning ordinance which includes a zoning map, a subdivision ordinance which provides for the control of plats and changes of lot lines, and may include a plan for future streets, coordination of the normal public improvements of the City, a long term program of capital expenditures and such other matters as will accomplish the purposes of the Comprehensive Plan.

F Review of Recommended Public Works

Each department, board, or commission of the City of Wabasha whose functions includes preparing and recommending plans for development projects shall, submit such plans to the Planning Commission for review prior to the submission of these plans to the City Council. These shall include plans which have interdepartmental implications or pertain to implementation of the Comprehensive Plan, but not those that relate to the regular maintenance or repair of City infrastructure.

Subd. 3 Board of Adjustment
A Establishment

The Planning Commission, from its members, shall elect 5 individuals on an annual basis at the beginning of each calendar year to sit on the Board of Adjustment which will be a committee of the Planning Commission as allowed in state statute 462.354. All eligible members shall continue to serve until a new board is appointed.

B The Board of Adjustment shall have the following powers & duties:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the City Planning Department.
2. To hear and decide requests for variances from this Section of City Code (commonly referred to as “The Zoning Ordinance”), under the process specified in Section 305.04 Subdivision 5.
3. To hear and decide appeals and variances under other sections of City Code as specified in those sections.

Subd. 4 Payment of review fees

For the purpose of reviewing any applications when it is identified by City Staff, Planning Commission, or City Council, the need for outside technical opinion or review (including review by City Engineer, City Attorney, Surveyors, or similar technical advisors) the cost of such review shall be the responsibility of the applicant. Also, any such cost generated in order to determine need or requirements for application shall be borne by the potential applicant. As a condition of approval or when deemed appropriate by the City Attorney at the time of application, the applicant may be required to establish an escrow account for payment of such services.

Subd. 5 Permits

A.Occupancy Permit (Certificate of Occupancy)

1. For uses and structures that require any permit, no vacant land shall be occupied or used and no buildings hereafter erected, altered or moved until a certificate of occupancy has been issued by the City from their building official. Such certificate shall show that the building or premises or part thereof and the use thereof are in conformity with the provisions of this Section of City Code and all applicable building code. Such certificate shall be issued only when the building or premises and the use thereof conform to all the requirements of this Section.

A Conditional/Interim Use Permits.

1. Permit. The Planning Commission may issue a Conditional Use Permit for conditional uses or an Interim Use Permit for interim uses after review and public hearing, provided such uses or structures are in accordance with the purpose and intent of all City Code and the

Comprehensive Plan, and are found not to be hazardous, harmful, or otherwise adverse to the environment or the value of the neighborhood or community.

2. Application. Applications for Conditional/Interim Use Permits shall be made to the Planning Department as prescribed on forms provided by that office. Completed applications shall be forwarded to the Planning Commission for consideration as prescribed by State Statute. An application may be rejected by the Planning Department if required information is not provided and a written notice explaining the reason for rejection is given to the applicant within 15 days from submission of the incomplete application. Such applications shall include where applicable:
 - a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, or other key participants and all opposite and abutting property owners of record.
 - b. Description of the subject site by the property address and legal description (lot, block and recorded subdivision or by metes and bounds).
 - c. A written and/or graphic description of the use being requested including an explanation of the proposals compliance with this section and requirement of the specific zoning district where the proposal is located. This may include a site plan of the proposal and/or supporting information including but not limited to proposed: hours of operation, number of employees, locations of structures (existing & proposed), parking, signage, lighting and landscaping. The Planning Department and/or Planning Commission may require that a Site Plan prepared by a State Licensed Land Surveyor, Professional Engineer, Architect, or Landscape Architect showing existing and proposed contours and elevations, property boundaries, amount of land (acreage), locations of human made or natural features such as structures, water bodies or wetlands, roads, easement locations, and/or landscaping depending on the specific use requested and/or the nature of the proposed location.
 - d. Additional information pertaining to the proposed project as may be required by the Planning Department and/or Planning Commission.
3. Review and Approval
 - a. The Planning Commission shall review the application and consider the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, road

access, traffic generation and circulation, drainage, available and adequate city services, and the operation of the proposed use.

- b. The Planning Commission shall hold a public hearing on the proposed conditional or interim use. Notice of time and place of such hearing shall be published not less than ten (10) or more than thirty (30) days preceding said hearing and at least once in the legal newspaper of the City. A similar notice shall be mailed at least ten days before the day of the hearing to each property owner within 350 feet of the property to which the application relates. The City shall also notify highway agencies where road connections are proposed and all other applicable federal, state, or local agencies. Failure to comply with this provision shall not however, invalidate any previous or subsequent action on the application.

4. Criteria

- a. General Standards. No conditional or interim use shall be granted by the Planning Commission unless the Board shall find:
 - i. That the establishment, maintenance, or operation of the use will not be detrimental to or endanger the public health, safety, comfort, or general welfare of the City;
 - ii. That the 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 neighborhood;
 - iii. That the establishment of the use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;
 - iv. That adequate public or private/community septic and wells for allowed private utilities, access road and sidewalks for the proposed use, drainage and erosion control, and/or necessary facilities have been or are being provided;
 - v. That adequate ingress and egress so designed as to minimize traffic congestion in the public streets; including provisions for pedestrian, bicycle, and boat traffic where appropriate.
 - vi. That the use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - vii. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting which prevents light pollution, screening (including fencing and/or plantings to screen from roads and residential uses), security provisions, refuse management, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Board upon its finding that these are necessary

to fulfill the purpose and intent of this Section or other sections of City Code.

- viii. Adequate parking facilities and loading areas or the use
 - ix. Preservation of natural resources including but not limited to filling and grading limitations.
 - x. Use does not obstruct scenic views from public right-of-ways or existing residential uses.
 - xi. Adequate size and configuration of property for the proposed use or activity.
 - xii. Adequacy of other standards will be determined by the Planning Commission based upon the proposed type and intensity of use and specific site conditions.
 - xiii. Hours of business operation
 - xiv. No application for a conditional or interim use that has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order or denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Department
 - xv. In any case where a conditional or interim use has not been established within one (1) year after the date of granting thereof, then, without further action by the Planning Commission, the conditional use or authorization shall be null and void.
 - xvi. A date or event which will terminate an Interim Use Permit will be identified on the permit and may include termination by a change to the zoning regulations.
 - xvii. An interim use will not be granted if there is a finding by the Commission that its issuance will impose additional costs on the public if it is necessary for the public to take the property in the future.
 - xviii. Termination schedule of IUP's will be determined at the time of permit issuance and may be based on the following or similar circumstances: anticipated or resulting changes to the surrounding environment (e.g. changes in zoning, land use, environmental conditions, or development projects), sale or transfer of property, violation of laws or codes (health codes, etc.), termination or lapse of other required permits, change of management or ownership
 - xix. Conditions as required in the zoning district of the proposed project property including requirements of all zoning overlay districts as specified in Section 305.06 of this ordinance (or as amended) shall also apply.
- b. Specific Zoning District Standards. Additional conditions can be found in each zoning district as follows:

1. RRTG – Rural Residential Growth/Transitional
 - i. Use of “ghost platting” indicating future development potential on public sewer & water
 - ii. Clustering of residential lots to allow for future development with an orderly extension of public sewer & water
2. R-1 – Low Density Residential
 - i. Adequate waste management plan and screening or enclosure for trash or storage areas
 - ii. Conditions limiting or prohibiting traffic, parking, noise, odor, hours of operation, sale of alcohol, or other potential nuisances
 - iii. Maximum sizes of structures, site, or operations to maintain residential neighborhood environment
3. R-2 Medium Density Residential
 - i. Adequate management and staffing
 - ii. Maximum size of structures, site, or operation to maintain the traditional neighborhood environment
 - iii. Adequate waste management plan and screening or enclosure
 - iv. Vehicle and pedestrian circulation within and to adjacent uses
 - v. Conditions limiting or prohibiting traffic, parking, noise, odor, hours of operation, sale of alcohol, or other potential nuisances
4. TDC - Traditional Downtown Commercial
 - i. Exterior building treatments, including construction materials comparable to those used in buildings and designed in a manner conforming to the architectural design and general appearance of the district
 - ii. Refuse and service areas, including location and amount of receptacles and screening with fencing or vegetation
 - iii. Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district
 - iv. The limitation of hours of operation, of noise allowed (e.g. music), & requirements for waste management, security, fencing or screening, and any other provisions to harmonize outdoor operations with neighboring residential or business uses
 - v. Outside services, sales, or dining areas as accessory uses is limited to 30% of the interior floor area of the principal use
 - vi. Use of landscaping, fencing, or walls for screening, and to create a continuation of street setback conforming to the other structures of the district for public or private parking lots
 - vii. Conditions for building heights exceeding the base height maximum of 35 feet must be shown to fit within the nature of the district. Floor area ratio, historic evidence of height in the

district, and comparison to nearby existing landmarks in the district will be considered and must be addressed in the findings of facts for approval.

5. GC - General Commercial

- i. Refuse and service areas, including screening with fencing or vegetation
- ii. Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district
- iii. The limitation of hours of operation of noise allowed (e.g. music), & fencing or screening, and any other provisions to harmonize outdoor operations with neighboring residential uses
- iv. Outside services sales, or dining areas as accessory uses is limited to 30% of the floor area of the principal use
- v. Conditions related to the management & storage of Hazardous materials

6. HC – Highway Commercial

- i. Screening of outdoor storage, refuse service areas, including screening with fencing or vegetation
- ii. Compatibility of mixed uses
- iii. Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district
- iv. The control of nuisances to neighboring businesses & residences such as odor, dirt, dust and noise

7. I- Industrial

- i. Demonstrated ability of public infrastructure or services to adequately serve the project or financing provided through escrow or bond to upgrade such services (to maintain pre-existing level of service to the overall community)
- ii. Ingress and egress to the property, including provisions for automotive, truck delivery and loading traffic. Also pedestrian and bicycle traffic if deemed appropriate by the Planning Commission
- iii. Screening of outdoor storage, refuse service areas, loading and processing areas including screening with fencing and/or vegetation Signage and lighting, with reference to glare, traffic safety and compatibility with other properties in the district and adjacent properties
- iv. The control of nuisances to neighboring businesses or properties such as odor, dirt, dust and noise

- v. Increased setbacks, screening, or barriers, in particular for uses which may be injurious to the health or welfare of individuals
 - vi. Limitations on the height of structures, appurtenances, and/or storage of bulk or containerized materials
 - vii. Limitations of the amount and locations of impervious surfaces
 - viii. Requirements for additional stormwater planning or other types of engineering models
8. Amendments to a Conditional or Interim Use Permit.
Changes proposed to a Conditional or Interim Use will be considered by the Planning Commission upon application, review, and approval following the same process as a new application. New conditions or time limits may be imposed on the permit based on criteria and conditions in place at the time of amendment application.

Subd. 6 Variances

- A Purpose: To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance maintaining public safety and welfare.
- B Procedure: An application for a variance shall be filed in writing with the zoning administrator or designee on forms provided and shall pay a filling fee, as established from time to time by City Council. As part of the application, the applicant must state their practical difficulty and provide a building or site plan showing the details of the variance needed. An application may be rejected by the Planning Department if required information is not provided and a written notice explaining the reason for rejection is given to the applicant within 15 days from submission of the incomplete application.
- C Notice: Notice of the time and place of a public hearing shall be mailed to all parties owning real property within three hundred and fifty (350) feet of the subject property however, failure of any property owner to receive such notification shall not invalidate the proceedings. Said mailing shall be made at least ten (10) days prior to the date of hearing. The zoning administrator or designee shall set the date for a public hearing and shall have the hearing notice published at least once in the legal newspaper, not less than ten (10) days prior to the hearing. The Board shall thereafter reach its decision within (60) days from the filing of the application unless a written notice stating the reasons for an extension is sent to the applicant with an anticipated length of extension specifically stated, which may not exceed an additional 60 days (120 total) unless approved by the applicant in writing

- D Standards & Criteria for Variance. The Board of Adjustment will consider varying the regulations of this Section of City Code if a “practical difficulty” is shown to exist for the property in question. The Board of Adjustment may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section of City Code. The variance will not permit standards lower than those required by any State Law. The Board will not issue a variance unless it shall make findings based upon the evidence presented to it in each specific case that all of the following are met.
- 1 The term “practical difficulty” means that the
 - a. The property owner purposed to use the property in a reasonable manner that is not otherwise permitted; and
 - b. The plight of the property owner is due to circumstances unique to the property, not created by the property owner; and
 - c. The variance, if granted will not alter the essential character of the locality.
 2. In its consideration of a variance request, the Board of Adjustment shall consider the following questions:
 - a. The property in question cannot be put to a reasonable use if used under conditions allowed by the official controls because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a practical difficulty to the owner as distinguished from mere inconvenience.
 - b. The conditions upon which a petition for a variance is based are unique to the property or extraordinary circumstances apply for which the variance is sought, were not created by the landowner, and are not applicable, generally, to other property within the same zoning classification.
 - c. Economic considerations alone shall not constitute a practical difficulty if reasonable use for the property exists under the terms of the ordinance.
 - d. The granting of the variance will not alter the essential character of the locality and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - e. The variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
 - f. Whether the variance request is the minimum variance which would alleviate the practical difficulties.
- E No order of the Board of Adjustment granting a variance shall be valid for a period longer than six (6) months from the date of such order

unless the building permit is obtained within such period and the erection or alteration of a building is started or within such period.

- F Authorized Variances. Variances may be granted only to allow a reduction in the performance standards within each zoning district or to vary regulations other than use in Section 305.06 Subdivision 12. The Board of Adjustments may not permit a variance for any use that is not allowed in the zoning district of an effected property.

Subd. 7 Appeals

- A Purpose: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Planning Administrator or designee or any administrative officer in the enforcement of the Zoning Ordinance.

B Procedure:

1. Appeals of a decision by the Planning Department. Any person aggrieved by any decision with claims of error from the City Planning Department in the enforcement of this Section of City Code may appeal to the Board of Adjustment. This appeal will be made with an application of appeal to the Planning Administrator or designee on forms provided. The application must specify the grounds of appeal within ten (10) days after the decision or action complained of and will be filed with the Board of Adjustment. The Board of Adjustment may determine and vary the procedural requirements or interpretation of this or other sections of City Code (where specified) to be in harmony with their general purpose and intent of City Code and the Comprehensive Plan. A determination shall be made by the Board of Adjustment within 60 days from the submission of a complete application unless notice is provided in writing to the applicant that additional time is required (up to an additional 60 days). Such notice must specify the reason as to the extension and an anticipated time of decision. The Board of Adjustment may take no more than a total of 120 days to make a determination unless the applicant provides a request for extension in writing to the Planning Department.
2. Appeals of a decision by the Board of Adjustments may be taken by any person to City Council, by filing a written notice of appeal with the City Clerk specifying the grounds for appeal within ten (10) days of the decision of the Board.
3. Appeals of a decision by the City Council. The decision of the City Council may be appealed to the District Court of this jurisdiction within twenty (20) days from the date the decision is made by the City Council as provided in MN Statute 462.361.

Subd. 8 Amendments to the Zoning Ordinance

A Purpose: Amendments to the Zoning Ordinance (text or map) may be initiated by the City Council, the Planning Commission, or by a property owner for the purpose of carrying out the policies and goals of the Comprehensive Plan and promoting the public health, safety, and general welfare of the community.

B Process:

1. Application by a property owner must be made to the Planning Administrator or designee on forms provided. An amendment initiated by the City Council or a property owner shall be referred to the Planning Commission for review and recommendation to the City Council who will make decisions as to proposed ordinance amendments. An application for a PUD preliminary plan shall also constitute an application to rezone a property to a PUD Overlay and public notices and procedures shall be the same as with other requests for rezoning.
2. The Planning Commission shall hold a public hearing to consider the proposed amendment. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the day of the hearing. A similar notice shall be mailed at least ten days before the day of the hearing to each property owner situated within 350 feet of the property to which the amendment relates. 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 responsible person 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.
3. The Planning Commission shall provide a recommendation to the City Council as to the proposed amendment. The City Council shall not approve an amendment until it has received the recommendation of the Planning Commission on the proposed amendment or 60 days have elapsed from the date of reference of the amendment to the Planning Commission without a report from them to the City Council.
4. The City Council may amend the zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body.

- Subd. 1 Districts. In order to classify, regulate and restrict the location of trade and industry, and location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the City of Wabasha is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:
- A. RC Residential Conservancy
 - B. RR/LA Rural Residential/Limited Agriculture
 - C. RRG T Rural Residential Growth/Transitional
 - D. R-1 Low Density Residential
 - E. R-2 Medium Density Residential
 - F. TDC Traditional Downtown Commercial
 - G. GC General Commercial
 - H. HC Highway Commercial
 - I. I Industrial

The Overlay Map will include the following zones:

- A. PUD Planned Unit Overlay District
- B. Shoreland Overlay District
- C. Floodplain Overlay District
- D. Wellhead Protection Overlay District
- E. Heritage Preservation Overlay District

- Subd. 2 Map.
- The boundaries of the aforesaid districts are hereby established as shown on the "Zoning Map" and the "Overlay District Map" of the City of Wabasha, which is hereby incorporated as a part of this Section. Such map, together with a copy of this Section, shall be available for public inspection in the office of the City Clerk. Any changes in zoning district boundaries shall be recorded on the map. Changes are effective upon adoption of an amendment by the City Council.

- Subd. 3 Boundaries.
- A. The district boundaries are either streets or alleys, unless otherwise shown and where the designation of the Zoning Map and Overlay District Map indicates that various districts are approximately bounded by the center line of a street or alley, such street or alley center line shall be construed to be the district boundary line.
 - B. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into lots and blocks, the

district boundaries shall be construed to be the lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, said lot line shall be construed to be the boundary of the district.

C. In un-subdivided property, the district boundary lines shown on the Zoning Map and Overlay District Map shall be determined by use of the scale shown on such map.

1. Annexed Territory. Any land which may be annexed to the City in the future shall be placed in the RC Residential Conservancy District until action of the City Council shall assign such land to another district.

2. Overlay Districts. Overlay districts as defined in Section 305.09 and provided for in Section 305.06 are hereby established. In the event of conflicting provisions between the underlying zoning district and the overlay district the overlay district standard shall generally apply, unless specifically determined otherwise by the Planning Commission

305.06 DISTRICT REGULATIONS.

Subd. 1 Use Chart

	Zones								
Use	RC	RRLA	RRGT	R-1	R-2	TDC	GC	HC	I
Accessory Uses									
Accessory Building	P	P	P	P	P	P	P	P	P
Agricultural Uses									
Agricultural Stand	P	P	P						
Crop Farming	P	P	P						
Grain Storage Facility							C		P
Limited Livestock Raising	P	P	I						
Raising of Chickens/More than number allowed.	I	I	I	I	I				
Bar / Brewery Uses									
Bars/Cocktail Lounge						P	P	P	
Brewery									C
Brewpub						P	P	P	
Distillery									C
Micro-Distillery with Tasting Room						P	P	P	
Small Brewery with Taproom						P	P	P	
Industrial Uses									
Heavy Industrial									C
Industrial Service									P
Industrial Warehousing Distribution or Storage Facilities								C	P
Light Industrial								C	P
Mining Operations or Extractive Use									I

* **C**= Conditional Use * **I**= Interim Use * **P**= Permitted Use
 * Zoning District Acronym (See 305.05 Subd. 1)

	Zones								
Use	RC	RRLA	RRGT	R-1	R-2	TDC	GC	HC	I
Institutional Uses									
Airport			C						
Cemetery	C	C	C	C	C				
Communication Tower	C	C	C	C			C		C
Cultural Institutions						C	C	C	
Essential Utility and Public Service Facilities < 600 s.f.	P	P	P	P	P	P	P	P	P
Essential Utility and Public Service Facilities > 601 – 1,000 s.f.	C	C	C	C	C	C	C	C	C
Essential utility and public service facilities > 1,001 s.f.									C
Institutional Uses	C	C	P	P	P	P	C	C	
Family Day Care				P	P				
Group Family Day Care				P	P				
Group Day Care					P	C	P		
Supervised Living Facility				P	P				
Solar Garden/Farm >5,000 s.f.	C	C	C	C	C	C	C	C	C
Miscellaneous Uses									
Adult Entertainment Establishment									I
Commercial Kenneling	I	I	I						
Nursery /Greenhouses / Landscape Business	I	C	I						
Major Traffic Generator	C	C	C	C	C	C	C	C	C
Mixed Use with permitted < 4 dwelling units					C	P	P		
Mixed Use with any permitted > 5 dwelling units						C	C		
Parking Garage						C	C		
Structures higher than maximum height (305.06 subd. 7F)						C	C		

* C= Conditional Use * I= Interim Use * P= Permitted Use
 * Zoning District Acronym (See 305.05 Subd. 1)

	Zones								
Use	RC	RRLA	RRGT	R-1	R-2	TDC	GC	HC	I
Office Uses									
Professional Use up to 1,500 sq ft				C	C	P	P	P	P
Professional Use > 1,501 sq ft					C	P	P	P	P
Recreational Uses									
Club				C	C	P	P	P	
Golf Course	C		C	C	C				
Hunting/Shooting Club	C	C	C						
Marina	C	C	C	C	C	C	C		
Parks and Open Space	P	P	P	P	P	P	P	P	P
Recreational Entertainment Facility, Major	C	C	-			C	P	P	P
Recreational Entertainment Facility, Minor		C			C	P	P		
Residential Uses									
Accessory Apartment	I	P	I	I	I				
Bed & Breakfast	I	C	I	I	I	C	C		
Campground	I	C			C		C		
Guest Cottage	C	P	C	C	C				
Home Occupation	P	P	P	P	P				
Hotel/Motel up to 40 Rooms						P	P	P	
Hotel/Motel - 40-70 Rooms						C	C	P	
Hotel/Motel > 70								C	
Manufactured Home Park					C				
Multi-Family Dwellings - Up to 20 Units					C	C	C		
Multi Family Dwellings- More than 20 Units						C	C		
Single Family Detached	P		P	P	P	P	P		
Single Family Attached Dwelling - Up to 2 Units		P		C	P				
Single Family Attached Dwelling - Up to 4 units				C	P				
Single Family Attached Dwelling- More than 4 units					C				
* C= Conditional Use * I= Interim Use * P= Permitted Use * Zoning District Acronym (See 305.05 Subd. 1)									

	Zones								
Use	RC	RRLA	RRGT	R-1	R-2	TDC	GC	HC	I
Retail Uses									
Commercial Retail up to 1,500 s.f.					C	P	P	P	
Commercial Retail >Than 1,500 s.f.						P	P	P	
Contractor Yard							P	P	P
Gas Stations							P	P	P
Open Sales, Service, Rentals Lot						C	P	P	P
Restaurants						P	P	P	
Restaurant/Bar Outdoor Seating						C	C	C	
Restaurant- Drive-in/Drive-Thru							P	P	
Service Uses									
Funeral Parlors					C	P	P	P	
Repair and Maintenance Services						C	P	P	P
Self-Storage Facilities (indoor only) up to 1,500 s.f.					C	C	P	P	P
Self-Storage Facilities (indoor only) > Than 1,500 s.f.							P	P	P
Self-storage Facilities - Outdoor								C	C
* C= Conditional Use * I= Interim Use * P= Permitted Use * Zoning District Acronym (See 305.05 Subd. 1)									

Subd. 2 Use Definitions

Accessory Use	
Accessory Building:	A building subordinate to but not part of the principle building, and used for a purpose incidental to the principle building, structure, or use. Must not be connected to public or private sewer.

Agricultural Uses	
Agricultural Stand:	A structure, or portion thereof, up to 1,000 square feet or an outdoor area used for the retail sale of agricultural and related incidental products primarily grown on the premises (excluding livestock).
Crop Farming:	The tilling of the soil, growing, harvesting and storing crops, agriculture related commercial, storage yards, industrial uses and services.
Grain Storage Facility:	Storage structure for storing bulk agriculturally grown products. Excluding any mined, quarried or manufactured product. Only allowed in the General Commercial Zoning District when it is an existing legal non-conforming use.
Limited Livestock Raising:	The keeping, grazing or feeding of livestock for sale or livestock increase with a maximum of 1 animal unit per acre and a minimum of 2 acres for the first animal unit. Feedlots, stockyards and auction houses, and other similar uses are not allowed.

Bar / Brewery Uses	
Bar/Cocktail Lounge:	An establishment where alcoholic beverages are sold at retail for consumption on the premises and where if food is also sold, sale of alcoholic beverages is 25% or more of gross receipts.
Brewery:	A facility that produces for sale; beer, ale, or other beverages made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.
Brewpub:	A Small Brewery that operates a restaurant on the same premises as the brewery, whose malt liquor production per calendar year may be limited by MN State Statue.
Distillery:	A facility that produces Ethyl Alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

Micro-Distillery with Tasting Room:	A facility that produces Ethyl Alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use not to exceed 40,000 proof-gallons per calendar year.
Small Brewery with Taproom:	A brewery that produces no more than 20,000 barrels of malt liquor in a calendar year.
Taproom:	An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A taproom may also include sales for off-premises consumption of malt liquor produced at the brewery location or adjacent to the taproom and owned by the brewer for off-premise consumption, packaged subject to MN Statute.
Tasting Room:	An area for the on-sale consumption of distilled spirits or wine produced on the premises of, or adjacent to one winery or one distillery and in common ownership to the producer of the wine or distilled spirits. The tasting room area may include sales for off premises consumption of products produced by the owner of the winery or distillery location if permissible by state law.

Industrial Uses	
Heavy Industrial:	Establishments involved in the manufacturing, fabrication or compounding of products, on a primarily wholesale basis, in particular those involving the use of mechanical power and machinery to produce products from raw materials, or to prepare or alter materials for use in a finished product, or to assemble parts into products where there is the creation of odor, dirt, dust and noise.
Industrial Service:	Establishments involved in repair and servicing of industrial, or business machinery, equipment, products with some ancillary sales, repair, storage, or salvage operations and truck stops.
Industrial Warehousing Distribution or Storage:	Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry. Property can include equipment sales and rental, and ancillary business offices.
Light Industrial	Establishments involved in the processing or assembly of products where the process involved is relatively clean and nuisance-free, in the creation of finished products for sale on a primarily wholesale basis.

Mining Operations or Extractive Use:	Extracting mineral resources which may include stockpiling, for retail, wholesale, contract purchase, or transfer of mineral products. For purposes of this title, the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g. residential subdivision, commercial development, etc.) does not constitute a mining site/operation, if: processing of the material does not occur on the property; the activity is completed quickly, does not occur over an extended period of time, and on-site stockpiles are fully depleted; and, a mining permit is not required from the Department of Natural Resources.
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Institutional Uses	
Communication Tower	Any tower structure used for the purpose of providing transmission of cell phone, radio, or other personal wireless facilities.
Cultural Institution:	A facility used for the storage, preservation, study, or exhibition of historic or cultural objects, or scientific interest for the recreation or cultural education of the public. Gift shops, educational or recreational services can be ancillary uses.
Essential Utility Facility:	Structures which provide shelter for equipment, a central utility hub for utilities, booster, or transmitting (not including towers).
Institutional Use	Any use which typically provides a service on a not-for-profit basis by an organized establishment, foundation or society, including religious, private, or public non-profit organizations such as schools, hospitals, churches, and government facilities.
Solar garden/farm	A solar power installation that accepts capital from and provides output credit and tax benefits to individuals and other investors.

State Licensed Residential Facilities:	A use which is required under MN Statute 462.357.
Family Day Care:	A day program providing care for not more than ten (10) children at one (1) time, and which is licensed by the county as a family day care home.
Group Family Day Care:	A day care program providing care for no more than fourteen (14) children at any one (1) time of which no more than ten (10) are under school age.
Group Day Care:	A day care program providing care for more than six (6) children at one time. Group day care includes programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers for school age children, after school programs, infant day care centers, cooperative day care centers and Head Start programs.
Supervised Living Facility:	For persons with developmental disabilities or related conditions where supervision, counseling, housing, and DHS-licensed habilitative or rehabilitative program services are provided to serve five or more developmentally disabled clients.

Miscellaneous Uses	
Adult Entertainment Establishment:	As defined in Minnesota State Statute 617.242, a business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity.
Commercial Kennel:	The keeping of more than three dogs or four cats on the same premises, whether owned by the same person or not that are kept for sale, breeding, profit, and/or training. A litter of pups or kittens may be kept up to three months before it shall be considered a “kennel”
Nursery /Greenhouse / Landscape Business:	A business growing and selling trees, flowering, decorative and/or edible plants which may be conducted in or outside of a building.
Major Traffic Generator	Any use of land for whatever purpose (commercial, industrial, recreational or residential) which generates 500 or more vehicle trips per day total or 60 heavy vehicle trips per day according to the ITE (Institute of Transportation Engineers) most recent Trip Generation Manual.
Mixed Use:	A mix of more than one principal use per lot or parcel including different types of residential (single and multi-family) and/or mix of residential, commercial, and/or institutional uses.

Parking Garage	A structure or any portion thereof designed for the parking of one (1) or more motor vehicles, not including display or storage of motor vehicles for sale.
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Office Uses

Professional Service:	The selling of personal or professional services to the end consumers that typically do not produce a tangible commodity and the sale of merchandise is less than 25% of the business including medical, beauty, law, and other professional services.
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Recreational Uses

Club:	An establishment or property operated for social, recreational, or educational purposes but open only to members and their guests and not the general public.
Hunting / Shooting Club:	An organized gun/archery club that allow the firing of dangerous weapons on the club grounds only by members and guests subject to such conditions as may be required by the city to protect the public health, safety and welfare.
Marina:	A dock or basin providing moorage for four watercraft or more and which may offer supply, repair, rental, or other support facilities.
Parks and Open Space:	Lands which are open to the public that provide a location for natural environmental, cultural, or recreational activities and enjoyment.
Recreational Entertainment Facility. Major:	A structure or open space providing entertainment or recreation, including but not limited to: Amusement centers, Movie theaters with more than 2 screens or stages, and indoor or outdoor water parks or amusement parks, concert venues, dance halls, ski hill, golf course.
Recreational Entertainment Facility, Minor:	A structure or open space providing entertainment or recreation, including but not limited to: bowling alleys, pool or billiard halls, tennis courts, racquetball courts, exercise facilities, roller and ice skating rinks, concert venues with a capacity of up to 200 patrons, theaters with up to 2 screens or stages.

Residential Uses

Accessory Apartment:	A dwelling unit with up to 50% of the principle structure, subordinate to and located in an owner-occupied single-family dwelling or principle structure of a commercial business.
Bed & Breakfast:	An establishment in a single family dwelling that provides temporary accommodations to overnight guests for compensation and meals for a daily or weekly fee.

Campground:	An open-air recreation area where temporary shelters are allowed and intended to provide transient occupancy and associated buildings and accessory structures and offices used in the operation of the facility.
Guest Cottage:	An accessory structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.
Home Occupation:	Any occupation or business conducted within the principle or accessory building by the resident ('s) The space used by the business cannot exceed twenty-five percent (25%) of the usable floor area of the principal structure.
Hotel/Motel:	A structure or group of structures in which three or more units for lodging are offered to transient guests with furnishing of sleeping accommodation in rooms or suites of rooms for compensation, and may also include an ancillary eating establishment, gift shop, or other ancillary tourist services available to guests and/or to the general public.
Manufactured Home Park	A contiguous parcel of land which is developed for the placement of mobile homes which is owned by a single entity rather than parcels that are individually owned.
Multiple Family Dwelling:	A structure or portion thereof intended and designed for two or more dwelling units.
Single Family Attached Dwelling:	A building designed or used exclusively for residential purposes by one family on it's own separate lot and is attached on at least one side by another single family dwelling.
Single Family Detached Dwelling:	A building containing one (1) dwelling unit on its own separate lot, not attached to any other dwelling units, having yards on all sides of the unit.

Retail Use	
Commercial Retail:	The selling of merchandise or goods over a counter to consumers and rendering services incidental to the sale of such goods including services which support agricultural such as soil preparation, crop, farm, and breeding services on a fee or contract basis. All commercial retail drive-thru services will require a Conditional Use Permit.
Contractor Yard:	A site used for storage of equipment and supplies used by a construction or landscape contractor in the operation of their business
Garage, Commercial:	Any building or premises, other than a private or storage garage, where motor-driven vehicles are equipped, repaired, serviced, sold or stored.

Gas Station:	An establishment which sells gasoline typically at outdoor pumps to automobiles and other vehicles, and may include sale of convenience items.
Outdoor Sales, Service, Rental Lot:	An outdoor space for display and/or sales of goods, materials, or merchandise where the majority of product is located and business can occur within a permanent structure.
Restaurant, drive-in/drive-thru:	Any eating establishment with a drive-through or a drive-in facility.
Restaurant:	An eating establishment where food and beverage is served to a customer. Establishments serving alcohol for consumption (where gross sales of alcohol are 25% or less) on site or providing take-out food to order as ancillary use are included.
Restaurant, Bar Outdoor Seating:	More than 3 tables (with or without chairs) or 4 benches or chairs provided by a business to allow patrons to eat and/or drink outside of the business.

Service Uses	
Funeral Parlor:	Private non-denominational funeral chapels and other facilities for the purpose of spiritual meditation and vigil before burial of deceased persons.
Repair and Maintenance Service:	The provision of repair or maintenance services including auto, mechanical, machinery repair or retooling.
Self-Storage Facility:	A site, structure or building in which customers can rent space to store possessions. Indoor self-storage facilities are those that are completely enclosed with walls and roof.

Subd. 3 Residential Conservancy

- A. **Purpose:** To allow for limited development in areas of the City where topography or natural resources require careful alterations to the land and placement of structures and infrastructure.
- B. **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C. **Standards:** District Performance Standards:

Lot Standards

Maximum Residential Density	2 dwelling units per acre
Minimum Lot Size (City Sewer)	9,600 square feet
Minimum Lot Size (Private Sewer)	20,000 square feet
Minimum Lot Width	60 feet
Minimum Lot Frontage	25 feet
Maximum Height	35 feet
Bluff Setback (top/toe of bluff)	30 feet

Principal Building Setbacks

Front	25 feet
Side	5 feet
Corner side street	10 feet
Rear	25 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	3 feet
Corner side street	10 feet
Rear	3 feet

Sites on septic systems must be able to provide two individual septic locations, a primary and a backup which are indicated on the site plan. All septic systems must meet the standards identified by the Minnesota Pollution Control Agency in Minnesota Rules 7080.

Subd. 4 Rural Residential/Limited Agriculture-

- A **Purpose:** To allow for the use and limited development of areas within City limits that will retain a rural type of development pattern due to the fact that City infrastructure such as sewer & water services are not available currently or in the foreseeable future.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	1 dwelling units per 40 acre
Minimum Lot Size	108,900 square feet (2.5 acres)
Minimum Lot Width	270 feet
Minimum Lot Frontage	25 feet
Maximum Height	35 feet (with the exception of agricultural buildings such as barns or silos)
Bluff Setback (top/toe of bluff)	30 feet

Principal & Accessory Building Setbacks

Front	30 feet
Side	30 feet
Corner side street	30 feet
Rear	30 feet

Sites on septic systems must be able to provide two individual septic locations, a primary and a backup which are indicated on the site plan.

Subd. 5 Rural Residential Growth/Transitional

- A **Purpose:** To allow for the use and limited development of areas that are within City limits, do not have practical access to City sewer and water facilities, but will likely have such access in the future. This district is intended to allow for limited development on private septic and well systems but provide for an orderly transition to a more urban development pattern on public sewer and water infrastructure as the City grows.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	1 dwelling unit per 2.5 acres
Minimum Lot Size without CUP	108,900 square feet (2.5 acres)
Minimum Lot Size with CUP	20,000 square feet
Minimum Lot Width	60 feet
Minimum Lot Frontage	25 feet
Maximum Height	35 feet
Bluff Setback (top/toe of bluff)	30 feet

Principal Building Setbacks

Front	25 feet
Side	5 feet
Corner side street	10 feet
Rear	25 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	3 feet
Corner side street	10 feet
Rear	3 feet

Subd. 6 R-1 Low Density Residential

- A **Purpose:** To allow for the use and development of residential structures, yards, and directly related complimentary uses at a lower density than traditionally developed in the originally platted City of Wabasha.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	4 dwelling units per acre maximum (except that 1 additional guest cottage up to 1,000 square feet or no larger than the principle structure is allowed per each principal residential structure on lots that meet minimum lot size.)
Minimum Lot Size	9,600 square feet
Minimum Lot Width	60 feet
Minimum Lot Frontage	20 feet
Maximum Height	35 feet
Bluff Setback (top/toe of bluff)	30 feet

Principal Building Setbacks

Front	25 feet
Side	5 feet (except single family attached homes which have no side yard setback where attached)
Corner side street	10 feet
Rear	25 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	3 feet
Corner side street	3 feet
Rear	3 feet

Subd. 7 R-2 Medium Density Residential R-2 Medium Density Residential

- A **Purpose:** To allow for the use and development of a mix of uses typical in the traditional Wabasha community including single-family and multi-family residential structures and accessory uses, yards and associated uses, small service and retail businesses, and institutional and recreational uses serving the residents of the community.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	7 dwelling units per acre (except that 1 additional guest cottage up to 1,000 square feet and no larger than the principle structure is allowed per principle residential structure on lots that meet minimum lot size)
Minimum Lot Size	6,000 square feet
Minimum Lot Width	60 feet
Minimum Lot Frontage	20 feet
Maximum Principle Height without CUP	25 feet
Maximum Height with CUP	35 feet
Maximum Accessory Height	25 feet
Bluff Setback (top/toe of bluff)	30 feet

Principal Building Setbacks

Front	25 feet
Side	5 feet (except single family attached homes which have no side yard setback where attached)
Corner side street	5 feet
Rear	25 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	3 feet
Corner side street	5 feet
Rear	3 feet

Subd. 8 TDC - Traditional Downtown Commercial

- A **Purpose:** To allow for the continued use and redevelopment of the downtown or central business district for mixed commercial, service, recreational and residential use. This district is intended to promote the preservation of the traditional historic downtown development pattern typified by densely developed zero lot line structures, multi-occupancy (commercial, service or residential) buildings, and mixed use lower level commercial and upper story residential use. A portion of the TDC district is also covered by the Heritage Preservation District as described in Section 315 of City Code.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	None
Minimum Lot Size	None
Minimum Lot Width	None
Minimum Lot Frontage	5 feet
Maximum Principle Height without CUP	35 feet
Maximum Accessory Height	20 feet

Principal Building Setbacks

Front	None
Side	None
Corner side street	None
Rear	None

Accessory Building Setbacks

Front	Behind principle structure
Side	3 feet
Corner side street	5 feet
Rear	3 feet

D District Parking Standards:

The following amount standards for off-street parking shall apply within the TDC district only and must be provided within 1,000 feet measured from the nearest point of the structure to the nearest point of the off-street parking lot. For uses allowed in the TDC, but not indicated in the following chart, no off-street parking is required (unless required within a CUP). Amount standards apply to new construction only, including any building expansions. Expansion will require that the amount of parking apply to the expansion area only. All parking *design standards* contained

within Section 305.07, Subdivision 3 shall apply to the TDC Zone. Additional parking may be required on a case by case basis as part of a Conditional or Interim Use Permit.

Use	Parking Requirement
Single Family detached Residential	2 Spaces per dwelling unit
Single Family attached Residential	1.5 Spaces per dwelling unit
Hotels and Motels	1 space per every three rooms
Apartment buildings or mixed uses with 6 or more dwelling units	1 space per every dwelling unit
Commercial retail, Professional services, Funeral Parlors and Minor repair and maintenance services over 3,000 square feet of <i>usable floor area</i>	1 space per every 500 square feet
Indoor commercial entertainment & recreational facilities, Cultural Institutions, Restaurants, Bars/cocktail lounges, over 3,000 square feet	1 space for every 500 square feet
Office uses with over 5 employees	1 space for every two employees
Places of Public Assembly	1 space per every 6 seats or 1 space for every 10 feet of pews
Mixed Uses	For any structure or development which involves more than one type of land use, the total off-street parking required shall be the sum of the various uses computed separately.

Subd. 9 G-C General Commercial

- A **Purpose:** To allow for a coexisting mix of commercial and residential uses in certain commercial nodes which are characterized by adjacent arterial or collector roads or a waterway which provides a majority of business to the establishment.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	7 dwelling units per acre
Minimum Lot Size	8,520 square feet
Minimum Lot Width	60 feet
Minimum Lot Frontage	30 feet
Maximum Principle Height	35 feet

Principal Building Setbacks

Front	25 feet
Side	10 feet (except single family attached homes which have no side yard setback where attached)
Corner side street	10 feet
Rear	25 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	5 feet
Corner side street	5 feet
Rear	5 feet

Subd. 10 HC Highway Commercial

- A **Purpose:** To allow for development or redevelopment of land for commercial/business uses whose needs are, in terms of visibility, transportation access, space, building design, or outdoor usage, inconsistent with the traditional downtown development patterns. A portion of HC is also covered by the Business Park Overlay Design District as described in Section 305.06, Subdivision 14
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Maximum Residential Density	None
Minimum Lot Size	10,800 square feet
Minimum Lot Width	90 feet
Minimum Lot Frontage	60 feet
Maximum Principle Height	50 feet
Maximum Accessory Height	35 feet

Principal Building Setbacks

Front	25 feet
Side	20 feet
Corner side street	20 feet
Rear	20 feet

Accessory Building Setbacks

Front	Behind principle structure
Side	10 feet
Corner side street	10 feet
Rear	10 feet

Subd. 11 I - Industrial

- A **Purpose:** To allow for development or redevelopment of land for industrial, manufacturing, processing, warehousing, packaging or treatment of products and also intensive commercial uses including those with needs for outdoor bulk storage, services that support industrial businesses, or commercial/service businesses that are not appropriate in other more traditional commercial districts.
- B **Uses:** See the “Use Chart” located in 305.06 Subd. 1 for all permitted, conditional, and interim uses.
- C **Standards:** District Performance Standards

Lot Standards

Minimum Lot Size	21,780 square feet (1/2 acre)
Minimum Lot Width	90 feet
Minimum Lot Frontage	60 feet
Maximum Principle Height	50 feet

Principal Building Setbacks

Front	10 feet
Side	10 feet
Corner side street	10 feet
Rear	10 feet

Subd. 12 PUD – Planned Unit Development

A **Purpose:** The purpose of a Planned Unit Development is to provide procedures and standards intended to allow flexibility in development in order to further the public interest by encouraging:

1. Variety in type, design, and placement of structures, open spaces, and amenities
2. Conservation of resources and more efficient use of land
3. Sensitivity to unique and valuable natural, cultural, and scenic characteristics
4. Efficiency of infrastructure with the consolidation of areas for recreation and reductions in street lengths and other utility-related expenses.
5. Transfers of density with clustering based on number of units per acre instead of specific lot dimensions
6. Integration of compatible mixed land uses including single and multi-family residential, low intensity commercial, and institutional uses
7. Creation of cohesive high amenity neighborhoods or districts in order to establish or preserve local identity or to allow infill within areas of the city which are characterized by existing development
8. The implementation of the goals identified in the adopted Wabasha Comprehensive Plan

B **Scope:** PUD's will be considered within any of the underlying zoning districts where indicated as permitted or conditional. ~~Public and private land owners also are encouraged to utilize the PUD overlay in those areas identified in the Comprehensive Plan as Designated Development Areas in order to achieve stated purposes.~~

1. The PUD overlay zone shall only be considered when the proposed project property meets the following minimum size standards:

R-1, R-2, ~~R-3~~ Districts:	5 Acres
H.C. & I:	10 Acres
G.C.:	No minimum

2. Allowed Uses: Uses allowed in PUD overlay districts are specified in the underlying district permitted or conditional uses. If a conditional use is proposed within a PUD no additional conditional use permit is required to be obtained, but additional conditions may be placed on the PUD. Specific uses and performance standards for each PUD shall be delineated in the pre-application meeting, concept, preliminary and final PUD and development agreement and those uses shall become permitted uses with the acceptance of the PUD and agreement. Any change

of uses proposed after the preliminary PUD acceptance will be considered an amendment to the PUD and will require an additional preliminary PUD approval.

C Procedure for Processing a Planned Unit Development Application:

There are **four** stages to the PUD process: Pre-application Meeting, Concept Plan, Preliminary PUD Plan, and Final PUD Plan, as described below:

1. **Pre-application Meeting:** Before filing an application for **a Concept PUD**, the developer shall arrange for and attend a meeting with the Zoning Administrator or designee, City Engineer, and other appropriate regulatory agencies to review applicable ordinances, regulations and plans in the area to be developed. At this time the developer shall submit a concept plan of the proposed development showing the proposed density, lots, building layouts, uses, roadway and pedestrian layout, public and common open space, and if available, the proposed connections to community facilities, surrounding neighborhood information, existing natural resources, and topography of the site. The Concept Plan will be reviewed by city staff to provide an advisory review for conformity to the provision of Sections 300 and 305 of the City Code without incurring major costs prior to the submission of a preliminary plan and/or plat.
2. **Concept Plan:** Following the Pre-application meeting, the applicant will submit the Concept Plan to the Planning Administrator or designee to be placed on the next available Planning Meeting. The Commission will review the Concept Plan and make recommendations to the applicant.
3. **Preliminary PUD Plan:** Following the Concept Plan review by the Planning Commission, the applicant may submit an application for a Preliminary PUD and plat approval concurrently (if applicable), with all supporting data and documentation as referenced in the application.
 - a. The PUD application shall be filed with the Planning Administrator or designee on forms provided with any necessary exhibits, narrative, and documents attached and in the quantity specified. A PUD application with all the required documentation for a complete submittal will be provided at or before the Pre-Application Meeting to the owner and/or developer.
 - b. The City may excuse an applicant from submitting any specific item of information or document required if they find it to be unnecessary.

- c. The City may require the submission of any additional information or documentation which they determine is necessary for the propose PUD plan.
- d. PUD Plan and Preliminary Plat Consideration.
 - i. After verification by the City Planning Administrator or designee that the preliminary PUD plan and plat, and rezone if applicable, and supporting data is complete, , the Planning Commission shall hold a public hearing. .
 - ii. After the public hearing, the Planning Commission shall report its findings and make recommendations to the City Council. Notice of the hearing shall consist of a legal property description, description of the proposed project and rezone if applicable and be published in the official newspaper at least 10 days prior to the hearing. Written notification of the hearing shall also be mailed at least 10 days prior to owners of land within 350 feet of the boundaries of the property proposed for development.
 - iii. The City may request additional information from the applicant concerning any matters it deems appropriate or retain expert testimony at the expense of the applicant concerning such other matters.
 - iv. The City Council shall consider the requested PUD after the receipt of the report and recommendations from the Planning Commission within the time allotted by MN Statute. If the Planning Commission fails to make a report within 60 days after receipt of the application, then the City Council may proceed without the report. The City Council may approve the preliminary PUD plan and preliminary plat, and rezone if applicable, and attach such conditions, as it deems reasonable or deny the application.
 - v. City Council may return the PUD to the Planning Commission for further review.
- 4. Final PUD Plan: Following approval of the Preliminary Plan and/or Plan, the applicant may submit an application for Final PUD and plat approval concurrently (if applicable), with all supporting data and documentation as referenced in the application.
 - a. The PUD application shall be filed in writing with the Planning Administrator or designee on forms provided with any necessary exhibits, narrative, and documents attached and in the quantity specified. A Final PUD application with all the required documentation for a complete submittal will be provided to the owner and/or developer.

- b. Following the Preliminary PUD approval, the applicant shall within six months, submit the Final PUD Plan for City Council approval. If the platting is occurring simultaneously, the applications can be reviewed at the same time
 - c. The Final PUD will be approved if City Council finds that it is compliant with the approval of the Preliminary Plan.
 - d. Rezoning: Approval of the Final Plan shall be considered a formal approval attaching the 'floating' PUD overlay district to the parcel/s proposed for the PUD. The City shall follow public notice procedures in the same manner as a rezoning.
5. PUD Order Certificate of Compliance:
- a. Upon completion of all conditions and requirements of the PUD imposed by Planning Commission and City Council, and consistent with State and Federal law and Wabasha City Code and with the other standards and requirements herein contained, an order authorizing development and use in accordance with the Final approved PUD shall be issued by the Planning **Administrator or designee Department**. The PUD order shall incorporate the Final PUD Plan and shall specify in writing the final conditions of approval.
 - b. All of the provisions of the Wabasha Zoning Ordinance applicable to the zone district or overlay districts within which the PUD is located shall apply except as otherwise provided in the PUD order.
 - c. Upon approval by City Council, the applicant will record the Final PUD Plan, Plat, and district regulations, if applicable, with the Wabasha County Recorder and provide a certified copy to the City.
 - d. ~~If a plan or a section thereof is given final approval and thereafter the landowners shall abandon the plan that has been finally approved or if the landowner shall fail to commence the project within 18 months after final approval has been granted, such final approval shall terminate and be deemed null and void unless such time period is extended by the Planning Commission upon written application of the landowner. The PUD zoning district created shall revert back to the original zoning classification. This revision shall be communicated to the Planning Commission and the zoning map shall be changed accordingly.~~

D PUD Performance Standard guidelines:

1. Height

The maximum height of buildings in PUD's shall not exceed 35 feet in height unless the City Council determines that a taller structure will not create an adverse impact on the surrounding area. Under no circumstances may a structure permitted as part of a

PUD exceed 50 feet in height. In order to assist in this decision, the City will require the following from the project applicant:

- a. A detailed explanation as to the reason for the desired increase in height
- b. A detailed explanation of how the increased height will not create an adverse visual impact.
- c. Drawings or other visual renderings that show what the proposed development will look like **may be** requested by the City.

2. Open Space Requirements:

- a. At least 50% of the total project area must be preserved as open space, with at least 25% as common open space.
- b. Road rights-of-way, land covered by road surfaces, parking areas, and all structures are considered developed areas and shall not be included in the computation of minimum open space.
- c. Open space may include improved outdoor recreational facilities for use by owners, guests of the dwelling units, occupants of transient units, or the public.
- d. PUD's in a Shoreland Zone must contain open space meeting all of the following criteria:
 - i. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
 - ii. Areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries must be preserved in the open space.
 - iii. Open space may contain water-oriented accessory structures or facilities if they meet or exceed design standards of Shoreland Standards in Subdivision 12, Subsections G and H, and are centralized.
 - iv. The shore impact zone, based on normal structure setbacks, must be preserved as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.

3. Erosion Control and Stormwater Management Plans
 - a. Plans must be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features or stormwater systems. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
 - b. PUD's must be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.
4. PUD's within Shoreland
 - a. Impervious surface coverage within any tier (See Subdivision 12, Section 5) must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Subdivision 12, Sections I and G6.
 - b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the dimensional standards for the relevant shoreland classification including: setback from the ordinary high water level, elevation above the surface water features, and maximum height.
 - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
 - d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means, assuming summer, leaf-on conditions. Vegetative

and topographic screening must be preserved, if existing, or may be required to be provided.

- e. Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized.
- f. PUD's must be connected to publicly owned water supply and sewer systems

D. City Costs

- a. Any costs directly related to a PUD including, but not limited to professional fees and expenses incurred by the City for consultants, including but not limited to planners, engineers, architects and attorneys, who the City determines in its sole judgment are necessary to assist the City in reviewing, implementing or enforcing the provisions of this Section, shall be reimbursed to the City by the Applicant from a deposit made by the Applicant with the City. The amount of the deposit, or any addition thereto required by the City, shall be established by the City Council, which shall thereafter, from time to time, make an accounting thereof to the applicant. The City and the applicant may agree to share the costs of consultants based upon a specific written agreement.

E. Revisions or Changes

a. Changes to a Final PUD (map or text) will follow the same process as a new PUD application. New conditions may be imposed based on criteria and conditions in place at the time of the application.

b. Review for minor changes. Applications for a minor change shall be submitted to the Zoning Administrator or designee and will be reviewed by staff and placed on the next available Planning Commission for their review. If determined that the requested change is 'minor', the changes can be approved administratively. The applicant will record all documents with the Wabasha County Recorder and provide a copy to the City.

c. If a plan or section is given final approval and thereafter the landowner shall abandon the plan that has been approved or if the landowners shall fail to commence the PUD within 18 months after final approval has been granted, such approval shall terminate unless a time period is extended by the Planning Commission upon written application from the landowner. The PUD zoning district created shall revert back to the zoning classification that applied prior to approval of the PUD district.

~~a. Minor changes in the location, placement and height of structures may be authorized by the Planning Commission if required by engineering or other circumstances not foreseen at the time the Final PUD Order was issued.~~

~~b. Changes in uses. Significant changes in the location, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to PUD Order may be made only after a public hearing conducted by the Planning Commission and the procedures for preliminary PUD Plan approval and Final PUD plan approval set forth in this~~

Section are followed. Any such changes shall be recorded as amendments to the recorded copy of the PUD Order.

~~c. Review: If substantial development with the development schedule as specified in the PUD Order or the Development Agreement has not occurred within one year after approval of the PUD Order, the City Council may instruct the Planning Department to rescind approval of the PUD Order.~~

F. Phasing and Guarantee of Performance

1. The Planning Commission shall compare the actual development accomplished with a PUD Order on a periodic basis.
2. Upon recommendation of the Planning Commission and for good cause shown by the developer, the City Council may change the development schedule as required by the PUD Order.
3. The construction and provision of all of the common open space and public and recreational facilities which are shown on the Final PUD Plan must proceed at least at the same (but not slower than) rate as the construction of dwelling units, transient units or other useable buildings in the PUD, if any. The Planning Department shall review all of the building permits issued for the PUD and examine the construction that has taken place on the site. If the City Planner finds that the rate of construction of dwelling units, transient units or other useable buildings in the PUD is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, he/she may forward this information to the City Council with a recommendation for action.
- ~~4. A performance bond or letter of credit shall be required to guarantee performance by the Developer. The amount of this bond or letter of credit, and the specific elements of the PUD Plan and/or PUD Order that it is intended to guarantee, will be stipulated in the development agreement.~~
4. A Development Agreement shall be entered into by the developer ~~with respect to a PUD that contains terms and provisions acceptable to the City to~~ insure completion of the PUD in a timely manner and that provides for security for the performance of the developer's obligation under the Final PUD Plan and PUD Order.

G. Control of Planned Unit Development Following Completion

1. After a PUD Order has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the PUD shall be governed by the PUD Order, the Development Agreement and applicable building and fire codes. After a PUD Order has been issued, no changes shall be made in the approved Final PUD Plan except as provided in this Section or as provided below:
 - a. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning Commission if they are consistent with the purposes and intent of the Final PUD Plan and PUD Order. No change authorized by this Section may increase the square cubic volume of any building or structure by more than ten percent.
 - i. Any building or structure that is totally or substantially destroyed by fire or other casualty may be reconstructed only in compliance with Final PUD Plan unless an amendment to the Final PUD Plan and PUD Order is approved under the provisions of this Section.
 - ii. Changes in the use of the common open space may be authorized only by an amendment to the Final PUD Plan and PUD Order under this Section.
 - iii. Any other changes in the Final PUD Plan and PUD Order must be authorized by an amendment pursuant to this Section.
2. Open Space Preservation

Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

 - a. Commercial uses not approved during the PUD process are prohibited in the designated open spaces.
 - b. Vegetation and topographic alterations other than routine maintenance is prohibited.
 - c. Construction of additional buildings or storage of vehicles and other materials prohibited.
 - d. Uncontrolled beaching of watercraft prohibited.

Subd. 13 Subd. 13 Shoreland Overlay Zone

A. Statutory Authorization

This Shoreland Management Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the City Planning and Zoning Enabling Legislation, Minnesota Statutes, Chapter 462.

B. Policy

The uncontrolled use of shorelands of the City of Wabasha, Minnesota affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. It is, therefore, in the best interests of the public health, safety and welfare to provide for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise utilization of waters and related land resources. The Legislature of Minnesota has delegated this responsibility to local governments. The responsibility is hereby recognized by the City of Wabasha.

C. General Provisions And Definitions

1. Jurisdiction. The provisions of this Section shall apply to the shorelands in the City of Wabasha of the public waters identified and classified in Subsection E “Shoreland Classification System” of this Section.
2. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and sewage treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Section.
3. Enforcement. The Planning Administrator or designee is responsible for the administration and enforcement of this Section. Any violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Section can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section D1 or Section 305.04, Subdivision 4 of this Ordinance.
4. Interpretation. 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 MN Statute.
5. Estimated Ordinary High Water Level at Wabasha

River Mile	Elevation (NGVD 1929) Feet
762	671.5
761	670.8
Hwy 25 Br.	670.2
760	670.1
759	669.6
758	668.8
757	668.3

D. Administration of Shoreland Regulations

1. Permits Required

A Zoning Permit as identified under Section 305.04 Sub 4a is required for any structure, use of or alteration of land, the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section G6 “Vegetation Alterations” and I Topographic Alterations/Grading and Filling” of this Section. Application for a permit shall be made to the Planning Administrator or designee on the forms provided. The application shall include the necessary information so that staff can determine the site's suitability for the intended use and that compliant sewage treatment will be provided.

2. Notifications to the DNR required

- a. Copies of all notices of any public hearings to consider variances, zoning amendments (map or text), conditional uses, and subdivisions or plats within the designated Shoreland must be sent to the commissioner or the commissioner's designated representative (typically the Area Hydrologist) and postmarked at least ten days before the hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- b. Upon final approval of a zoning ordinance amendment a subdivisions/plats, a granting of variances or conditional uses located with the designated Shoreland, notification of such approvals must be sent to the commissioner or the commissioner's designated representative (typically the Area Hydrologist) and postmarked within ten days of final action.
- c. 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.

3. Appeals and Variances

An application for a variance shall be filed in writing with the Planning Department as specified under Section 305.04 Sub 5

4. Rezoning (modifications to underlying zoning districts within the Shoreland boundary)

Any modification to underlying zoning districts within the Shoreland boundary shall be consistent with the goals, policies, and objectives of the adopted comprehensive land use plan, in conformance with the criteria specified in Minnesota Regulation (Part 6120.3200, Subd. 3, or as amended), and the following criteria, considerations, and objectives:

- a. General Considerations and Criteria for All Land Uses:
 - i. Preservation of natural areas;
 - ii. Present ownership and development of shoreland areas;

- iii. Shoreland soil types and their engineering capabilities;
 - iv. Topographic characteristics;
 - v. Vegetative cover;
 - vi. In-water physical characteristics, values, and constraints;
 - vii. Recreational use of the surface water;
 - viii. Road and service center accessibility;
 - ix. Socioeconomic development needs and plans as they involve water and related land resources;
 - x. The land requirements of industry which, by its nature, requires location in shoreland areas; and
 - xi. The necessity to preserve and restore certain areas having significant historical or ecological value.
- b. Factors and Criteria for Planned Unit Developments:
- i. Existing recreational use of the surface waters and likely increases in use associated with Planned Unit Developments;
 - ii. Physical and aesthetic impacts of increased density;
 - iii. Suitability of lands for the Planned Unit Development approach;
 - iv. Level of current development in the area; and
 - v. Amounts and types of ownership of undeveloped lands.
- c. When an interpretation question arises about whether a specific land use fits within a given zoning district or "use" category, the interpretation shall be made by the Planning Commission.
- d. When there is a request for rezoning within the Shoreland District, the applicant must provide the supporting and/or substantiating information for the specific parcel in question indicating that the new zone would meet the standards described in Section D5 (*a-c above*).

E. Shoreland Classification System

The public waters of the City of Wabasha have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wabasha County, Minnesota. The shoreland areas for the waterbodies listed below shall be as defined in Section 305.09 and as shown on the Official Zoning Map.

	Protected Water Classification	Protected Waters Inventory I.D.#
U.S. Lock and Dam No.4 Pool (Mississippi Pool #4)	General Development Lake	79005 00
Robinson Lake	General Development Lake	79005 02
Schmidt Coulee (Brewery Cr.	Tributary Stream	Legal Description T111N, R10W, Sec.19 & 30

F. Shoreland Zones and Requirements

Whenever allowed uses are not consistent between the Shoreland Overlay zone and the underlying zoning district, the more restrictive of the two shall apply.

1. S-1. The purpose of the S-1 shoreland overlay zone is to provide standards for Shoreland areas within the City that are primarily undeveloped.

- a. Allowable Uses

- i. Permitted Uses

- Single-family detached residential dwelling units
- Accessory structures as allowed in underlying zone
- Forest management
- Sensitive resource management
- Agricultural: cropland and pasture

- ii. Conditional Uses

- Parks and historic sites
- Campgrounds

- iii. Interim Uses

- Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards outside of shore impact or steep slopes. (see also Section I, “Topographic Alterations, Excavations, and Grading”)
- Extractive uses

- b. Minimum lot area & width Standards

Sewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
	15,000	75	10,000	75

Unsewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
	40,000	150	40,000	150

- c. Residential Density

	Riparian	Nonriparian
Sewered	2.9 d.u. per acre	4.3 d.u. per acre
Unsewered	1 d.u. per acre	2 d.u. per acre

- d. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area.
- e. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones
- f. Public & semipublic uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on

public waters. Those uses with water-oriented needs must meet the following standards:

- i. Parking areas or parking structures must be designed to incorporate topographic and vegetative screening from the public waters assuming summer, leaf-on conditions;
- ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- iii. Uses that depend on patrons arriving by watercraft may use unlit signs to convey needed information to the public, subject to the following general standards:
 - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 25 square feet in size; and
 - Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

g. Agricultural Use Standards

For cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting steep slopes and shore and bluff impact zones must be 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, as provided by a qualified individual or agency. The shore impact zone boundary for parcels with allowed (permitted or conditional) agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

- h. Animal feedlots
 - i. New feedlots are not allowed in the Shoreland districts.
 - ii. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or bluff impact zone.

2. S-2

Provides standards for Shoreland areas that have some development, but residential densities are intended to remain low (low density residential land uses)

a. Allowable Uses

i. Permitted Uses

- Single-family residential dwelling units (detached, or attached) with up to four dwelling units
- Accessory structures as allowed in underlying zone
- Multi-family residential with up to four dwelling units
- Forest management
- Sensitive resource management
- PUD with uses as allowed in underlying zoning district

ii. Conditional Uses

- Semipublic uses (when allowed as permitted or conditional in the underlying zoning district)
- Parks and historic sites
- Campgrounds
- Mixed use (Residential & Commercial) with only those uses allowed in the underlying zoning district.
- Commercial and service oriented businesses (as allowed as a conditional or permitted use in the underlying zoning district).
- Golf courses, clubs, and other recreational uses not conflicting with neighboring residential use
- Places of public assembly

iii. Interim Uses

- Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards in all Shoreland areas. (see also Section I, “Topographic Alterations, Excavations, and Grading”)
- Extractive uses

b. Minimum lot area & width Standards

Sewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	14,000	75	10,000	60
Duplex	26,000	135	17,500	120
Triplex	38,000	195	25,000	190
Quad	49,000	255	2,5000	245

Unsewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	265	80,000	265
Triplex	120,000	375	120,000	375
Quad	160,000	490	160,000	490

c. Residential Density

	Riparian	Nonriparian
Sewered	3 d.u. per acre	4.3 d.u. per acre
Unsewered	1 d.u. per acre	2 d.u. per acre

- d. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area.
- e. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- f. Commercial, Public, and Semipublic uses located on riparian lots must meet the following standards:
- i. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Section, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
 - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit

issued by the county sheriff;

- Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
- Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

3. S-3

Provides standards for Shoreland areas that cover the historic neighborhoods of the City, which are primarily residential, but also include commercial and institutional uses. The use of PUD's or other clustering techniques is not allowed in order to encourage the traditional neighborhood pattern of development.

a. Allowable Uses

i. Permitted Uses

- Single-family residential dwelling units (detached, or attached with up to two dwelling units)
- Multi-family residential with up to two dwelling units
- Accessory structures as allowed in underlying zone
- Sensitive resource management
- Forest management

ii. Conditional Uses

- Single-family attached residential with 3 or more units (when allowed as permitted or conditional in the underlying zoning district).
- Multi-family residential with 3 or more units (when allowed as permitted or conditional in the underlying zoning district)
- Semipublic uses (as allowed in the underlying zoning district)
- Parks and historic sites.
- Campgrounds
- Mixed use (Residential & Commercial) with only those uses allowed in the underlying zoning district.

- Surface water oriented commercial uses (as allowed in the underlying zoning district).
- Hospitals, dentists offices and clinics.
- Places of public assembly.
- Commercial and service oriented businesses (as allowed as a conditional or permitted use in the underlying zoning district).
- Essential governmental uses buildings and storage facilities (as allowed as a conditional or permitted use in the underlying zoning district).

iii. Interim Uses

- Grading, filling, and excavation over 3 cubic yards per 100 square feet of land in the shore impact zone or on steep slopes, and/or more than 1,000 cubic yards in all Shoreland areas. (see also Section I, “Topographic Alterations, Excavations, and Grading”).

b. Minimum lot area & width Standards

Sewered Areas:	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	8,580	60	8,580	60
Duplex	14,300	100	14,300	100
Triplex	38,000	195	25,000	190
Quad	49,000	255	25,000	245
Multi > 4 units	49,000	255	25,000	245
Non-residential	8,580	60	8,580	60

*All development in this zone must be connected to City sewer

c. Maximum Residential Density

	Riparian & Nonriparian
Sewered	6 d.u. per acre

- d. Every effort should be made to design roads, driveways, and parking areas to meet structure setbacks. These will only 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.
- e. Non-conforming structures: A request for a variance (following the process outlined in Subsection D4) will be considered for reconstruction of pre-existing structures within the pre-existing footprint and height if damaged more than 50% of the assessor's

market value for uses allowed as permitted or conditional within the S-3 overlay and underlying zoning district.

- f. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 40% of lot area. Conditional uses may be required to provide up to 75% non-impervious surface (25% impervious)
- g. Commercial, Industrial, Public, and Semipublic Uses located on riparian lots must meet the following standards:
 - i. Parking lots shall be designed to incorporate topographic or vegetative screening of parking areas from public waters when visible from the waters;
 - ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
 - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

4. S-4

Provides standards for Shoreland areas that are high density, mixed use or commercial in nature historically or designated in the Comprehensive Plan

- a. Allowed Uses: Uses as identified in the underlying Zoning Ordinance shall prevail.
- b. Lot area & width Standards: Standards as identified in the underlying Zoning Ordinance shall prevail. All development in this zone must be connected to City sewer
- c. Impervious Surface Coverage: The following shall apply to new construction or additions to an existing building footprint

Type of Use	Maximum Impervious Surface Coverage
Residential with up to two dwelling units	50%
Commercial, public, or mixed uses of up to 18,000 square feet (building footprint)	No maximum
Commercial, public, or mixed uses of 18,001 square feet or more (building footprint)	25% *

* Impervious coverage may be increased by 15% for these uses if the following is provided:

- A stormwater retention plan be submitted showing containment of the 5-year, 24-hour storm event on the parcel.
 - Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms, filtration strips, swales or other permanent means.
- d. Every effort should be made to design roads, driveways, and parking areas to meet structure setbacks. These will only be placed within bluff and shore impact zones when no other reasonable and feasible placement alternatives exist. Evidence providing proof that such locations are not feasible must be provided with application and found acceptable by the Planning Department or Planning Commission. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
 - e. Commercial, Industrial, Public, and Semipublic Uses located on riparian lots must meet the following standards:
 - i. Parking lots shall be designed to incorporate topographic or vegetative screening of parking areas from public waters when visible from the waters;

- ii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
- iii. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 - Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
 - Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

5. Brewery Creek

Provides standards for the Brewery Creek Shoreland area

- a. Lot width Standards - There are no minimum lot area requirements for streams. The lot width standards are:

	Sewered	Unsewered
Single	75	100
Duplex	115	150
Triplex	150	200
Quad	190	250

- b. Residential Density: Densities of the underlying zoning district will prevail
- a. Impervious Surface Coverage: Impervious surface coverage of lots must not exceed 25% of lot area

c. Allowable Uses

i. Permitted Uses

- Forest management
- Sensitive resource management
- Agricultural: cropland and pasture

ii. Conditional Uses

- Parks and historic sites
- Campgrounds

- Agricultural Feedlots

iii. Interim Uses

- Extractive use

d. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

a Additional Zoning Requirements: The following standards apply to areas within every Shoreland district

1. Setbacks from OHWL

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

	<u>Structure</u>		<u>Sewage Treatment System</u>
	Sewered	Unsewered	
Mississippi Pool #4	50 feet	75 feet	50 feet
Brewery Creek	50 feet	100 feet	75 feet
Water-orientated accessory structure*	10 feet	10 feet	-
* One water-oriented accessory structure per residential lot designed in accordance with Subsection H of this Section is allowed			

2. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback
top of bluff;	30 feet
unplatted cemetery;	50 feet

Setbacks from streets and property lines are required as indicated in the underlying zoning district

3. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
4. Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
5. A sewage treatment system not meeting the requirements of Subsection P “Sewage Treatment” of this Section must be upgraded, when a permit or variance of any type is required for any improvement on, or use of, the property.
6. Vegetation Alterations
 - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Subsection J, “Placement Design; Roads, Driveways, and Parking Areas” of this Section are exempt from the vegetation alteration standards that follow.
 - b. Removal or alteration of vegetation (except for allowable agricultural and forest management uses) is allowed subject to the following standards:
 - i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

- Along creeks, existing shading of water surfaces is preserved; and
 - The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- c. Use of fertilizers and pesticides in all districts must minimize runoff into shore impact zones and public waters by use of earth, vegetation, or both.
7. One guest cottage may be allowed on lots which meet or exceed the standards for a duplex within that shoreland zone. The following standards must also be met:
- a. For lots which qualify for future subdivision, the guest cottage must be located in proximity to the principle residence so that the structures would remain on the same parcel if a lot split were to occur;
 - b. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - c. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer leaf-on conditions).
8. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
- a. They must meet the width and size requirements for residential lots, and be suitable for their intended uses.
 - b. If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by 5 percent of the requirements for riparian residential lots for each watercraft beyond 6.
 - c. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
 - d. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict

activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

G. Design Criteria for Structures.

1. High water elevations. Structures must be placed in accordance with any flood plain regulations applicable to the site. Where these controls do not exist, along Brewery Creek, the elevation to which the lowest floor, including the basement, is placed or flood proofed must be determined as follows:
 - a. By placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation.
 - b. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.
 - c. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
2. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subsection F1 - F5 of this Section if this water-oriented accessory structure complies with the following provisions:
 - a. The structure or facility must not exceed 10 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed 8 feet above grade at any point;

- b. The setback of the structure or facility from the ordinary high water level must be at least 10 feet;
 - c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by use of vegetation, topography, increased setbacks, or color (assuming summer, leaf-on conditions);
 - d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - e. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
 - f. As an alternative for general development waterbodies, 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.
3. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following requirements:
- a. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments;
 - b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments;
 - c. Canopies or roofs are not allowed on stairways, lifts, or landings;
 - d. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - e. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - f. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards herein are complied with in addition to the requirements of Minn. Rules, Chapter 1340.

4. **Significant Historic Sites.** No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
5. **Steep Slopes.** The Planning Department must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
6. **Height of Structures.** All structures in residential districts, except places of worship and nonresidential agricultural structures, must not exceed the height limits specified in the underlying zoning districts.

H. Topographic Alterations/Grading and Filling

1. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
2. Public roads and parking areas are regulated by Subsection J, “Placement and Design of Roads”.
3. Notwithstanding Items 1. and 2. above, a zoning permit will be required based on the following table unless a property owner provides evidence that the fill meets the standards outlined in the Minnesota DNR’s “Shoreline Alterations: Beach Blanket” publication (dated October 2012 or as revised) .

	Shore Impact (within 25 feet of shoreline) or Steep Slopes	Shoreland outside of Shore Impact or Steep Slopes
Under 1 cubic yard per 100 square feet*	No permit required	No permit required
Between 1 and 3 cubic yards per 100 square feet*	Zoning Permit Required	No Permit required

3 or more cubic yards per 100 square feet*	Interim Use Permit Required	Zoning Permit Required
100¹ cubic yards or more total*	Interim Use Permit	Interim Use Permit
* Amount of square feet is the project area where work is occurring not the entire property.		

4. The following considerations and conditions must be adhered to during the issuance of construction permits, zoning permits, conditional/interim use permits, variances and subdivision approvals:
 - a. grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities:*
 - i. sediment and pollutant trapping and retention;
 - ii. storage of surface runoff to prevent or reduce flood damage;
 - iii. fish and wildlife habitat;
 - iv. recreational use;
 - v. shoreline or bank stabilization; and
 - vi. Noteworthiness, including special qualities such as historic significance, habitat for endangered plants and animals, or others.

*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers.

- b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
- f. Fill or excavated material must not be placed in a manner that creates an unstable slope;

¹ In his e-mail dated 9-10-13 the City Engineer recommended changing this to 5 to 10 truckloads worth of material. Each truckload is estimated to hold 10 cubic yards. This was presented to the Planning Commission at the 10-8-13 public hearing.

- g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- h. Fill or excavated material must not be placed in bluff impact zones;
- i. Any alterations below the ordinary high water level of public waters must first be authorized by the DNR commissioner under Minnesota Statutes, section 103G.245;
- j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted under the following circumstances:
 - i. The finished slope does not exceed 3 feet horizontal to one foot vertical or meets the average slope of the current bank throughout the project area
 - ii. , the landward extent of the riprap is within 10 feet of the ordinary high water level
 - iii. The height of the riprap above the ordinary high water level does not exceed 3 feet or the meets the average height of the current bank throughout the project area.
 - iv. Along any shore open to the public (public land or right-of way)
 - At least 1 pedestrian path or stairway for each parcel of land under separate ownership is provided for access to the water
 - Placement of riprap will not cover beaches (areas typically above water at normal water level) unless the DNR verifies the need in order for shore stabilization
- 5. A Zoning Permit is required for excavations where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors. This may be issued only after the commissioner of the DNR has approved the proposed connection to public waters.

I. Placement and Design; Roads, Driveways, Parking Areas

- 1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography in Shoreland areas where it still exists to achieve maximum screening from view from public waters. Documentation must be provided by a Civil Engineer or landscape architect that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

2. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, but must be designed and constructed to take advantage of natural vegetation and topography in Shoreland areas where it still exists, to achieve maximum screening from view from public waters and minimize and control erosion to public waters. Construction requiring grading and filling as identified in I, “Topographic Alterations/Grading and Filling” must meet all zoning permit requirements listed in that section.

J. Stormwater Management; General Standards

1. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to 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, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities
4. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district.
5. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

K. Forest Management Standards

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.

L. Extractive Use Standards

1. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration

- of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

M. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures established in Section 305.04.04. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. The Planning Commission shall review the application and consider the waterbody, the topography, vegetation, and soils conditions on the site and only issue a CUP where there are findings 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 in undeveloped areas and screened as deemed appropriate in developed areas;
 - c. The site is adequate for water supply and sewage treatment; and
 - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The Planning Commission, upon consideration of the criteria listed above and the purposes of the Shoreland section, shall attach conditions to the issuance of conditional use permits as it deems necessary to fulfill the purposes of the Zoning Ordinance & adopted Comprehensive Plan. Conditions imposed will be based on the goals of maintaining or improving water quality and/or the scenic and natural atmosphere from the protected public water. Conditions may include, but are not limited to, the following:
 - a. Increased setbacks from the ordinary high water level.
 - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
 - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
 - d. Requirements to connect to City sewer services.
 - e. Additional stormwater management infrastructure or procedures.

N. Non-conformities

All legally established nonconformities as of the date of this Section may continue, according to applicable state statutes and regulations stated in Subsections F and G of this Subdivision; except that the following standards will also apply in all shoreland areas:

1. Lots of record in the office of the County Register of Deeds on the date of enactment of local shoreland controls that do not meet the requirements of Subsections F and G of this Section may be allowed as building sites without variances from lot size requirements provided the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Section are met.
2. A variance from setback requirements, if necessary, must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section F1 – F5 the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the minimum lot area requirements for that area of Shoreland as much as possible.
4. A deck addition to a structure not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:
 - a. The structure existed on the date the structure setbacks were established;
 - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - d. The deck is constructed primarily of wood, and is not roofed or screened.

O. Sewage Treatment

1. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. The City sewer system 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 a part of this Section.
- 2. Nonconforming Sewage Treatment Systems
 - a. A sewage treatment system not meeting the requirements of Subsection 1a and 1b of this Section (above) must be upgraded, when 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 be considered conforming if the only deficiency is the setback from the ordinary high water level.
 - b. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with insufficient separation from groundwater shall be considered nonconforming.

P. 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.

Q. Subdivision Provisions

- 1. Land Suitability. Each lot created through subdivision, including Planned Unit Developments must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community. Information required as part of the Subdivision process (as detailed in City Code Section 300) will be used to make a determination of land suitability.
- 2. Consistency with Other Controls. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and sewage treatment

consistent with all other sections of this subdivision can be provided for on every lot. In unsewered areas, each lot shall meet the minimum lot size requirements of that district, and have at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

3. Information Requirements. Sufficient information must be submitted by the applicant to make a determination of land suitability. The information shall include at least the following:
 - a. Topographic contours at 10 foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - b. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - c. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - d. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - e. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 - f. Lines or contours representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

R. Planned Unit Developments (PUD'S)

1. Planned Unit Developments (PUD's) are allowed in the S-2 shoreland area for new projects on undeveloped land, and redevelopment of previously built sites.
2. Processing of PUD'S: PUD's must be processed according to Section 305.05, Subdivision 11.
3. Site "Suitable Area" Evaluation: PUD's may utilize a tier system to allow for additional density within the shoreland area as based on the following:
 - a. Shoreland Tier Dimensions
(measured from the ordinary high water level proceeding landward)

	Unsewered (feet)	Sewered (feet)
Pool 4 first tiers	200	200
Pool 4 all other tiers	267	200
Brewery Creek	300	300

- b. The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial PUD density evaluation steps to arrive at an allowable number of dwelling units or sites.
4. Residential and commercial PUD density evaluation
 - a. The base density for residential uses in the S-2 zone is indicated in Subdivision 12, F2c of this Section.
 - b. Commercial uses may be incorporated into a PUD as long as all zoning layers allow and be included within the density transfer process. For the purpose of determining density of a commercial use:
 - i. Determine the average residential dwelling unit square footage (interior living space) within the PUD project
 - ii. Apply this to the proposed commercial unit, with each 1 dwelling unit amount of square footage in the proposed commercial use being equivalent to 1 dwelling unit
 - c. Allowable densities may be transferred from any tier to any other tier further from the waterbody within the same zoning district, but must not be transferred to any other tier closer to the water.
 - d. Density Increases

Increases to the site base densities listed in Section F-2c are allowable only if the dimensional standards in Section F-2b, the General Requirements stated in G are met, and the structure setbacks from the Ordinary High Water Levels is increased by 50% greater than minimum setback or the impact on the waterbody is reduced through vegetative management, topography, or other means and the setback is at least 25% more than otherwise minimum. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial PUD's:

Maximum Density Increase by Tier (percent)	
First	50
Second	100
Third	200

Fourth	200
Fifth	200

5. Conversions

Existing resorts or other land uses and facilities may be converted to residential Common Interest Communities through the City platting process as outlined in Section 300 of City Code.

Subd. 14 Wellhead Protection Overlay Zone (W.P. Zone)

A. Purpose: The purpose of the Wellhead Protection zone is to protect the quality of the public water source, ensuring a safe and adequate drinking water supply, by further regulating any potential harmful uses allowed within the Emergency Response Area of the Wellhead.

B. Scope: The Wellhead Protection Overlay zone shall be the same as the Emergency Response Area (ERA) as defined and identified in The City of Wabasha Wellhead Protection Plan dated September 2010 and/or any additional primary water supply well ERA's identified in additional or updated Wellhead Protection Plans for the City of Wabasha.

C. Appeals and Variances: An application for a variance shall be filed in writing with the Planning **Administrator or designee Department** as specified under Section 305.04 Sub 5

D. Rezoning (modifications to underlying zoning districts within the wellhead protection zone)

Any modification to underlying zoning districts within the W.P. Zone shall be consistent with the goals, policies, and objectives of the adopted comprehensive land use plan, the adopted Wellhead Protection Plan (also as updated or amended) and the following criteria, considerations, and objectives:

- a. Changes to underlying zoning districts where the utilization, storage, or transportation of potential contaminants to the water supply shall be required to get a Conditional or Interim Use Permit through this Subdivision.

E. Special Notifications

Any changes to zoning district boundary or uses allowed and all applications for Conditional/Interim Use Permits shall be submitted to the City Wellhead Manager for review and comment. The Wellhead Manager and/or Planning **Administrator or designee Department** may submit information to State or County Health Departments or similar agencies for advice or assistance. **Rain gardens or other infiltration structures are prohibited in the ERA based on MPCA rules.**

F. Uses Requiring a Conditional or Interim Use Permit

The following uses **within the ERA** shall require a conditional **or use permit unless** interim use permit as required in the underlying zoning district.

- Agricultural Services
- ~~Impervious surface development other than structures~~
- Animal Feedlots

- ~~Constructed Rain Gardens or other infiltration infrastructure~~
- Contractor Yards
- Crop farming
- Excavations
- Excavation/ Mineral extraction
- Extractive Uses
- Fill, Filling, or Filling Operations
- ~~Funeral Parlors~~
- Establishment of new private wells
- ~~Garages, Commercial~~
- ~~Garages, Storage~~
- Gas Stations
- Hazardous materials storage or use
- Industrial Services
- Industrial Warehousing Distribution or Storage
- Industrial, Heavy
- Industrial, Light
- Institutional Uses
- Junkyards
- Landfills
- Mining site/operations
- Nursery/ Greenhouses
- Landscaping businesses
- Repair and maintenance services – major
- Retail Agriculture
- ~~Self storage facilities~~
- Sewage Treatment Systems
- Waste Management Facilities

G. Conditions

Conditions imposed will be based on maintaining the purpose of this district which may include but are not limited to the following:

1. Structures and/or mechanisms for containment of potential contaminant spills
2. Spill response plans
3. Security measures on storage areas
4. Stormwater infrastructure which protects the water supply from potential contaminant infiltration. **Infiltration may be prohibited based on MPCA rules.**
5. Site plans and road management programs (including salt application management) of roads, parking lots, or other similar surfaces in order to protect the water supply from potential contaminant infiltration
6. Site plans and turf management programs (including fertilizer application management) for open and/or vegetative areas to protect the water supply from potential contaminant infiltration
7. Evidence of required state and/or federal permits and required monitoring programs

The purpose of the performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to the environment. Standards shall apply to future development in all districts unless otherwise noted.

Before any building permit is approved, the Planning ~~Administrator or designee~~ Department shall determine ~~if whether~~ the proposal will conform to the performance standards. The ~~developer, applicant, or landowners~~ shall supply data necessary to demonstrate such conformance.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious or otherwise objectionable conditions that could adversely affect the surrounding areas or adjoining premises, except that any use permitted, by this ordinance, may be ~~constructed~~ undertaken and maintained if acceptable measures and safeguards to reduce dangerous and objectionable conditions to acceptable limits as established by the following performance requirements.

Subd. 1 Heights

Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcast towers, masts or aerials, and necessary mechanical ~~appurtenances~~ accessories are ~~hereby exempt~~ excepted from the height regulations of this Section and may be erected in accordance with other regulations or Ordinances of the City.

Subd. 2 Fire Hazards.

Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate firefighting and fire-prevention equipment and by such safety devices as are normally used in the handling of any such material. Such hazards shall be kept ~~removed from adjacent activities to~~ from a distance that is compatible with the potential danger involved.

Subd. 3 Vibration.

No vibration shall be permitted that is discernible without instruments on any adjoining lot or property. The standard shall not apply to vibrations created during ~~the process of~~ construction.

Subd. 4 Air Pollution.

No pollution of air by fly-ash, dust, vapors, odors, smoke or other substances shall be permitted which are harmful to health, animals, vegetation or other property, ~~or which can cause excessive soiling. For the purpose of this ordinance,~~ The regulations and standards adopted by the Minnesota Pollution Control Agency shall apply.

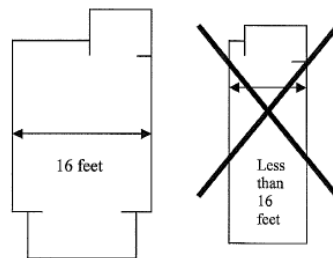
Subd. 5 Refuse.

All waste material, debris, refuse or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes. The owner of vacant land shall be responsible of keeping such land free of refuse.

Subd. 6 Dwelling Units and Structures

All structures intended for the purpose of serving as a dwelling (with the exception of those categorized as a Manufactured Home under MN Statute, Chapter 327.31 or as amended) shall meet the following standards:

- A. All residential dwellings shall be a minimum of sixteen feet wide (measured at its maximum width)



- B. All dwellings shall be placed on a permanent foundation which complies with all standards and specifications of the Uniform Building Code as adopted in Minnesota. Said foundation shall be solid extending the entire length and width of the dwelling.
- C. New porches and decks ~~(as defined in Section 305.09)~~ shall be required to meet all setbacks. Pre-existing porches and decks may be re-constructed as long as they are not enlarged ~~and any encroachment is not furthered~~ or expanded. Stoops and patios are not required to meet structural setbacks. No porch, deck, stoop or patio shall be placed on any recorded easements.
- D. All residential structures shall be required to have sewer and water which meets state health code standards and city Code chapters 500 and 505. The minimum lot size for Individual Sewage Treatment Systems (septic systems) shall be determined by MN Rules 7090 (or as amended).

Subd. 7 Accessory Structures (permanent)

All accessory structures including those not requiring a building permit (under the size of 120 square feet or as amended in the **Minnesota** Building Code) shall meet the following standards:

- A. Meet all zoning district setbacks for accessory structures
- B. Shall not be placed in any required front yard for the zoning district it is in

Subd. 8 Minor Structures, Fences, & Walls

Any small (under **200420** square feet), movable accessory construction **such as birdhouses, tool houses, play equipment, arbors, as well as walls and fences** shall meet the following standards **or as amended by the Minnesota Building Code:**

- A. Be contained wholly within the property to which it belongs **and** set back from property lines sufficiently to allow for accessibility and maintenance **purposes from within the property to which it belongs**
- B. No fence shall be allowed to be constructed or maintained which will obstruct road intersection sight lines or which will **in any other way** create a hazardous situation for the public
- C. All fences located within the required front or corner lot street side yard (or setback) shall be
 - 1. No more than 4 feet in height **OR**
 - 2. Meet the definition of an “open fence”
- D. All fences over **76** feet in height shall require a building permit (or as amended in the **Minnesota International** Building Code)
- E. All retaining walls over 4 feet in height shall require a building permit (or as amended in **Minnesota Uniform** Building Code)

Subd. 9 Temporary Structures

All temporary structures **as defined in Section 305.09** shall meet the following standards:

- A. No temporary structure shall be placed within the required front yard (setback) of any zoning district.
- B. Temporary structures must meet all setback requirements for the zoning district in which it is located.

Subd. 10 Portable Storage Containers

All portable storage containers **as defined in Section 305.09** shall meet the following standards.

- A. Shall be allowed for no more than 30 days for the purpose of loading or unloading, truck sales, or similar short term uses with no more than four 30 day periods within a one year time frame. **Each 30-day period may begin after 15 calendar days have elapsed.**
- B. Location of the container shall be placed in the rear yard or on paved or graveled driveway if in the front or side yard of a property.
- C. Exception to these requirements;

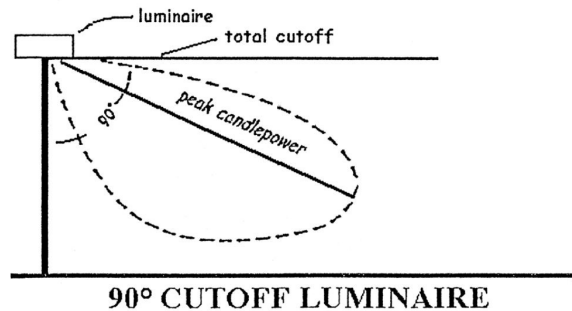
- a Where they are explicitly allowed as either permitted or conditional uses (specific zoning district standards apply) and
- b For temporary parking during the process of delivery, loading or unloading of merchandise or personal effects from delivery trucks.

Subd. 11 Vehicles & Equipment

See City Code Section 1110 "Parking Regulations"

Subd 12 Lighting

- A. Lighting level should be the lowest possible for the purpose intended.
- B. All lighting installations shall be designed and installed with illumination to be at a cut off of 90 degrees or less except as in exceptions in F below,



- C. Maximum lamp wattage for commercial lighting shall be 250 watts
- D. Maximum lamp wattage for residential lighting shall be 100 watts incandescent, 26 watts compact fluorescent.
- E. Light trespass shall be controlled with the proper choice of luminaires and optics.
- F. The following are excepted from the above lighting standards:
 - 1. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
 - 2. Exit signs and other illumination required by building codes.
 - 3. Lighting for stairs and ramps, as required by the building code.
 - 4. Signs are regulated by the Sign Code, but all signs are recommended to be fully shielded.
 - 5. Holiday and temporary lighting (less than thirty days use in any one year).
 - 6. Athletic field lighting (e.g. football, baseball, softball), with Planning Commission approval, when steps have been taken to minimize glare and light trespass, and utilize sensible curfews.
 - 7. Low voltage landscape lighting, but such lighting be shielded in such a way as to eliminate glare and light trespass.

Subd. 13 Excavating & Filling Operations

Excavation & Filling operations involving more than 50 cubic yards are allowed in all areas of the city with an approved grading plan issuance of a Zoning Permit unless the property is covered by shoreland, wetland or bluff overlay zones or similar environmental standards or regulations as specified in any City, State, or Federal regulations that require additional permits or approvals.

- A. **Grading Plans** ~~Application for Zoning Permit~~ shall provide information indicating the following:
1. The surface shall be prepared to receive fill by removing vegetation, debris, topsoil and other unsuitable material and scarifying (creating irregularities in the surface of existing soil) to provide a bond between the existing soils and the fill material.
 2. All fill shall be compacted to 90 percent of maximum density as determined by ASTM D 1557, Modified Proctor, in lifts not exceeding 12 inches in depth and shall be allowed to sit idle over a winter season. If the proposed fill will be supporting structural improvements (buildings, structures, pavements, etc.), greater compaction may be necessary, and a geotechnical engineer's recommendation may be required.
 3. No rock or similar irreducible material greater than 4 inches in any dimension shall be included in the fill.
 4. The slope created by the fill shall be no steeper than is safe for the intended use and shall not be steeper than 4H to 1V (25% slope) or shall be justified by soils reports or engineering data.
 5. Slopes steeper than 4H to 1V are permitted only if approved by the City Engineer.
 6. Where existing grade is at a slope steeper than 5H to 1V (20% slope) and the depth of the fill exceeds 5 feet, benching shall be provided. A key shall be provided which is at least 10 feet wide and 2 feet deep.
 7. During excavation or filling operation the site shall be managed so that it shall not present a danger from caving in or sliding banks. The site may require fencing and erosion prevention measures which will be determined and required at the discretion of the City.
 8. The site shall be properly drained with any drainage properly managed during the fill process to Best Management Practices. No cross property sheet drainage shall be permitted.
 9. Erosion of the ground in the area of discharge during filling shall be prevented by installation of non-erosive down drains or other devices. Grading shall not create drainage patterns or routes that will adversely affect down gradient properties.
 10. At the completion of a landfill or excavation/grading operation, the premises shall be graded, leveled, and all exposed soils shall be fully

restored with vegetation, mulch and/or a permanent non-erodible surface.

11. Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility.
 12. The site shall be left so that storm water drainage runoff and storm water passage or flowage cannot become a source of, or an aggravation to, storm water drainage conditions in the area.
 13. The final elevation shall be determined and specified on the zoning permit. Final elevation required by the City shall be based on:
 - i. Existing elevation of adjacent streets and lots,
 - ii. Elevation required for proposed structures to meet floodplain requirements (679') or hook up to City Sewer
- B. Such filling operations shall not consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, organic or tree waste, decayed material, filth, sewage or similar septic or biologically dangerous material deemed to be unsuitable by the City.
- C. Such filling operations shall only be allowed to occur between the hours of 7:00 AM to 7:00 PM, Monday through Friday, and 8:00 AM to 6:00 PM on Saturday.
- D. For projects with a land disturbance area of one acre or more a Minnesota Pollution Control Agency General Permit Authorization to Discharge Stormwater Associated with construction activity under the National Pollutant Discharge Elimination Permit (or as amended by MPCA) is required. **This permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP).**

Subd. 14 Landscaping

In all districts where setbacks ~~exist or~~ are required and all developed uses shall provide a landscaped yard, which may include among other items grass, decorative stones, or shrubs and trees, along all streets. In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

Subd. 15 Transportation Interconnectivity

All development shall provide for the segment of road, sidewalk, and/or trail on the development property to **the** adjacent property line where such transportation routes have been identified within any plan or policy adopted by the City of Wabasha.

Subd. 16 Major Traffic Generators & Traffic Impact Studies

Any applicant ~~or proposer~~ of a development project² which meets the definition of Major Traffic Generator shall provide a Traffic Impact Study (TIS) that includes information necessary to allow the City to assess:

- the transportation implications of traffic associated with a proposed development;
- the existing and future capacity and condition of the affected street system;
- that the growth of the transportation system may occur in a manner that is comprehensive in nature and supportive of the public good.

A TIS prepared consistent with the provisions of this section will be required. All roads and intersections serving a proposed use must be determined to be capable of handling the future projected traffic generated by the use. No application for a development identified as requiring a TIS will be deemed complete unless it is accompanied by a TIS. All projects requiring a TIS will require a Conditional Use Permit no matter the zoning district in which the project is located.

A. A Traffic Impact Study shall identify

1. what improvements, if any, are needed to:
 - a) Insure safe ingress to and egress from a site;
 - b) Maintain adequate street capacity and appropriate level of service on public streets serving the development;
 - c) Insure safe and reasonable traffic operating conditions on streets and at intersections along the proposed route; avoid creation of or mitigate existing hazardous traffic conditions;
 - d) Minimize the impact of non-residential traffic on residential uses along the route; and
 - e) Safeguard the public investment in the existing street system.
2. The road system investments to the City, County and State road systems necessary to serve anticipated development.

B. Traffic Impact Studies shall include the following information:

1. An analysis of current and future traffic operations and intersection improvement needs at all site access points in the affected transportation routes. This operational evaluation shall include on-site circulation as it may affect access, on-site and off-site turn lanes and required vehicle storage, the potential need for signalization or other traffic control, and review of sight distance, vehicle turning movements and other intersection safety aspects. The proposed access plan should be consistent with the standards of The City of Wabasha Transportation Plan

² Development Project: Construction projects of buildings, structures, streets, or other infrastructure (existing definition from Wabasha Zoning Ordinance)

(contained in the adopted Comprehensive Plan or as amended) and with County or State requirements for access management.

2. An analysis of the impact of site-generated traffic on the level of service of affected intersections and public streets along the proposed route. Affected road segments or intersections are where the additional traffic volume created by the proposed development is greater than 10 percent of the current traffic volume (for road segments) or the current entering volume (for intersections). Examples of possible effects include, but are not limited to, pedestrian and bicyclist safety hazards, traffic noise, or turning movement's conflicts with other driveways or intersecting roads.
3. For developments expected to generate more than 60 heavy vehicle trips per day, an analysis of the intersections and road segments these trucks would use to enter and exit the City limits is required. Issues of concern include structural capacity, impacts of slow moving vehicles on roadway safety, and the need for intersection operation improvements to accommodate truck traffic.
4. An analysis of the impact of the proposed development on residential uses (where the abutting land use is predominately residential) along the proposed route to identify any potential adverse effects of the proposed development and mitigation measures to address any impacts. Examples of possible effects include, but are not limited to: non-residential traffic impacts on residential neighborhoods; pedestrian and bicyclist safety hazards; traffic noise; or turning movement conflicts with other driveways or intersecting roads.
5. A detailed list of the transportation infrastructure improvements needed to mitigate the impact of the development and estimated costs of these improvements.
6. An explanation of how improvements that are identified to mitigate the traffic impact of the development meet commonly accepted engineering design standards and access management criteria.

C. Qualified Preparation & Review:

The TIS shall be led by a Traffic or Transportation Engineer, or other qualified professional with experience in the preparation of such analysis. The City shall have the final approval of the selection of the professional or shall employ other professionals (such as the City Engineer) to review the TIS on the City's behalf. The applicant shall be responsible for the costs of preparation of the TIS and of the City Engineers review.

D. Traffic Service Standards:

The standards for traffic service that shall be used to evaluate the findings of Traffic Impact Studies are:

1. Level of Service:

The Level of Service Standard for all highway corridor operations (including freeway mainline, merging areas and ramp junctions, and arterial and collector intersections or corridors) should meet the Level of Service standards listed in the table below. Level of Service should be calculated using the Transportation Research Board's Highway Capacity Manual. Where the existing Level of Service is below these standards, a TIS shall identify those improvements needed to maintain the existing level of service, and what additional improvements would be needed to raise the level of service to the standards indicated.

The Highway Capacity Manual estimates the quality of traffic flow in letter grades, referred to as Levels of Service. A and B represent uncongested conditions, C and D are approaching congestion and E and F are very congested.

Levels of Service for the City of Wabasha

Land Use	Street Type	Level of Service
Residential	City street	B
Residential	County State Aid Highway	Mid C
Commercial	City Street	Mid C
Commercial	County State Aid Highway	C/D Midpoint
Industrial	City Street	Mid C
Industrial	County State Aid Highway	C/D Midpoint

2. Number of Access Points:

The number of access points shall be the minimum needed to provide adequate access capacity for the site. The spacing of access points shall be consistent with the road authority's access management requirements. If the road authority has not adopted access management requirements, then there shall be spacing of 300 feet between access points, or the maximum available distance if there is less than 300 feet between an access point and the nearest adjoining intersection or driveway on an adjacent parcel.

3. Residential Street Impact:

Without mitigative measures, non-residential development shall contribute no more than 20% of the traffic on any local street for which residentially zoned property makes up more than 50% of the street frontage.

4. Vehicle Storage:

The capacity of storage bays and auxiliary lanes for turning traffic shall be adequate to insure turning traffic will not interfere with through traffic flows on any public street.

5. Internal Circulation:

On-site vehicle circulation and parking patterns shall be designed so as not to interfere with the flow of traffic on any public street and shall accommodate all anticipated types of site traffic.

6. Safety:

Access points shall be located and designed to provide for adequate intersection and stopping sight distance and appropriate facilities to accommodate acceleration and deceleration of site traffic. The geometric design of access points shall meet the standards of the Access Management requirements of the Road Authority connecting to the proposed development site.

E. Security:

The City shall require either the applicant or the owner or user of the property on which the project is proposed to post a security in such form and sum as determined by the City Engineer. The amount of the security shall be sufficient to cover the City's extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel for the proposed project. The amount of the security shall also be sufficient to ensure compliance with all requirements of this section, and the particular permit, and to pay the expense the City may incur as a result of the permit.

F. Waiver:

1. The requirement for a Transportation Impact Study may be waived by the City of Wabasha after consulting with road authority representatives with roads comprising any designated haul routes (the County Highway Engineer for affected County roads in Wabasha County, the City Engineer for any affected City roads, the District Engineer of MnDOT District 6 for State or Federal Highways, or the Town Board or its Designee for township roads), if it is determined that;

a) A Transportation Impact Study is not necessary to determine needed road improvements on roadway access points or portions of haul routes under their jurisdiction, and that for roadways and the intersections along haul routes under their jurisdiction, no unsafe or hazardous conditions will be created by the development as proposed; and

b) The applicant has provided performance bonds or other guarantees providing adequate assurance that anticipated damage to roads can be mitigated and/or that unsafe conditions can be mitigated or avoided; and

- c) The use is seasonal or short-term, less than three months in total, with peak daily trip generation that exceeds the major traffic generators thresholds, but whose annual average trip generation does not pose a risk to the road infrastructure or traffic safety of the facility and adjacent road network based on evaluation of the cumulative pavement impact expected and geometric design of the roadway.
- 2. This waiver shall not preempt the authority of the Minnesota Department of Transportation to require a traffic study on any state or federal highway nor the authority of any affected jurisdiction to require a traffic study under an applicable ordinance. A waiver will not be granted to haul any product that is deemed hazardous or a potential threat to the health of the public.
- 3. Application: Applications for Major Traffic Generator Waiver shall be made to the Zoning Administrator **or designee** on forms provided by his/her office. Only one (1) waiver will be granted per 12 month period per site. Completed applications shall be forwarded to the City Engineer for review and then to the Street Commission for consideration at an upcoming meeting. The application must include:
 - a. A detailed description and map of the proposed haul route
 - b) Number of daily and total trips requested
 - c) Haul days and hours
 - d) Any other data that the City Engineer might request to make a determination on the Waiver Application

Subd. 17 Stormwater Management & Erosion Control

- A. All projects shall be required to meet Minnesota National Pollutant Discharge Elimination System (NPDES) and the State Disposal System (SDS) standards for sediment control.
- B. The rate of water run-off for post-development of any project shall be the same as pre-development rates for the same property.
- C. Applicants/land owners may be required to provide to the City storm water calculations and surveys of drainage ways to meet these requirements.

Subd. 18 Wetlands

All projects shall be required to meet federal and state wetland protection rules, in particular MN Rules 8420 and 6115 (or MN. State Wetland Conservation Act or as amended). For this purpose, the following standards shall apply:

- A. The Wabasha Soil & Water Conservation District (SWCD) shall be the designated Local Government Unit (LGU) administering the Wetland Conservation Act (WCA)

- B. Any proposed project/development which has a likelihood of impact on an existing wetland within the City of Wabasha *may* be required to conduct and provide to the City and/or Wabasha SWCD a wetland delineation.
- C. Any proposed project/development which has the likelihood of creating a wetland (or feature which meets the definition of wetland under State standards) *may* be required to conduct a pre-construction survey of soils and provide to the City and/or Wabasha SWCD a copy of that survey.

Subd. 19 Bluffs

For all properties that contain or are contained within a bluff impact zone, all development, construction, and alterations to topography and vegetation shall be conducted in such a manner as to prevent bluff erosion and preserve existing scenic values, water and soil qualities. For this purpose, the following standards shall apply:

- A. New structures and accessory facilities (with the exception of stairways, lifts, and landings) shall not be placed within bluff impact zones
- B. Pre-existing structures located within a bluff impact zone may be reconstructed, if damaged by fire, weather or other force of nature or act of God, provided the damage is less than 50% of the fair market value of the damaged structure.
- C. Setback from the top and toe of bluff to any structure in any district shall be no less than twenty (20) feet.
- D. No person shall begin a new mining or quarrying activity within three hundred (300) feet of the toe or top of a bluff without **obtaining an Interim Conditional Use Permit when allowed as a permitted or conditional use within the zoning district.**
- E. No towers, with the exception of emergency towers, shall be located within one-quarter (1/4) mile of the bluff impact zone.
- F. Stairways and lifts may be allowed to **achieve** access up and down bluffs and steep slopes to shore areas or plains. All stairways and lifts on bluffs and in shoreland areas shall be visually inconspicuous, and meet the following design requirements:
 - 1. Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and Planned Unit Developments.
 - 2. Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and Planned Unit Developments.
 - 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
 - 4. Stairways, lifts, and landings **shall may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and** built in a manner that ensures control of soil erosion.
 - 5. Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the

public water and lower areas, assuming summer leaf-on conditions, whenever practical.

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore and lower areas, provided that the dimensional and performance standards of sub-items 1-5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- G. No grading, excavating or filling **is allowed** within the bluff impact zones, except for approved erosion control measures. Erosion control projects within the bluff impact zone shall comply with 1. and 2. below:
 1. Altered areas shall be stabilized to acceptable erosion control standards consistent with Best Management Practices as described in the Minnesota Stormwater Manual. ~~the field office technical guides of the Wabasha Soil and Water Conservation District and the USDA, Natural Resources Conservation Service.~~
 2. Plans to place fill or excavated materials in bluff impact zones shall be prepared by a **licensed professional engineer** ~~qualified professional~~ for continued slope stability, and approved by the **City Engineer.** ~~Department of Environmental Services.~~ All costs to be borne by the applicant.
- H. The top or toe of bluffs shall be determined by the **Planning Administrator or designee** ~~Department~~ and the applicant may be required to have a registered land surveyor determine such location.

Subd. 20 Home Occupations

Where allowed in the zoning district shall meet the following minimum standards:

- A. The business shall be located within the principal dwelling structure or an accessory structure of the property of the business owner.
- B. The maximum amount of space devoted to the business shall not exceed 25% of the gross floor area of the residence.
- ~~C. No stock in trade shall be displayed so as to be visible from any street~~
- D. The occupation is to be conducted solely by members of the household residing on the premises, except that one person **necessary to the occupation** may be employed
- E. No outside storage or materials, equipment, or display of merchandise shall be allowed
- F. Conducting the home occupation shall not require substantial interior or exterior alterations of the dwelling
- G. Only signs allowed within the property's zoning district shall be allowed
- H. The home occupation shall comply with all county, state, and federal regulations.

Subd. 21 Hazardous Materials

- A. On any land or within any structure in the City where hazardous materials are used, stored, or generated, the material shall be kept in a manner which meets complies with all county, state, and federal regulations.
- B. Applicants and land/business owners may be required to provide to the City information on use and storage of such materials prior to the issuance of any required or requested permits.

~~Subd. 22 Pools—See Section 725 of City Code.~~

~~Subd. 23 Raising of Animals—See Section 705 of City Code~~

Subd. 22 Solar structures and Solar garden/farm

- A. Solar structures
 - 1. Buildings or roof mounted structures shall not exceed above the maximum height requirement for the principal building and shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
 - 2. Solar structures must meet the accessory structure setback and locations for the district if not attached to a roof when oriented at minimum design tilt.
- B. Solar garden/farm
 - 1. The minimum lot size for a solar garden/farm is 5 acres with a maximum lot size of 30 acres.
 - 2. Screening: solar garden/farm shall be screened from view of adjacent residential zoning districts and public roads to the extent possible without affecting their function.
 - 3. Abandonment: Any solar garden/farm which is inoperable for twelve (12) successive months shall be deemed abandoned and a public nuisance. The owner shall remove the abandoned system at their expense. A decommissioning plan outlining the removal of all structures and electrical components will be required as part of the conditional use permit.
 - 4. All on-site site power and communication lines running between solar panels and buildings shall be buried underground on the premise.
 - 5. Solar Farms that generate capacity of 50 megawatts or more shall fall under the jurisdiction of the Minnesota Public Utilities Commission.

Subd. 23 Loading and Unloading Requirements.

In General Commercial, Highway Commercial, or Industrial Zoning Districts, ~~or any commercial or industrial district~~, sufficient space for the loading and unloading of vehicles shall be provided on the lot in connection with any ~~commercial or industrial~~ use so that the public street shall at all times be free and unobstructed to the passage of vehicular and pedestrian traffic.

Gross Floor Space	Loading and Unloading Space Required in Terms of Square Feet of Gross Floor Area
0 to 1,500 Sq. Ft.	None
1,501 to 10,000 Sq. Ft.	One (1) Space
10,001 and Up Sq. Ft.	One (1) Space Plus One (1) Space for Each 20,000 Sq. Ft. in Excess of 10,000 Sq. Ft.

All spaces shall be of at least ten by fifty (10X50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.

Subd. 24 Off-Street Parking Requirements.

- ~~A. No parking lot shall be constructed or reconstructed unless and until a Zoning Permit is issued. Applications for a Permit shall be submitted with two (2) copies of plans for the development and construction of the parking lot.~~
- B. Adequate ingress to the parking lot shall be provided and all parking spaces shall be provided adequate access by means of maneuvering lanes. Provision of adequate ingress and egress shall receive review and the approval of the City Engineer or other officials as may be desired by the City Council.
- C. Parking spaces shall be a minimum of nine by seventeen (9x17) feet in size for spaces arranged in a perpendicular lot layout or approved by the City Engineer for other layouts.
- D. The following table of parking requirements for various uses shall be applied to all new and expanded developments with the exception of those located in the TDC zone (see section 305.06, Subdivision 8D for TDC parking requirements). Allocation of said parking areas should be indicated on the plans required for obtaining required permits. Off-street parking shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve measured from the nearest point of the building to the nearest point of the off-street parking lot.

Agricultural	
Animal hospital	moved
Crop farming	1 space per employee 1 space per 500 square feet of usable floor area, plus 1 space for every employee
Grain storage facility	1 space per employee

Bar / Brewery	
Bars/cocktail lounges, brewpubs, micro-distillery with tasting room, and small brewer with taproom	1 space per 3 patrons calculated at maximum capacity
Breweries & Distillery	1 space per employee
Brewpub	1 space per every 100 square feet of usable floor area or 1 space per every 2 patrons calculated at maximum capacity, whichever is greater.
Micro-Distillery with tasting room and small brewery with taproom	1 space per employee, plus 1 per 200 square foot of retail space

Industrial	
All industrial uses Heavy industrial	1 space per employee plus 1 space for each vehicle stored on site.
Industrial service	1 space for each employee, plus 1 space for each 1,000 square feet of gross floor area, plus 1 space for each vehicle owned and/or maintained by the business
Industrial warehousing distribution or storage facilities	1 space for each 1,000 square feet of gross floor
Light industrial	1 space per each employee plus 1 space for each vehicle that the business owns and/or maintains
Mining operations or extractive use	1 space per each employee on maximum shift

Institutional	
Cemetery	1 space per each employee
Communication towers and related accessory structures	1 space per employee, plus 1 space per each vehicle stored on site, with a minimum of 1 space provided

Cultural institutions & Community center	1 space for every 3 patrons at maximum capacity of facility Parking Spaces Equal to 30% of Capacity in Persons
Essential utility and public service, solar garden/farm	1 space per employee, plus 1 space per each vehicle stored on site
Institutional	1 space per employee plus 1 space per 6 seats at maximum capacity
• Church	
• Hospital	1 space per employee plus 1 space for each 2 hospital beds
• Libraries	1 space per employee plus 1 space per 6 seats at maximum capacity
• Nursing homes	1 space per employee plus 1 space per 4 beds
• Office providing community services	1 space per every employee, plus 1 space per each 2 private offices located within department or facility
• Post Offices	1 space per employees plus 1 space per 300 gross square foot of public space
Schools	
• Commercial school (music, dance, etc.) elementary school, public or private school (other than a K-12 school)	1 space per every 2 employees, plus 1 space per 5 students.
• Elementary school	1 space per 2 employees, plus 1 space per 10 students
• Public or private schools or training facilities (other than K-12 schools)	1 space per every 3 students at maximum capacity, plus 1 space per every employee
• Secondary school	1 space per each employee, plus 1 space per every 3 students (at maximum capacity) in 11 th & 12 th grades
• School auditorium, gym, stadium, etc.	1 space per 8 seats, which may be calculated out of the parking required for the school if parking is within 300 feet from the facility

State licensed residential facilities	- Family day care - Group family day care - Supervised living facility	1 space per employee plus 1 per 5 attendees which may include short-term drop off parking ~~1 space for every 4 attendees which may include short term drop off parking~~
	~~Group family day care (up to 14)~~	~~1 space for every 4 attendees which may include short term drop off parking~~
	~~Group day care (programs, schools, centers)~~	~~1 space per employee plus 1 space for every 4 attendees which may include short term drop off parking~~
	~~Supervised living facility~~	~~1 space per every three persons at maximum facility capacity (unless residents are prohibited from owning or operating personal automobiles), plus 1 space per each employee~~

Miscellaneous	
Adult entertainment establishments	1 space per employee plus 1 space for every 3 patrons at maximum capacity of facility ~~1 space for every 2 customers~~
Commercial kennels	1 space per Employee
Nursery, greenhouse, landscape business	1 space per 2 employees, plus 1 space for each vehicle shored on site, plus 1 space per each 1,500 square feet of area devoted to customer sales and service.
Mixed use	Total parking required shall be the sum of the various uses
Parking garage	1 space per employee

Office	
Medical, dental, and animal clinic	1 space per employee plus 1 space for every 2 exam rooms
Professional use	1 space per employee plus 1 space per each 2 offices

Recreational	
Marina's Look up	1 space for every two 3 boat slips, plus overflow parking at 1 per 2 boat slips, plus parking needed for all other mixed uses
Recreational entertainment facility; major and minor	1 space per employee, plus 1 space per 3 patrons at maximum capacity, plus parking needed for all other mixed uses 1 per employee plus 15 spaces plus 50 per every acre of developed recreational area
Recreational entertainment facility; Minor, indoor including bowling alleys, pool halls, skating rinks, dance halls, athletic clubs, and private clubs/lodges, swimming pools	1 space per 3 patrons calculated at maximum capacity, plus parking required for additional ancillary uses based on parking specified for those uses
Recreational entertainment facility; Minor, outdoor including golf courses, hunting & shooting clubs, and other similar sporting and recreational facilities	1 space per 4 patrons calculated at maximum capacity, plus parking required for ancillary uses based on parking specified for those uses

Residential	
Accessory/caretaker apartments & guest cottage	1 space per dwelling unit plus spaces required for the principal use
Bed & Breakfast	1 space per each room or guest unit, plus spaces required for the principal use 2 spaces per permanent residential unit
Campgrounds and travel trailer parks	1 space per employee plus 1 space per campsite
Hotels & Motels	1 space per 3 room, plus 1 space per each employee, plus parking required for mixed uses additional uses based on parking specified for those uses
Mobile home park	2 spaces per lot
Multi-family dwellings	1.5 spaces per number of dwelling units
Single-family detached residential	2 Spaces per dwelling unit

Retail	
Auto sales	1 space per employee
Car Wash	1 space per employee plus see drive-thru requirements plus spaces equaling 3-5 times that of capacity of the wash
Commercial retail	1 space for each 200 square feet of retail space, plus 1 space for each vehicle stored on site plus 1 space for each vehicle owned and/or maintained by the business
Contractor or construction yards	1 space per 1 employee plus 1 space for each vehicle stored on site
Gas station	1 space per employees, plus see drive thru requirements
Open sales, service, rental lot	1 space for every 1,500 square feet of sales or service area 1 space per employee, plus 1 space for every 200 square feet of usable space beyond those spaces used for the display of merchandise on sale
Restaurants	1 space per employee plus 1 space per 4 patrons at maximum capacity 1 space per every 100 square feet of usable floor area or 1 space per every 2 patrons calculated at maximum capacity, whichever is greater
Drive-thru	3 inbound and 1 outbound spaces per service lane

Service	
Funeral parlor	1 space per employee, plus 1 space per 6 seats at maximum capacity, plus 1 space for each vehicle stored on site
Minor repair and maintenance services	1 space for each employee, plus spaces equaling 3 times the capacity of the service bays, plus 1 space for each vehicle stored on site 1 space for each 1,000 square feet of gross floor area, plus 1 space for each vehicle owned and/or maintained by the business
Self-storage facility	1 space per employee

- E. The following standards shall apply in the calculation of spaces required for off-street parking (in all districts).
1. When calculation of the number of required off-street parking spaces results in a fraction, the fraction shall be rounded up to the next highest number.
 2. When the number of off-street parking spaces is based on the maximum number of persons or patrons this shall be defined by building or fire code requirements.
 3. When the number of off-street parking spaces is based on the number of employees, this shall be defined by the number of employees at the facility during the largest shift regardless of full time status.
 4. ~~When number of parking spaces is based on number of seats and benches, pews, or other similar seating facilities are used, each twenty-two inches of such seating facilities shall be counted as one seat.~~
 5. In cases where future potential uses of a building or development site will generate additional parking demand, the city may require a proof of parking plan for the difference between minimum parking requirements and the anticipated future demand.
 6. ~~Spaces required for vehicles owned and/or maintained by the business use including service trucks and vans and passenger vehicles which are being used and/or stored at the facility in question.~~ The Planning Commission may consider reducing the number of spaces required for passenger vehicles owned by the business if evidence is provided that adequate storage is being provided off site.
- F. The parking requirement for uses not listed in this subdivision, Subdivision F, may be established by the City based on the characteristics of the use and available information on parking demand for such use.
- G. The Planning Commission shall consider varying the amount, location, and design requirements for parking in PUD's if a finding is made that changing ~~(potentially lessening)~~ of standards provides adequate parking for the proposed development and better meets the goals of Section 305.06 Subdivision 11A.

305.08

NON-CONFORMING USES, STRUCTURES AND LOTS.

Subd. 1 Purpose.

It is the purpose of this section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. It is necessary and consistent with the establishment of zoning districts that nonconforming buildings, structures and uses not be permitted to continue

without restriction. Furthermore, it is the intent of this section that all nonconforming uses shall eventually brought into conformity.

Subd. 2 Definitions.

- A. Expand or expansion means any increase in a dimension, size, area, volume or height, any increase in the area of use, any placement of a structure or part thereof where none existed before; any addition to a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool; any improvement that would allow the land to be more intensely developed; any move of operations to a new location on the property; any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use; increase in the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees or, such other factors deemed relevant by the city.
- B. Improvement means making the nonconforming use better, more efficient, or aesthetically pleasing, including any change that does not replicate what pre-existed. A mere expansion, enlargement or intensification of a nonconforming use does not constitute an improvement for that reason alone.
- C. Nonconforming land use means an activity using land, a building or structure, or a combination thereof, for a purpose that was lawful when established and which is not permitted by the provisions of existing land use regulations.
- D. Nonconforming structure is a structure that was constructed in compliance with the land use regulations in effect at that time with respect to certain standards such as location, height, setback or size, but no longer complies in that regard with existing land use regulations.
- E. Nonconforming lot is a lot that was lawfully established prior to adoption or applicable amendment of this title, which fails to conform to the present area or dimensional requirements of this chapter.
- F. Replacement, reconstruction or restoration means the repair of a building or structure that duplicates the condition of the building prior that existed prior to the construction activity.

Subd. 3 Rights.

Pursuant to M.S. § 462.357, subd. 1e, as it may be amended from time to time, any nonconformity, including the lawful use or occupation of land or premises existing at the time a city code amendment created the nonconformity, may be continued with any necessary approvals, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless authorized by this section

- Subd. 4** Lawful non-conformity. The burden of proof to show a lawful non-conformity rests with the applicant and/or property owner. Documentation as to a non-conformity existing prior to adoption or changes to this section

of City Code may be required if an application for any permit or zoning action is received.

Subd. 5 **Expansion prohibited.**

~~Existing (Lawful) Non-Conforming Uses.~~

~~A. The lawful pre-existing non-conforming use of a structure, land, or waterway existing at the time of the adoption or amendment of this Section may be continued although the use does not conform with the provisions of this Section.~~

A. Lawful non-conforming uses **and structures** may not expand or intensify unless allowed to do so under this section or by other law (such as with the issuance of a special permit, if require). Only that portion of the land or structure in actual use may be ~~so~~ continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this Section, **unless** the value of the extension, enlargement, reconstruction, substitution or structural alteration of the structure does not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement, reconstruction, substitution or structural alteration **and a building permit for said alterations is submitted to the city for approval within 180 days of the date of the removal or damage..**

~~B. Total life time structural repairs, extensions, enlargements, reconstructions, substitutions or alterations to house or support a non-conforming use, shall not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement, reconstruction, substitution or structural alteration, unless it is permanently changed to conform to the use provisions of this Section.~~

C. Substitution of new equipment or similar changes related to the non-conforming use may be permitted by the Board of Adjustment if such equipment or change will reduce the incompatibility of the non-conforming use with the neighboring uses. Application for such approval will follow the process of appeals (See Section 305.04 Subd. 6).

D. Abolishment or Replacement.

1. If such non-conforming use is discounted or terminated for a period of twelve (12) months, any future use of the structure or land shall conform to the provisions of this Section.

2. ~~A current file of all non-conforming uses shall be maintained by the Zoning Administrator listing the following: Owner's name and address; use of the structure or land; and assessed value at the time of its becoming a non-conforming use.~~

Subd. 6 **Existing Non-Conforming Structures.**

~~The lawful non-conforming structure existing at the time of the adoption or amendment of this Section may be continued although its size or location does not conform with the width, yard, height, parking and loading and access provisions of this Section. Enlargement, reconstruction, substitution or~~

~~structural alteration may occur if it does not exceed 50% of the assessor's market value of the structure at the time of the extension, enlargement, reconstruction, substitution or structural alteration and the non conformity is not enlarged or furthered.~~

Subd. 6 Changes and Substitutions.

Once a non-conforming use or structure has been changed to conform, it shall not revert back to a non-conforming use or structure.

Subd. 7 Substandard Lots.

In any district, an allowable use and its accessory structures may be erected on any lawful non-conforming lot or parcel, providing such lot or parcel was of record in the Office of the County Register of Deeds before the effective date of the ordinance establishing the minimum lot standard. Such lot or parcel shall be in separate ownership from abutting lands, if abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Section. If in separate ownership, all other district requirements (uses, setbacks, building heights etc.) shall be complied with.

Planning Commission

6)b)

Meeting Date: 03/13/2018

SUBJECT: Solar Stone Update

DEPARTMENT: Planning & Zoning

TITLE:

Solar Stone Update

PURPOSE:

Attachments

Solar Stone Update Memo



Memorandum

Office of the City Planner

To: Planning & Zoning Commissioners
From: Kristi Clarke, Consultant City Planner
Date: February 23, 2018
Subject: Solar Stone CUP Update

Background: During our last Planning Commission Meeting the Solar Stone CUP was discussed. Several residents called Council members to express their unhappiness in the current landscaping or screening of the site.

I contacted the owners, NRG, and was email by the project manager, Timothy Leavitt. I explained to Tim that the final building permit was approved in December of 2018 so that will give them another summer to make the landscape improvements necessary to be in compliance with the CUP.

Their landscape plan, which was part of their report outlined vines to be planted every 15' on center and evergreen shrubs to be planted every 8' on center. NRG planted Holmstrup Arbovitae which is a shrub that will be 5 to 7 ft. tall and 2 to 3 ft. wide in 10 years and Virginia Creeper which is a fast growing vine that can climb 30 to 50 feet or more. Both the shrubs and vines were planted last year.

Future Site Visits: I will visit the site with the local manager this spring to review the landscape plan and again this fall to make sure that the shrubs and vines are growing at a sufficient pace to provide the screening we had in mind when approving the CUP.

Planning Commission

7)a)

Meeting Date: 03/13/2018

SUBJECT: Mining Ordinance

DEPARTMENT: Planning & Zoning

TITLE:

Mining Ordinance

PURPOSE:

Attachments

Mining Ordinance Review Memo



Memorandum

Office of the City Planner

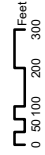
To: Planning & Zoning Commissioners
From: Kristi Clarke, Consultant City Planner
Date: March 2, 2018
Subject: Mining Ordinance Review

Background: In the past month, Chad Springer was asked by the owners of Wabasha Sand and Gravel if staff would review the Mining Ordinance (Section 345) to see what steps might be necessary to begin mining gravel from the property. Their property is about 4.67 acres and located at the northern end of 5th Grant West just north of the Army Corps property. *See the attached aerial map

Staff Review: I have attached a copy of the Mining Ordinance for your review, but did not find any exceptions or clauses that could be used for smaller gravel/sand-based mines that would most likely not be extensive enough to generate a major traffic generators CUP. *Does the Commission believe that the Mining Ordinance should stay as is or would you like to think about drafting an exception for specific types and sizes of mining operations with reduced minimum standards?*



**U.S. Army
Corps &
Wabasha S&G
Properties**



Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. The City of Wabasha is not responsible for any inaccuracies herein contained.



**Section 0345 - An Ordinance Regulating
Mining & Extraction Activities**
(adopted 6/2/15)

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Section 345.01 Statement of Purpose

The City of Wabasha Does Ordain based on the following Findings of Fact & Statement of purpose:

Subd. A. The excavation of different mineral resources and aggregates have the potential for different levels of impact on the community based on:

1. Content of the mineral resource being excavated,
2. The excavation process of the resource and its potential impact on water and air quality and on safety and visual impacts,
3. The size of particulates which become airborne,
4. The cleaning, sorting, and processing of the resource,
5. The amount of material excavated over a given period of time along with the method of transporting the material away from the mine site, and
6. The treatment of the land after the resource is removed.

Subd. B. Atmospheric particulate matter under the size of 10 microns are respirable; they are small enough to penetrate the nose and upper respiratory system and enter deep into the lungs¹.

Subd. C. The respiration of some mineral resources have the potential to cause health impacts to those breathing them in over time.

Subd. D. The noise and vibrations created by some mining activities impact neighbors (in particular residential) in a negative manner.

Subd. E. The location and depth of a mine has the potential to impact underground water sources depended upon by the public for drinking water.

Subd. F. The methods and treatment of a mine site after the excavation process ends has a great impact on the ultimate use of the property and the impact of that site on neighboring properties and the community as a whole.

Subd. G. The mining of industrial aggregates is generally more intensive than construction aggregate mining in terms of its negative impact on the land and the operations impact on plant, animal and human lives within the community.

Subd. H. Minnesota State Statute 462.357 allows: "A municipality 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."

Subd. I. Guiding Principles of The Comprehensive Plan include:

1. A Balanced Approach to managing change and growth through Community Development, which is the combined efforts to sustain the community for the benefit of those living in it, considering and weighing all topic areas identified within this plan.
2. Creation of an environment that allows for and encourages Economic Opportunities for individuals and businesses choosing to locate in the city of Wabasha.

¹ As supported by The Integrated Science Assessment for Particulate Matter (U.S. EPA Integrated Science Assessment for Particulate Matter (Final Report). U.S. Environmental Protection Agency, Washington, DC EPA/600R-08/139F,2009.)

3. Creation and maintenance of a Healthy Environment. Providing a living, working, and recreational environment which allows individuals residing or visiting Wabasha to make choices for a healthy lifestyle.
4. Creation and maintenance of a Human Habitat that includes the natural and physical environment and the relationship of people with that environment.
5. Preservation of natural and cultural elements which gives the Wabasha community an exceptional sense of place and attracts people to live and visit.
6. Continued commitment to tourism, sharing the natural, cultural, and built environment of the community with visitors and striving to provide services to meet the needs of that growing industry.

Now therefore, the City of Wabasha does ordain for the purpose of protecting the health, safety, and general welfare of the community the following standards and regulations pertaining to mining, mineral resource extraction operations and subsurface mineral exploration within the City. The objective of this provision is to minimize soil erosion and land scarring, to monitor the consumption of natural resources and minimize the impact of these activities on the adjacent lands, resources and persons residing in the area, preventing mining and extraction operations from creating a nuisance and health hazards within the community.

Section 345.02 Definitions

Construction Sand & Gravel:	Mineral Resources which typically are mined by open pit excavation (or by dredging) carried out with power shovels, draglines, front end loaders, and bucket wheel excavators. Typically mined locally from Dolomite geological strata, Standard Classification Code categories include: SCC 3-05-025, SIC 1442, NAICS 21232.1.
Cultivation:	The process of disturbing the land for agriculture purposes with no direct removal of mineral resources.
C.F.R.	Code of Federal Regulations.
Excavation:	A development process and not an ultimate land use including any artificial movement of the earth, including grading, digging, filling, removal, or addition of earth material made by tunneling or breaking or undermining the surface of the earth.
Extraction:	The process whereby materials are removed from the sub surface of the earth to be sold or used elsewhere.
Extractive Operation/Mine:	The surface or subsurface removal only of sand, gravel, rock, or other nonmetallic minerals, and peat from the site for use as a product elsewhere not regulated under Minnesota Statutes, sections 93.44 to 93.51 through an excavation or quarrying process. Excavations for the purpose of impounding water for agricultural purposes are exempted.
Fill, Filling, or Filling Operation:	The depositing of fill, dredge, sand, gravel, dirt and all other similar material in excess of 1,000 cubic yards or more onto or into a parcel of land.

Heavy Processing:	Compounding, mixing, or treatment of sand, gravels, rocks, or any other extracted material with chemicals and/or into consumable products such as concrete, asphalt, and other similar products or to an industrial sand or gravel product or to a volume which exceeds 500 tons per day (or 150,000 tons per year) or uses 500 gallons of water per minute (g.p.m.) or more.
Industrial Sand & Gravel:	Mineral Resources which typically are mined from quartz-rich sand and sandstone including the St. Peter, Jordan, and Wonewoc geological strata locally. Standard Classification Code categories include: SCC 3-05-027, SIC 1446, NAICS 212322.
Industrial Use:	The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
Industrial Warehousing Distribution or Storage:	Establishments involved in the storage or distribution of materials or equipment on a primarily wholesale basis or as support to a service industry includes but is not limited to: warehousing facilities, Freight terminals, fleet storage, Contractors yards, wholesale Industrial equipment sales and rental, and ancillary business offices.
Mine or Mine site:	See Extractive Operation/Mine Definition.
Mineral resources:	Rock, gravel, sand and metallic and non-metallic substances of commercial value.
NAICS Code:	The North American Industrial Classification System is a system for classifying industries by a six-digit code.
Non-conforming mining operations	Existing mines which do not meet the standards of this ordinance or mining standards of the zoning code
Particulate Matter:	Material, except water, which exists at standard conditions in a finely divided form as a liquid or solid as measured by an applicable reference method, or an equivalent or alternative method or as amended in MN Rules 7005.0100, Subp.31.
PM 10:	Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten micrometers as measured by an applicable reference method, or an equivalent or alternative method or as amended in MN Rules 7005.0100, Subp.30b.
PM 2.5:	Finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an applicable reference method, or an equivalent or alternative method or as amended in MN Rules 7005.0100, Subp.30a.
Processing:	The sorting, washing, crushing and/or screening of extracted material to construction grade sand, gravel or stone product.
Reclamation:	To renew land to a self-sustaining, long term use that is compatible with pre-mining situations and/or the City's Comprehensive Land Use Plan.

Reference Method; or method (used in the context of performance test measurements):	Means the procedures for performance tests in Code of Federal Regulations, title 40, part 60, appendix A, as amended; part 61, appendix B, as amended; and part 51, appendix M, as amended or as amended in MN Rules 7005.0100, Subp.35c.
Reference Method or method (used in the context of measuring ambient air):	Means a method of sampling and analyzing the ambient air for an air pollutant that is specified as a reference method in an appendix to Code of Federal Regulations title 40, Section 50.1 in accordance with part 53 of the same chapter; it does not include a method for which a reference method designation has been cancelled in accordance with § 53.11 of the chapter and which is incorporated by reference Minnesota Rules 70090050.
Equivalent Method	Means a method of sampling and analyzing the ambient air for an air pollutant that has been designated as an equivalent method in accordance with part 53 of the same chapter ;it does not include a method for which an equivalent method designation has been cancelled in accordance with § 53.11 or § 53.16 of the chapter and which is incorporated by reference Minnesota Rules 70090050.
SCC Code:	Source Classification Codes are an EPA classification system. Each SCC represents a unique source category-specific process or function that emits an air pollutant. The SCCs are used as a primary identifying data element in EPA's WebFIRE, the National Emissions Inventory (NEI), and other EPA databases. The SCCs are also used by many regional, state, local and tribal agency emissions data systems. Point source emissions use eight digit codes.
SIC Code:	The Standard Industrial Classification is a system for classifying industries by a four-digit code used by many departments of the U.S. Government including OSHA.
Soil Erosion & Sediment Control Plan:	A document that illustrates, how the site will be designed to prevent or minimize soil erosion on a parcel of land and off-site sediment damages.

Section 345.03 Administration/Application Process

Subd. A. New mines are allowed to locate in any place of the City where Zoning (Section 305 of Wabasha City Code) allows them as permitted, conditional or interim uses. A Permit shall be required for all mining/mineral extraction and subsurface mineral exploration operations as defined in this section of City Code as follows:

1. New operations shall apply for a permit prior to any commencement of excavation activities.
2. Changes in activity for existing non-conforming mining operations shall require an application for a permit prior to the commencement of any work or operational changes for the following changes:
 - a. Source for material mined, going into different group or formation of geological strata as illustrated on the Wabasha County Geological Survey from what was previously mined or approved. For example going from the Prairie du Chein Group (including dolomite, limestone and thin sands of the Shakopee, New

Richmond (or Root River) and Oneonta formations), to the Jordan formation sandstone

- b. The process of removing the material is modified (e.g. tunneling vs surface mining) when such changes provide for a departure from the original nature and purpose of the mining operation.
- c. Subsurface Mineral Exploration as detailed in Section VII of this ordinance.

Subd. B. All applications shall include the submittal of a form as provided for by the City of Wabasha completed along with all required attachments as identified in this section and any fees established under Chapter VIII of City Code.

1. Permit Review

- a. Any application for a permit within a designated shoreland zone (as indicated in the City Zoning Ordinance) or floodplain shall require a submittal by the City of the application and Planning Commission/City Council meeting information to the DNR area hydrologist at least 10 days prior to the Planning Commission review.
 - b. Application materials shall be submitted to the City Planning Commission for review.
 - c. The Planning Commission shall hold a public hearing and review and consider the impact of the proposed operation and its conformance to this section of City Code along with anticipated impact to the future development of the City.
 - d. Notice of time and place of such hearing shall be published at least once not less than 10 days nor more than 30 day preceding said hearing in the newspaper of general circulation in the City.
 - e. A similar notice shall be mailed at least ten days before the day of the hearing to each property situated wholly or partly within ½ mile of the property line of the land under ownership (of the contiguous parcel) of the proposed mine site.
 - f. The Planning Commission may require additional review with additional materials to be submitted.
 - g. City Staff or the Planning Commission may request review and comment (to be forwarded to the City Council) from the Board of Water & Soil Resources, DNR, Department of Health, Pollution Control Agency, or similar state or county departments as deemed appropriate.
 - h. The Planning Commission shall provide a recommendation for issuance or denial of the permit with drafted findings of facts in support of their recommendation to the City Council.
2. The City Council shall consider the application materials and recommendation of the Planning Commission as well as any comments or recommendations from other agencies and shall determine the approval or denial of the permit. The City Council shall also require a performance bond or a bank letter of credit for one hundred and ten (110) percent of estimated reclamation expenses (as approved by the City) from the land owner to be submitted prior to or as a condition of the issuance of the mining permit. Total amount of assurance shall be based on the planned open mine cell in its entirety. The bond or letter of credit shall continue to be in effect until released by the city or completion of reclamation process occurs. City Council shall also require any additional assurances as indicated herein along with proof of liability insurance for \$2,000,000.
3. The document "Tools to Assist Local Governments in Planning for and Regulating Silica Sand Projects" adopted by the Minnesota Environmental Quality Board March 7th 2014 and similar advisory documents will be utilized for proposal analysis.

4. Permit renewal is required every 2 years starting with the date of initial application submittal. The City Council *may* extend the renewal period to every 5 years after the first renewal permit has expired or the operation has been in existence for more than three years without receiving citations of improper operations.
5. Consulting Fees: The applicant shall be required to submit to the City sufficient funds to cover all expected consulting fees related to application review, activity and site monitoring and post activity requirements. These may include, but are not limited to, establishing and monitoring environmental (e.g. air & water) or infrastructure (e.g. road and stormwater management) concerns. The City shall establish an escrow account for this purpose.
6. Reasons for denial (including renewal permits) include but are not limited to the following:
 - a. Failure of the operation to follow agreed upon practices under previously issued permit.
 - b. Air quality monitoring results that pose a health issue to the public.
 - c. Applicants failure to provide an adequate permit application, reclamation plan, financial assurance or any other submittal required by this ordinance. The City of Wabasha has discretion to assess the adequacy of the information provided in the permit application, including whether human health and the environment will be protected. Denial of a permit based on inadequate application submittal shall not be construed to disallow future applications on the same project however such applications shall be deemed a new review process.
 - d. Failure to prevent ground or surface water contamination.

Section 345.04 Required Information for all permit applications

The following information shall be provided by the person requesting the permit in order for the City to consider the potential effects from the proposal on environmental, economic, and social effects of the proposed project onto the community and shall be completed by a licensed engineer, geologist, surveyor or landscape architect or other professional specialist (as appropriate):

1. Name and address of the property owner.
2. Name, address, phone number and e-mail contact of the company or person conducting the excavation/mining on the property.
3. The person or company requesting the mining permit if different then the land owner or mine operator.
4. The legal property description and acreage of the entire property under ownership and the area and volume of resource to be mined.
5. A deed or other proof of ownership of the property along with a lease or other agreement with the property owner if applicant and property owner are not the same.
6. The following maps/documents of the entire site and including all areas within 1/4 mile of the site. These shall be drawn to a legible scale.
 - a. Map/Document 1 - Existing conditions to include:
 1. Contour lines at two (2) foot intervals.
 2. Existing vegetation.
 3. A DNR Natural Heritage Information System (NHIS) Data Request Form with NHIS response.
 4. Existing drainage & water retention areas.
 5. Location of all wetlands per the National Wetland Inventory or as determined by a wetland delineation.
 6. Location of all archaeological, historic and cultural resources (including any cemeteries or known burials) located on the proposed mine prepared

by a professional in the field of historic resource management property including:

1. Any such resources known by the property owner.
 2. Those listed on or determined eligible for listing on the National Register of Historic Places.
 3. Those indicated on the statewide inventories or other statewide lists as overseen by the State Historic Preservation Office.
 4. Those included on any local list of significant resources kept by the City of Wabasha under the guidance of the Heritage Preservation Commission.
 5. Existing structures (with photos and a keyed map of locations).
 6. Existing fuel stations or chemical storage tanks.
- b. Map/Document 2 - Proposed operations to include:
1. Structures to be erected.
 2. Location of sites to be mined showing depth of proposed extraction in two (2) foot contours.
 3. A description of the proposed depth of the mine, the geological strata from which material will be removed, and the distance (vertically & horizontally) from any public or private drinking water source aquifers along with a plan for dewatering (if needed) and, of deemed necessary by the City Engineer a well interference response plan which must be approved prior to, and will be made a condition of approval of the permit.
 4. Location of storage of excavated materials, showing the height of storage deposits.
 5. Location of vehicle parking including surface treatment, number of spaces, and numbers of employees.
 6. Location of storage of explosives (if any) along with containment structure description.
- c. Map/Document 3 - Reclamation Plan to include:
1. Final grade of proposed site showing elevations and contour lines at two (2) foot intervals.
 2. Location and list of non-invasive species of vegetation to be replanted.
 3. Location and nature of any structures to be erected in relation to the end use plan.
- d. Map/Document 4 – proposed method to convey extracted material along with map showing the proposed route. If the mine operation meets the definition of major traffic generators (as defined in the City Zoning Ordinance, Section 305 of City Code), all standards and requirements for that CUP must be met and that process may occur concurrently to the review of the mine permit application.
1. A geologic survey and a karst features survey of the property and the surrounding area within 1,000 feet of the property prepared by a licensed and accredited mining geologist.
 2. Plans for dust control, noise control and a soil erosion and sediment control plan.
 3. A plan for air quality monitoring which will address the following:
7. Data on the type and specifications of the monitoring equipment proposed to be used.

8. Monitoring Siting criteria As established by the U.S. Environmental protection Agency (EPA) which are described in 40 Code of Federal Regulations Part 58 Appendix E.
 - a. For horizontal and vertical placement of monitors based on a study (submitted with the air quality plan) to determine the criteria for placement of air monitoring probes or sample inlets. In most cases, air monitoring probes and inlets must be located between 7 and 23 feet above ground level. As a result, monitoring sites located at ground level typically require the installation of an elevated platform or shelter. Air monitoring sites may also be located on the roof of a building which is no higher than two-stories.
 - b. For placement of monitors with spacing from emission sources for source-oriented or hot-spot monitoring. Air monitors should be located as close to the area of expected maximum air pollution concentration as safely possible.
 - c. Spacing from obstructions: Buildings and other obstacles can impact air monitoring results by scavenging pollutants and restricting airflow to the monitor, resulting in inaccurate air concentration measurements. In general, if an obstruction is located near an air monitoring site, the distance of the air monitor from the obstruction must be two-times the height of the obstruction.
9. The monitoring of ambient air to compare air monitoring results with air quality standards. The air monitoring site must be measuring ambient air outside of the facility's property line if a fence or other physical obstruction prevents public access. If no such obstruction exists, air quality monitors located within a facility's property boundary may be considered ambient. Air monitors must conform to US EPA's design standards as outlined in 40 CFR pts. 50, 53 and 58. The use of reference or equivalent methods to help assure the reliability of air quality measurements is required.
10. Recording of air concentrations of: Total suspended particles (TSP), Inhalable particles (PM₁₀), Fine particles (PM_{2.5}), and Crystalline silica as PM₁₀ or PM₄ per the standards agreed to in the accepted monitoring plan.
 - a. A completed Nonmetallic Mining and Associated Activities Compliance Audit Checklist (created by the Minnesota Pollution Control Agency). A copy of the issued NPDES/SDS permit may be provided with the application instead and (if required under state law) may be required as a condition of permit approval.
 - b. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation and reclamation for each area.
 - c. Type of material being removed from the site and intended use according to SCC, SIC, and NAICS codes including Identification of particle size ('s) being removed from the site.
 - d. A complete list of any chemical or toxic substance proposed for use of any excavation or mining process including through injection, land application or other method of use.
 - e. A description of the proposed depth of the mine.
 - f. Identification of water needs including amount (overall and gallons per day), source of water, and plans for water recycling/reclamation along with permits for any existing or approved wells from Wabasha County and from the Minnesota Department of Natural Resources.
 - g. Location and depth of any existing and proposed wells on the property and within one and ½ mile radius of the mine pit. All wells including those for monitoring, dewatering, industrial processes and drinking water shall be indicated.

- h. A blasting and monitoring plan (for those operations using explosives) to include the following information:
 - 1. An indication of the circumstances blasting is proposed for the mining activity at that site along with anticipated timing and duration of blasting.
 - 2. The process and procedures which will be used to prepare for blasting at the site, including:
 - 3. Company policies and procedures on blasting and use of explosives (generally and specific to this site).
 - 4. Security procedures to be used for securing the site before and during the blasting activity.
 - 5. An indication of the use of best management practices to assure that the release of chemicals including Ammonia nitrate/fuel oil, nitrates, polyacrylamide, and acrylamide into the environment during any point of the blasting process is minimized to the fullest extent possible.
 - 6. These procedures shall include notification to the city to be provided at least three (3) business days prior to blasting activity and will include the following:
 - a. The date and time blasting will start along with the anticipated duration of the activity.
 - b. Name, address, license number, contact phone numbers, and email address of the blaster in charge of the blast.
 - c. Name, address, contact phone numbers, and email address of any person (agent or employee) in charge of the operation who will respond to inquiries by the City.
 - d. A map showing the location of the blasting site including the location of all the buildings located within $\frac{1}{2}$ mile of the controlled blasting site, names, addresses, and contact information of owners of those buildings.
 - e. Copy of license and/or permits issued by the State Fire Marshal (as required by MN Statute 299F.73 and 299F.74 or as amended).
 - f. Copy of any license and/or permit issued by the Federal Mining Safety and Health Administration (MSHA) (as required by 30 C.F.R §56.61-56.63 or as amended).
- i. In any situation where the operation proposed will require a *mandatory* Environmental Assessment Worksheet or Environmental Impact Statement, pursuant to Minnesota state statute 116D.04 and 116D.045 and the administrative rules Chapter 4410, this process shall be initiated upon mining permit application to the City. A discretionary E.A.W. may be required per the standards and procedures set forth in state law after the mining permit is submitted. Review of the mining permit per Section III.B of these regulations may occur concurrently but the project may not proceed, no final approvals shall be made by the City, and a permit shall not be issued until the environmental review process is complete as indicated by one of the following
 - 1. A petition for an EAW is dismissed.
 - 2. A negative declaration on the need for an EIS is made (by the RGU).
 - 3. An EIS is determined adequate; or
 - 4. A variance is granted by the Environmental Quality Board.
 - 5. Current or proposed pollution prevention measures & emergency/spill response plan including:
 - 6. Spill prevention and fueling plan.
 - 7. Employee training and housekeeping practices.
 - 8. Storage locations and methods of containment for any chemicals or fuels.

9. Existing and planned erosion and sediment control structures and methods.
10. Any other information requested by the Planning Commission or City Council.
11. The City may utilize professional outside consultants to assist in review of submitted materials and the cost of such review shall be borne by the permit applicant.
12. Proof of liability insurance for \$2,000,000.

Section 345.05 Registration of Non-conforming Mines

1. Existing mines which do not meet the standards of this ordinance or mining standards of the zoning code are deemed non-conforming mining operations. These shall be allowed to continue to operate per Minnesota state statute 462.357. The extent of the non-conforming mine shall be established and recorded by the City.
2. A non-conforming mine may register their operation as prescribed below. The City shall also investigate the nature and extent of the non-conforming use making a final determination of the extent of the nonconformity based on its own investigation and upon the information provided by the mining operation, and the City shall record and file the same with the Wabasha County Recorder. The following information is needed to register:
 - a. Name and address of the property owner.
 - b. Name, address, phone number and e-mail contact of the company or person conducting the excavation/mining on the property.
 - c. A general history of the operation indicating when mining began and major changes to the operation occurred (if known).
 - d. The legal property description and acreage of the entire property under ownership by the land owner currently and at the time the mine became non-conforming
 - e. A description of the specific area to be mined
 - f. Any lease or mining agreements between the property owner and mine operator indicating the extent of the mining operation existing at the time the mine became non-conforming.
 - g. One or more maps or site plans showing:
 1. Existing mine location
 2. Proposed extent of mine boundary including distances between the mine opening and any neighboring property boundaries, road rights of way and the top and toe of any bluffs
 3. Anticipated time frame of mine extensions (a phasing plan of which areas will be mined and when)
 4. Proposed depth of mine
 5. Existing drainage patterns & water retention areas, if any
 6. Location of any known sinkholes, wetlands, springs or similar surface features, located on property
 7. Existing and proposed fuel stations or chemical storage tanks with description of material and size of tank
 8. A general description of any processing which occurs on site and a list of any chemicals used in that process
 9. Location of storage of excavated materials along with the height of storage deposits
 - h. An indication of any expectation of the need for dewatering and anticipated source of water (ground water or accumulating stormwater/snow melt) along with a plan for water disposal or drainage routing.

- i. If blasting is used at the mine site, a general description of the process used including any safety or emergency response plans. The City may request additional information be provided to the City Fire Chief or Director of Emergency Management if deemed necessary to protect the public health and safety.
- j. Annual registration of the non-conforming mine indicating:
 - 1. Items A-D above along with an updated site plan showing:
 - a. Areas mined in full where no additional mining is planned to occur
 - b. Areas proposed for mining over the subsequent two year period
 - c. Any areas proposed for reclamation within the next two year period
 - 2. Items from section E-H shall be provided during annual registration only where changes have occurred since the previous registration provided to the City.
- k. A plan for eventual reclamation of the mine site is requested to be provided upon initial registration with as much detail as the property owner/mine operator has at that time. Additional information, proposed changes and updates to the reclamation plan shall be provided during annual registration. The following information shall be provided in the reclamation plan:
 - 1. Proposed final grades and elevations shown on a map along with a general description of the reclamation process such as filling or re-grading
 - 2. A proposed description of final use of the mine site
 - 3. Locations of any areas proposed for final ponding including proposed depth of and slope of pond edges
 - 1. Location and type of (non-invasive species) vegetation to be replanted
 - 2. Location and nature of any structures to be erected in relation to the end use planned for the site
- l. Mine operators may provide to the City any additional information or data they would like for the City to have on file
- m. Mine operators may record their registration along with any City approvals at the County Recorder's office
- n. Non-conforming mine registration materials shall be provided to the City Planning Commission for review and official acceptance and shall be kept on file at City Hall documenting the legal non-conforming mine status
- 3. When no registration is provided, the City shall conduct a study, gathering data indicated in section B above and other available information making a final determination of the extent of the nonconformity based on its own investigation. The City shall record and file the same with the Wabasha County Recorder

Section 345.06 Minimum Standards for all mines

- Subd. A. The Following activities shall be prohibited at any mine:
- 1. The use of any excavation or mining process that injects, applies, or uses any chemical or toxic substance, unless expressly permitted in the mining permit, Approval with potential conditions shall be based on:
 - a. Amount of toxic material being stored and used on site
 - b. Location and security of the storage of the toxic material
 - c. Level of toxicity of the material based on material safety data sheets (MSDS').
 - d. Proposed use of the material and its potential short and long term nuisance to neighboring properties as well as to the local environment and to the public health welfare and safety.
 - 2. The use of any excavation or mining process that includes hydraulic dredging or similar process or method.

3. The use or application of any flocculants or chemical to wash or process excavated and mined industrial minerals at a mining site unless processing is allowed per Subsection V.(letter) of this Section VI (roman numeral) "Processing at the mine site".
4. The use or placement of previously mined, processed and/or contaminated sand as fill material or reusing that sand at the mining site.

Subd. B. Allowed Mine Locations:

1. New mines are allowed to locate in any location of the City where the Zoning Ordinance (Section 305 of Wabasha City Code) allows them as permitted, conditional or interim uses with the issuance of a permit under this section of city code.
2. Existing mines (defined as "legal non-conforming" uses under the City Zoning Ordinance) may continue to operate in their existing location even when not permitted, conditional, or interim in their zoning district. However, they are not allowed to expand beyond the boundaries of the parcel under which the mine has ownership, contract or lease at the time it became non-conforming under this or other city ordinance, or change in the any manner as indicated in Section III.A.2 of this ordinance.

Subd. C. Water Resources:

1. Pollution Prevention measure shall be employed at the mine operation including the following (depending on specific operations, which may be made condition of permit approval):
 - a. Confinement of equipment /vehicle maintenance activities indoors to the greatest extent feasible.
 - b. Confinement of outdoor fueling activities to designated areas to the greatest extent possible that are covered, away from high traffic areas, outside of drainage pathways, and on impervious surfaces.
 - c. Regularly cleaning of areas used for equipment/vehicle maintenance and fueling using dry clean-up methods rather than wet (e.g., sweeping, squeegee and dust pan).
 - d. Use of drip pans under all vehicles and equipment awaiting maintenance. Empty and clean drip pans and containers rather than leaving them full.
 - e. Proper disposal of liquid waste (including wash water), which shall not be poured into floor drains, sinks, outdoor storm drain inlets, or other storm drain or sewer connections.
 - f. Avoidance of topping off fuel tanks.
2. Surface Water
 - a. The extraction pit/mine operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operations property.
 - b. The work done shall not adversely affect the quality of surface or subsurface water resources in a negative manner. Surface water originating outside and passing through the mining site shall, at its point of departure from the site, be of equal or better quality than the water at the point where it enters the site.
 - c. The mining operation shall utilize best management practices specific to pollution prevention so that storm water runoff does not come into contact with any activities or materials of concern such as petroleum products, fueling areas etc.
 - d. Engineered structures may be required for new or expanding mines or suggested for any mine per the Minnesota Stormwater Manual and the Industrial Stormwater BMP Guidebook.
3. Groundwater protection

- a. Mining activity shall not be allowed if it reduces the use in terms of quality or quantity of any neighboring domestic well.
 - b. Prior to the establishment of new mines or the modification of an existing mine (per Section III.A.2 of this ordinance) the mine operator shall offer property owners with a domestic well within ½ mile of the mining site an inspection of their well and associated equipment and structures; evaluation of hydrologic conditions and sampling of the well water for quality analysis to determine baseline data. The neighboring property owner shall be given 30 days to respond to the offer and to allow on-site work after receiving the offer. The mine operator shall further offer these neighboring private well owners annual sampling and water quality analysis. This work shall be performed by an independent, credentialed, third party at the expense of the operator. Samples shall be analyzed by a certified laboratory. Analysis shall include all chemicals and fuels used at the mine site that may impact groundwater. In the event that monitoring shows that mining or reclamation activities have caused state or federal groundwater quality standards to be exceeded, this information shall be provided to the MPCA and the operator shall seek to mitigate these effects by altering site operations and shall supply the well owner with bottled water for drinking until testing indicates levels are to pre-mining amounts. The reduction of quality of neighboring domestic wells shall be one reason for revocation of the mining permit. The City may require the permit holder to take corrective action in the event it is shown that the contamination was caused by the operation.
 - c. The import, storage or disposal of any solid waste, recyclable materials, or refuse generated outside the mine site is not allowed.
4. Ground water use: Permits for well construction from Wabasha County and for water appropriation from the Minnesota DNR shall be required and copies of these shall be provided to the City. The use of groundwater for any mining activity shall not be allowed if it:
- a. Reduces water availability in existing domestic wells.
 - b. Reduces water availability in municipal production wells.
 - c. Degrades calcareous fens, wetlands, ponds, lakes, streams, springs, seeps, and watercourses and/or other fish and wildlife habitat.
- Subd. D. Safety Fencing: Any operation adjacent to a residential zone, within three **hundred (300)** feet of two or more residential structures, or within 30 feet of a public right of way shall be bound by the following standards:
- 1. Where collections of water occur that are one and one-half (1½) feet or more in depth existing for any period of at least one (1) month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence of at least four (4) feet in height.
 - 2. In locations where slopes occur that are steeper than one (1) foot vertical to three (3) feet horizontal existing for a period of one (1) month or more, access to such slopes shall be barred by a fence or some similar effective barrier such as a snow fence at least four (4) feet in height. Earthen berms also may be constructed to prevent access to the steeper slopes.
- Subd. E. Access Roads: All access roads must meet City, County, and/or State standards. The location of the intersection of access roads with any public roads shall be selected such that traffic on the access roads or public roads will have a sufficient site and breaking distance and room enough for adequate turn radii. Sufficiency shall be determined by the authority of the public road.
- Subd. F. Driveway/Access For Site:

1. Driveway/access to the mine site and/or ancillary uses shall not be located within twenty-five (25) feet of adjacent property boundaries.
2. Driveway/access shall also receive applicable County/Highway Department/State/Federal approval with copies of such approvals provided to the City.

Subd. G. The tracking pad/ pavement shall be installed prior to site disturbance. Any material that is tracked on to the public road system shall be cleaned up at the end of the workday.

Subd. H. Setback: Mining operations shall not be conducted closer than one hundred (100) feet to the boundary of any zone where such operations are not permitted, or closer than one hundred (100) feet to the boundary of an adjoining property line, unless the written consent of the owner of such adjoining property is first secured in writing. Mining operations shall not be conducted closer than one hundred (100) feet to the right-of-way line of an existing or platted street, road or highway, except that excavating may be conducted closer to the right of way line in order to match the contour of the existing or platted street, road or highway. The City may impose greater setbacks as a condition of the mining or interim use permit when there is a finding that this is required to protect adjoining property from negative impact and in order to protect health, safety, or welfare of the general public. Additional setback requirements for bluff areas are contained in the Performance Standards of the City Zoning Code.

Subd. I. Appearance: All buildings, structures and plants as allowed at the mining site shall be maintained in such a manner as is practical and according to building code to assure that such buildings, structures and plants will not become dangerously dilapidated.

Subd. J. Screening Requirements: The use of vegetation, fencing, and/or berms may be required.

Subd. K. Hours of operation shall be set at the time of interim use or mining permit approval and shall be based on (including but not limited to):

1. Distance and geographical situation between the mine and the closest residences
2. Proposed traffic being generated from the mining operation
3. type and location of activity proposed at the mine which will create noise or other nuisances or public health, safety, or welfare concerns

Subd. L. Lighting: all lighting at the mine site shall be required to meet any adopted city lighting standards (full cut off standards (downward lighting) of 80 percent maximum per city zoning ordinance or as amended, modified, or replaced). More intense lighting will be considered if needed to meet OSHA² and/or MSHA³ safety standards if there is a finding by the City that it will have no greater impact on neighboring properties (in particular on adjacent residences) than the baseline standard. Conditions of permit approval for such lighting may include modifications to topography, vegetative planting, fencing or similar screening techniques to block light from neighboring properties, roadways, or other public areas.

Subd. M. Interior roads, driveways and parking areas shall be arranged on site to have the least amount of impact on neighboring properties in particularly those with residences. Conditions for screening, lighting and hours of operation may be imposed based on the proposed locations of such facilities and any other on site that may produce noise, light, or air pollution.

Subd. N. Topsoil Management:

² Occupational Safety and Health Administration

³ Mining Health and Safety Administration

1. Removal of on-site topsoil and topsoil substitute material removal, when specified in the reclamation plan, shall be performed, prior to any mining activity associated with any specific phase of the mining operation.
- Subd. O. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this chapter.
1. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this chapter, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.
- Subd. P. Inspections: With the issuance of a mining permit, the City reserves the right to inspect the mine site for compliance with this and other sections of City code and any conditions issued as part of the permit. At City staff discretion County, State, or Federal authorities may be contacted to assist the City in determining compliance to any local, state, or federal regulations.
- Subd. Q. Dust Control: Roadway and site dust control shall be required and may be accomplished via methods approved by the City which may include but are not limited to berming, landscaping, watering, dust extraction equipment, wheel washing, paving etc. Operators shall be responsible for providing continuous dust control during facility operation and during hauling activity on gravel roads used to access the facility.
- Subd. R. Air Quality Monitoring: All mining operations shall provide air monitoring based upon a plan for such submitted as required in Section IV. Subd.I. and agreed upon with the city in the issuance of the permit.
1. This monitoring shall be performed by an independent, credentialed, third party at the expense of the operator.
 2. The results from air monitoring will be submitted to the City on a quarterly basis until the city deems under subsequent renewal permit review that air quality monitoring is no longer required at the facility.
 3. Results of monitoring may be submitted to the Minnesota Pollution Control Agency, the Minnesota Environmental Quality Board (or a technical team of that board) and/or to a private consultant as chosen by the City for assistance in the review of such results.
- Subd. S. Site clearing
1. All topsoil, subsoil and overburden in areas of mining shall be systematically and individually stripped and stockpiled for future use in reclamation.
 2. Burning of stumps or any other material at the mine site is prohibited. Woody material shall be ground or chipped and used in reclamation activities if possible.
 3. Removal of vegetative cover and the amount of exposed earth must be kept to a minimum and be consistent with good construction practices.
- Subd. T. Blasting & use of explosives
1. Blasting Logs shall be prepared by the mining operation and shall be maintained for a period not less than 5 years after a blasting event.
 2. Copies of blasting logs shall be given to the LGU within 5 working days upon request.
 3. Information to record in a blasting log includes:
 - a. Name, signature, and license number of the blaster in charge of the blast.

- b. Specific blast location, including address, bench and station number if applicable.
 - c. Type of blasting operation.
 - d. Date and time of the blast.
 - e. Copy of information provided to the City prior to blasting as required in Section IV Subd.Q.2.d.
 - f. Meteorological conditions, including temperature inversions, wind speed, and directions as can be determined from the United States Weather Bureau, and ground-based observations.
 - g. Diagram of the blast layout and the delay pattern.
 - h. Number of holes.
 - i. Hole depth and diameter.
 - j. Spacing of holes.
 - k. Burden.
 - l. Maximum holes per delay.
 - m. Maximum pounds of explosives per delay.
 - n. Number, type and length of stemming used between decks.
 - o. Total pounds and type of explosives per each delay.
 - p. Distance to nearest inhabited building not owned by the applicant
 - q. Type of initiation used.
 - r. Seismographic and airblast records, which shall include all of the following:
 - i. Type of instrument and last laboratory calibration date.
 - ii. Maps of the exact location of monitoring instrument(s).
 - iii. Records of the date, time, and distance from the blast.
 - iv. Trigger levels for ground and air vibrations.
 - v. The vibration and airblast levels recorded.
 - s. Particle velocity should be recorded in three mutually perpendicular directions.
4. In the event that seismograph monitoring exceeds standards identified in either the Blast Plan or local permit, the company will notify the City within 1 working day.
 5. Water Resource Management Plan should address potential nitrate contamination due to blasting.
 6. Whenever explosives are used, they shall be of such character and in such amount as is permitted by state and local laws and ordinances and all respective agencies having jurisdiction over them.
 7. The regulatory requirements of OSHA Safety and Health Standards 29 CFR, Part 1926, Subpart U, "Blasting and Use of Explosives", shall be applied.
 8. Operators will use all industry standard measures to control fly rock with the intent that fly rock not leave the mine property.
 9. Prior to any blasting event at the excavation and mining site, the mining operation is responsible for giving notice of the impending blasting event by displaying a fluorescent flag and legible sign within 100 feet of all public roads bordering the blasting site.
 10. Untreated ANFO should not be used in blastholes with standing water in the bottom. Waterproof blasting agents such as emulsions or gels, developed to prevent the release of nitrates into the groundwater, should be used in blastholes with standing water at the bottom.
 11. The maximum single component peak particle velocity resulting from construction activity should not exceed the safe blasting criteria established in Office of Surface Mining recommendations, OSM Alternative Blasting Level Criteria (Modified from Figure B 1, RI 8507 U.S. Bureau of Mines). This criteria allows a constant peak particle velocity (ppv) of 2.0 inches per sec (ips) above 30 Hz. Below 30 Hz, the

maximum velocity decreases at a rate equivalent to a constant peak displacement of 0.01 inch to 11 Hz. Between 11 Hz and 4 Hz the maximum velocity is 0.75 ips. Below 4 Hz the maximum velocity decreases at a rate equivalent to a constant peak displacement of 0.03 inch.

12. Appropriate vibration levels shall be used where there is the presence of fragile or extremely fragile historically significant buildings, or sites. The following table is to be used as a guideline but limits shall be determined ultimately based on:
 - a. Proximity of the resource to the blasting site and on site (ground conditions) and the anticipated travel of damaging vibrations.
 - b. The level of significance of a resource as determined by its official listing on any federal, state, or local register and as by the City Council, and
 - c. Level of protection afforded to the resource by its official listing on any federal, state, or local register.

Structure & Condition	Maximum PPV (in/sec)	
	Transient Sources	Continuous/Frequent Intermittent Sources
Extremely fragile historic structures, ruins, or monuments	0.12	0.08
Fragile Buildings	0.2	0.1

13. The mine operator shall provide a notification to all property owners within a ½ mile of the mine site at least 15 days prior to blasting activity occurring. A copy of such notification shall also be sent to the City along with a list of those being sent the notification. For blasting anticipated to occur for more than one day within a one month period, one notification with the anticipated dates will suffice. The notification shall include:
 - a. The date(s) or range of dates that blasting is anticipated to occur.
 - b. The contact information including a contact person, a phone number and an address for questions to be addressed during business hours.
 - c. An offer to property owners for a pre-blast survey which shall:
 - ii. Be performed by an independent, credentialed, third party at the expense of the operator.
 - iii. Consist of a record on paper, video, or an unalterable electronic file to document the condition of a dwelling, structure, or water well before the commencement of blasting activity.
 - iv. Provide a record of inspection of the condition of a well and/or structure including the interior and exterior as requested by the owner.
 - d. A written statement that *such survey must be requested in writing* which shall identify the structures and/or well to be surveyed.
 - e. A written statement indicating that all surveys completed will be available upon request of the property owner within a 72 hour period after such request is made.
 14. The City Engineer shall inspect, review and monitor all blasting operations.
- Subd. U. Intermittent mining may be conducted provided that all other standards of this ordinance are followed and the possibility of intermittent cessation of operations is addressed in an operator's application for mining permit. This shall also be accounted for in the reclamation plan. The city shall be given 72 hour notice prior to the cessation or resumption of activities.

Subd. V. Direct impact to any historic, archeological, or culturally significant resource shall not be allowed prior to providing proposed activity by the MN State Historic Preservation Office and the City of Wabasha Heritage Preservation Commission and allowing for their response.

Subd. W. Processing at the Mine Site

Unless the site is eligible under the zoning ordinance for heavy industry (which shall require any additional permits for this activity within the zoning district the mine is located) processing at the mine site shall be limited to the following:

1. Scalping, the first cut of the incoming material including removing the largest size particles, cleaning the incoming material from foreign body contamination such as twigs, trash, glass, or other unwanted oversize material.
2. Separation of product into different rock sizes, gravel, and general sand category
3. No fine screening for separation of sand into different classifications (for hardness/shape) shall be permitted.
4. Use of water for washing shall be limited to 250,000 gallons per day (g.p.d.).
5. Crushing for new or expanded operations shall be limited to 150,000 tons per year
6. No use of chemicals in the processing, cleaning or separating of aggregate materials is allowed.
7. Any processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations without the written consent of all owners and residents of said structures for any new or expanded operation. The City may impose greater setbacks as a condition of the mining or interim use permit when there is a finding that this is required to protect adjoining property from negative impact and in order to protect health, safety, or welfare of the general public. Additional setback requirements for bluff areas are contained in the Performance Standards of the City Zoning Code.

Subd. X. Road Maintenance Agreement: All new or expanded mining operators will be required to enter into road maintenance agreements with the governing road authority('s) if agreed to by the specific authority. The Road Maintenance Agreement will provide for:

1. A roundtrip hauling route for the shipping of nonmetallic minerals from the excavation or mining site to a targeted delivery location, including the estimated number of tons to be hauled per truck and estimated number of tons hauled per month.
2. Mining operator's agreement to pay a road pavement impact fee as decided by the local government, which will be assessed on a per ton, per mile basis to reimburse the local government for the projected costs of repairing and replacing road pavement damaged by the hauling of nonmetallic minerals from an excavation or mining site. The fee established at the time of application will be reviewed every two years.
3. All fees collected will be placed in a fund administered by the road authority, dedicated to the sole purpose of maintaining, repairing, and replacing roads.

Subd. Y. Along with a plan for reclamation required as part of an application for all mines, applicants shall submit, as part of the application for a permit to mine, a documented estimate of costs necessary to implement the reclamation plan (consistent with MN Rules under part 6132.1300, subpart 4). This estimate shall include closure and postclosure maintenance activities required if operations cease within the first calendar year.

1. The permittee shall annually adjust the contingency reclamation cost estimate.
2. Cost estimates shall be based on the following:
 - a. Current dollar value at the time of the estimate; and

- b. The cost to the City of administering and hiring a third party to implement the contingency reclamation plan.
- 3. No salvage value attributed to the sale of wastes, facility structures, equipment, land, or other assets shall be used for estimating purposes.

Section 345.07 Reclamation Standards

All sites shall be reclaimed after operations cease. The City may require the assistance in design and or review of reclamation plans of a credentialed consultant at the expense of the mine operator. The following standards shall apply along with any additional or more stringent standards adopted under subsequent state law:

- A. Reclamation for each cell shall be completed within one (1) calendar year after operation ceases.
- B. Within a period of three (3) months after the termination of a operation, or within three (3) months after abandonment of such operation for a period of six (6) months, or within three (3) months after expiration of a permit, all buildings, structures and plans incidental to such operation shall be dismantled and removed by, and at the expense of, the mining operator last operating such buildings, structures and plants.
- C. At least four (4) months prior to the commencement of reclamation, the operator shall notify the City of its intent to commence reclamation. A preconstruction meeting shall be held at which the mine operator and the on-site reclamation construction supervisor shall attend to review the terms and conditions of the mining permit.
- D. Topsoil Redistribution for Reclamation: All uncontaminated soil from the site shall be retained on-site for reclamation purposes. Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this chapter in a manner which minimizes compacting and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.
- E. End Land Use Use of reclaimed land shall be appropriate to interim and final reclamation plan for the site and to the City's adopted land use policies and maps. The reclamation plan shall address final drainage and storm water plans, final topography indicating appropriate spaces for buildings, roads or other necessary infrastructure per intended proposed use and anticipated soil fertility for any proposed farming operations. Development of final uses may occur on the site as reclamation phasing occurs but shall be identified and addressed in reclamation plan phasing.
- F. Final Grading & Slopes:
 - 1. All areas directly affected by mining shall be addressed in the approved reclamation plan to provide that a stable and safe condition consistent with the post-mining land use is achieved. The reclamation plan may designate high walls or other unmined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this Subsection, the City may require that a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope.
 - 2. Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 4:1 horizontal to vertical incline, unless recommended by on

- site-specific engineering analysis performed by a registered professional engineer. All areas in the extraction pit site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material.
- G. If the approved post-mining land use includes a body of water, the approved final grade at the edge of a body of water shall be a slope no steeper than 6:1.
 - H. Vegetation requirements. The plan for re-vegetation should include a mix of grass basal cover, native vegetation cover, and rock cover, similar in type, diversity, and percentage mix and location to pre-mining situation. Use of fast-growing vegetation to stabilize slopes is appropriate. Use of Invasive species shall not be allowed in re-vegetation and the plan shall address the how invasive species will be managed during the operation of the mine.
 - I. Water requirements. The reclamation plan shall identify final surface and groundwater conditions and no reclamation shall be conducted in a manner which will cause a permanent lowering of the water table or result in adverse effects on surface waters or reduce the quality of groundwater reasonably available for future users of groundwater.
 - J. Assessing Completion of Successful Reclamation:
 - 1. The criteria for assessing when reclamation is complete shall be specified in the reclamation plan approved pursuant to this Chapter. Criteria to evaluate reclamation success shall be quantifiable.
 - 2. Compliance with the re-vegetation success standards in the approved reclamation plan shall be determined by:
 - a. On-site inspections by the City or its agent; and/or the MN DNR.
 - b. Reports presenting results obtained during reclamation evaluations including summarized data on re-vegetation, photo documentation or other evidence that the reclamation plan criteria have been met.
 - K. In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-existing condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
 - L. Re-vegetation success may be determined by:
 - 1. Comparison to an appropriate reference area;
 - 2. Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - 3. Comparison to an approved alternate technical standard.
 - M. Maintenance: During the period of the site reclamation the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this Subchapter, or to meet the goals specified in the reclamation plan approved pursuant to this Chapter.

Section 345.08 Subsurface Mineral Exploration

Exploration of natural resources can have a serious effect on land and the groundwater below. It is the intention of this Section of the Ordinance to monitor any exploratory activity. Remote sensing/exploration that does not disturb any soil do not require a mining permit.

- A. All Subsurface Mineral Exploration borings shall require a permit in all zoning districts and shall only be allowed in zoning districts where the potential mining activity is allowed as a permitted, conditional or interim use. The following information shall be required to be submitted by the applicant as part of the permit for exploratory borings if any of the following criteria is met:

- N. The drill hole will intercept a water bearing layer.
- O. The drill hole will be either deeper than 25 feet or penetrate a confining layer.
- P. The drill hole will be used for testing without extracting water.
- B. The following shall be submitted:
 - 1. Individuals or organizations wishing to undertake *mineral exploration* in the City of Wabasha must provide sufficient proof to the City, legal authority to explore and/or mine the property.
 - 2. A description of the mineral or minerals which are the subject of the exploration.
 - 3. A copy of the lease arrangement with the landowner shall be provided. This lease shall be recorded in the County Recorder's Office prior to granting the permit. The time limit and the location of the permit shall be incidental to that of the lease arrangement.
 - 4. A map indicating the location of the proposed exploratory boring(s).
 - 5. The applicant shall post a surety performance bond in an amount of one hundred and ten (110) percent of cost of installation per hole to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground water and surface water. The bond shall be released two (2) years after exploration has ceased unless the city finds, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed.
 - 6. An exact, technical description of the exploration process, types of equipment to be used, and an estimated timetable for each phase of work and for final completion of the program.
 - 7. A general description of the regional environmental conditions to include surface land use and vegetation, as well as a general description of the area's geological formations and hydrology.
 - 8. A description of the major environmental impacts that exploration will create as well as a proposed plan to mitigate those impacts including such items as soil erosion, air and water contamination, as well as related hazards to public life and safety.
 - 9. A plan shall be provided for the reclamation of the land after exploration is completed. Surface reclamation shall take into account the impact on adjacent land uses, natural resources and the proposed future use of the lands explored. The plans shall include:
 - B. A reclamation schedule.
 - C. Method used to plug drill holes which must meet state standards.
 - D. Method of grading, backfilling and contouring of exploration sites and access roads.
 - E. Methods of waste management and disposal, including liquid and solid wastes such as tailings.
 - F. Method of re-vegetation.
- C. Exploratory Boring Construction Requirements
 - 1. All test borings shall be constructed in accordance with the following and shall be constructed in a manner as to prevent all known sources of contamination from entering the boring at any time.
 - a. Drilling mud additives shall be stored in clean containers and shall be free of material that may adversely affect the aquifer.
 - b. Water used for cooling parts of engines, air compressors or other equipment may not be returned into the boring.
 - c. Drilling mud, cuttings and discharge water shall not be disposed of in a manner so as to create damage to public or private property.

- d. Exploratory borings encountering flowing artesian conditions should be constructed to prevent erosion of the aquifer or the overlying confining mantle.
 - e. Any boring which encounters a karst feature shall be cased and grouted to prevent the introduction of surface water into the groundwater and to prevent the passage of water from one aquifer to another.
 - f. In the case of an unexpected emergency, including but not limited to any act or condition that would affect the health, welfare and property of area residents, the explorer shall have the ability to cap the boring at any time. In this instance the explorer shall immediately notify the City of Wabasha and proper State agencies of such an emergency. In case of such an emergency, all costs shall be borne by the explorer.
 - g. A boring for aggregate exploration must not be used for any purpose that is regulated under Minnesota Statutes, Chapter 103I and Minnesota Rules, chapters 4725 or 4727, unless that well or boring is constructed in accordance with all applicable requirements of statute and rule, including licensing, notification, permitting, construction, sealing, testing and reporting requirements. Wells and borings regulated under state statute and rule include water supply wells, dewatering wells, monitoring wells, bored geothermal heat exchangers, elevator borings, environmental bore holes, and exploratory borings as defined in Minnesota Rules, chapter 4727.
- D. Exploratory Boring Setbacks, the following setbacks shall be applicable to exploratory drilling sites:
- 1. Required setbacks from Road Center line:
 - a. One hundred thirty (130) feet for State Highways.
 - b. One hundred (100) feet for County and State Aid Roads.
 - c. Sixty-five (65) feet for City streets.
 - 2. Two hundred (200) feet to adjoining property line.
 - 3. Five hundred (500) feet to nearest occupied residence.
 - 4. One hundred (100) feet to any overhead or underground electrical line.
 - 5. One hundred and fifty (150) feet to any gas line.
 - 6. One hundred and fifty (150) feet to a preparation or storage area of spray materials, commercial fertilizers or chemicals that may result in pollution of the soil or groundwater.
 - 7. One hundred (100) feet from a below grade manure storage area if in conformance with the Minnesota Pollution Control Agency.
 - 8. One hundred (100) feet from a buried sewer, septic tank, subsurface disposal field or privy.
 - 9. Two hundred (200) feet from existing water wells.
 - 10. Two hundred (200) feet from any lake, stream or river.
- E. Abandonment of Exploratory Borings
- 1. Abandonment of all exploratory borings shall be carried out in accordance with the following provisions:
 - a. Abandonment, whether temporary or permanent, shall be undertaken immediately upon completion of drilling activities. When the test hole is to be abandoned, the City shall be notified so that the abandonment process may be inspected.
 - b. Within thirty (30) days of the completion of drilling or the drilling equipment leaving the site, whichever occurs first, an abandonment report shall be completed by the explorer, and filed with the City. The report shall include, but not be limited to, such things as water bearing formations encountered, method

- of construction used and method of abandonment. The abandonment report shall specify whether the boring is being temporary or permanently abandoned.
2. A boring which is temporarily abandoned shall be constructed to prevent the introduction of surface contaminants into the boring and to prevent passage of water from one aquifer to another.
 - a. At the minimum, a temporary abandoned boring shall be cased from bedrock or from the bottom of the boring if the boring terminates in unconsolidated materials, to a point one (1) foot above the ground surface, or if in a floodplain, at least two (2) feet above the level of the highest flood of record. The casing shall be protected with an overlapping cap which will prevent any surface contamination from entering the boring.
 - b. Any boring which is temporarily abandoned shall be marked and protected with four (4) steel posts (schedule 40 pipe) of at least four (4) inch diameter at equal distance from each other, two (2) feet from the center of the casing. Such posts shall be installed to a minimum depth of three (3) feet into solid ground.
 - c. A boring shall not be temporarily abandoned for more than two (2) years.
 3. Permanent Abandonment
 - a. Whenever the explorer determines that a boring needs not remain open any longer, or whenever the explorer is about to lose the right to explore, the explorer shall permanently abandon the boring. The boring shall be filled with grout to prevent contaminating materials from entering the water bearing ground formations.
 - b. All materials, debris and obstructions that may interfere with sealing operations shall be removed from the boring.
 - c. All casing and screen may be salvaged except for casing that has been cemented in place.
 - d. The top of the hole shall be fitted with ten (10) feet of cement or concrete grout to within two (2) feet of the land surface. Casing remaining in the hole shall be cut off at least six (6) feet below the land surface. The remaining two (2) feet of the hole shall be filled with native topsoil.
 - e. When concrete or cement is used as a grout material, it shall be inserted in the boring through a grout pipe from the bottom of the boring upward to the surface under pressure.
 - f. A permanently abandoned boring shall be filled and sealed using one (1) or more of the following substances in accordance with geological materials penetrated:
 - i. The section of a boring in unconsolidated deposits shall be filled with neat cement, concrete or heavy drilling fluid to provide a permeability no greater than the natural condition.
 - ii. The section of a boring in a rock formation shall be filled with neat cement or concrete.
 - iii. The section of a boring in a cavernous or crevice rock such as cavernous limestone or creviced granite shall be filled with concrete or neat cement and gravel or stone aggregate. At the top of cavernous or creviced formation, the filling shall be completed by a layer of neat cement or concrete extending at least ten (10) feet into the above overlying formation and finished as provided in those rules.
 - iv. When a temporarily abandoned boring is permanently abandoned, a separate abandonment report shall be filed.

- A. An annual report of mining activities shall be submitted to the City of Wabasha specifying:
 - 1. The amount of material removed from the mine site in the previous year.
 - 2. The areas in which mining is complete and areas in which mining is ongoing.
 - 3. Area of the mine which has been reclaimed or is ready to be reclaimed.
 - 4. If mining into groundwater, actual pumping rates and times, actual groundwater discharge locations and quantities.
 - 5. Groundwater and surface water monitoring results.
 - 6. Restoration performed and restoration yet to be performed.
 - 7. Area proposed to be mined within the next year.
 - 8. Evidence the required bond and liability insurance is valid and enforceable.
 - 9. Copies of all reports given to State or Federal Agencies within the past year (including those for air and water quality monitoring) and any other permits or approvals issued.
 - 10. A log containing record of any grievances received by the operation and how they were addressed.
- B. Upon receiving the annual report, the City shall have the right to make an inspection.

Section 345.010 Transfer of Permits

The City will transfer existing mining permits to new operators upon request under the following circumstances:

- A. The new operator provides in writing that they will follow all plans and conditions of the previously approved permit.
- B. The new operator provides financial sureties to replace those of the past operator. The existing financial assurance shall remain in effect until the new operator's financial assurance is approved.

Section 345.011 Permit Revocation

Corrective actions, fines, and/or temporary or permanent revocation of mining permit may be implemented by the City if the mining operation is non-compliant with the terms of the permit.

Section 345.012 Violations and Penalties

Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor, subject to a fine of not more than \$1,000 or imprisonment for not more than ninety (90) days, or both. Each day a violation exists or continues shall constitute a separate offense. The City reserves the right to seek injunctive relief in addition to the criminal penalties set forth herein.