CITY OF GEM LAKE, RAMSEY COUNTY, MINNESOTA
ORDINANCE NO. 131

CONSOLIDATED LAND USE ORDINANCE

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APPENDIX A – CONSOLIDATED LAND USE ORDINANCE DEFINITIONS

Statement on former Zoning Ordinance Number 43 revision K

THE ZONING ORDINANCE OF GEM LAKE, MINNESOTA, RELATING TO AND REGULATING THE LOCATION, SIZE, USE AND HEIGHTS OF BUILDINGS, THE ARRANGEMENT OF BUILDINGS ON LOTS, AND THE DENSITY OF POPULATION IN THE CITY OF GEM LAKE, AND FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, ORDER, CONVENIENCE, PROSPERITY AND GENERAL WELFARE IN SAID CITY, AND FOR SAID PURPOSE, TO DIVIDE THE CITY INTO DISTRICTS, AND MAKE DIFFERENT REGULATIONS FOR DIFFERENT DISTRICTS.

The City of Gem Lake does ordain as follows:

SECTION 1 - TITLE

Section 1.1 This Ordinance shall be known, cited and referred to as the ORDINANCE 131 CONSOLIDATED LAND USE ORDINANCE except as referred to herein, where it shall be known as "this Ordinance".

SECTION 2 - INTENT AND PURPOSE

INTENT

The intent of this consolidated land use ordinance is to provide a single source for all real property subjected to development within the City of Gem Lake. It combines zoning (including the Gateway District), subdivisions, signs, landscaping, and tree preservation, into one single ordinance and combines the definitions into one appendix. This Consolidated Land Use Ordinance is to be used in conjunction with Gem Lake's Comprehensive Municipal Plan to guide development and redevelopment and will serve as the basis from which the merits of proposed development and redevelopment projects will be evaluated. While this consolidated land use ordinance has combined several formerly stand-alone ordinances, it has not changed the scope and intent of those ordinances. Instead, the consolidated land use ordinance simply gathers these several ordinances and places them inside a single ordinance.

Section 2.1 This Ordinance is adopted for the purpose of:

2.1.1 Protecting the public health, safety, morals, comfort, convenience and general welfare.

2.1.2 Dividing the City into zones and districts restricting and regulating therein the location, construction, Reconstruction, alteration, and use of structures and land.

2.1.3 Promoting orderly development of the residential, business and industrial areas.

2.1.4 Providing adequate light, air, and convenience of access to property.

2.1.5 Preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them.

2.1.6 Providing for the compatibility of different land uses and the most appropriate use of land throughout the City.

2.1.7 Supporting the ideals of and providing for local controls consistent with the Gem Lake Comprehensive Municipal Plan as adopted and, from time to time, amended.

SECTION 3 - RULES AND DEFINITIONS

Section 3.1 Rules. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

3.1.1 The singular number includes the plural and the plural the singular.

3.1.2 The present tense includes the past and future tenses, and the future the present.

3.1.3 The word "shall" is mandatory, and the word "may" is permissive.

3.1.4 The masculine gender includes the feminine and neuter genders.

3.1.5 Where words or phrases are not defined within the definitions of this Ordinance, they shall have their ordinary accepted meanings within the context in which they are used.

3.1.6 All measured distances expressed in feet shall be to the nearest tenth of a foot.

For Definitions, see Appendix A

SECTION 4 - ZONING DISTRICTS AND MAP

Section 4.1 Districts

4.1.1 In order to carry out the purpose and provisions of this Ordinance, the City of Gem Lake is hereby divided into the following Zoning Districts and groups of Districts.

A) Residence Districts

1) "RE" Single Family Estate (5.0 acre minimum lot size)

2) "RX" Single Family Executive (3.0 acre minimum lot size)

3) "RO" Single Family Residential (1.0 acre minimum lot size)

4) "RS" Single Family Residential (0.50 acre minimum lot size)

B) Gateway District "G" (uses determined by PUD)

C) Open Space/Recreational "OS/R"

Section 4.2 Map

4.2.1 The boundaries of the above districts are hereby established on that certain map entitled "City of Gem Lake Zoning Map," dated September 2017 and from time to time amended, which map is properly approved and hereinafter referred to as the "Zoning Map". This map and all of the notations, references and other information shown thereon shall have the same force and effect as it fully set forth and described herein.

Section 4.3 Boundaries

4.3.1 District boundary lines as indicated on said map follow lot lines, the center lines of streets, alleys, or railroads, the center lines of streets or alleys projects, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this Ordinance or amendments thereto. If district boundary lines do not follow any of the above described lines, the district boundary lines are established as drawn on the zoning map. Where a District boundary line divides a lot of record which was in single ownership at the time of enactment of this Ordinance and places portions of such lot of record in two (2) or more Use Districts, any portion of such lot with fifty (50'0") feet on either side of such a dividing district boundary line may be used for any use of either Use District; provided, however, if any portion of such lot shall extend beyond the fifty (50'0") feet limitation, the District line as shown shall prevail. Appeals from the Zoning Administrator's determination and questions of doubt concerning the exact location of District boundary lines shall be heard by the Board of Appeals.

SECTION 5 - "RE" SINGLE FAMILY ESTATE RESIDENTIAL DISTRICT

The minimum lot size in the "RE" zoning district is five (5) acres, but most of the existing 'estates' are located on land parcels much larger than five (5) acres. All but one of the parcels mapped as "estate" are built upon and are not expected to be subdivided or re-developed in the near future. This five (5) acre minimum lot size plan allows for land transfers from the least dense land category to a classification that allows for denser development. However, it is important to note that the Gem Lake Comprehensive plan does not project or assume any immediate change in the existing pattern of development on these properties.

If, in the future, this land is sub-divided, it would be ~~is~~ possible to include "RS" development along the perimeter thoroughfares of the "RE" area to provide diversity of housing.

Principal and accessory buildings should be located so as to allow for possible future subdivision to "RX" or "RS" lots. In order to maximize the efficiency of roads and municipal services, master planning, clustering or similar land use concepts should be used when sub-dividing "RE" zoned land to maximize benefits. (Refer to pages 5-5 and 5-21 of the 2008 Comprehensive plan for the source of these details).

Section 5.1 Permitted Uses. Within any "RE" Zoned Residential Use District, no structures or land shall be used except for one (1) or more of the following uses:

5.1.1 One family detached dwellings

5.1.2 Truck gardening and other horticultural uses provided that only those products produced on the premise be sold or offered for sale.

Section 5.2 Permitted Accessory Uses. Within any "RE" Zoned Residential Use District, the following uses shall be permitted accessory uses.

5.2.1 Attached or detached housing for domestic servants

5.2.2 Private garage, car port or parking space

5.2.3 The keeping of not more than two (2) roomers

5.2.4 Private swimming pool, tennis court, horse training ring, and other sites necessary to conduct a home sporting event.

5.2.5 Home occupation

5.2.6 Signs as regulated by this Ordinance

5.2.7 Structures temporarily located for purposes of construction on the site for a period of time not in excess of such construction.

5.2.8 Conservatories for plants and flowers, not including any business, trade or industry.

5.2.9 Decorative landscape features including but not limited to pools, arbors, hedges, walls, shrubs, trees, etc.

5.2.10 Essential services

Section 5.3 Conditional & Interim Uses. Within any "RE" Zoned Residential Use District, no structures or land shall be used for the following uses except by Conditional Use Permit:

5.3.1 Country clubs, golf courses and other private non-commercial recreation areas and facilities, including swimming pools; provided that any principal building or swimming pool shall be located not less than fifty (50') feet from any other lot in an "R" District.

5.3.2 Essential Service Structures

5.3.3 Structures with side or rear elevations up to ten (10'0") feet in excess of the standard front building height.

5.3.4 Agricultural Structures, including but not limited to barns, stables, kennels and the like. Structures in which farm animals or fowl are to be housed shall require a set-back of one hundred (100') feet of any lot line except where the following conditions may provide for easing the restriction:

A) The structure shall be partially screened from the views from neighboring houses, with said screening to be existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands and with the amount of screening to be measured at full growth in the summer season;

B) the structure shall be at least one-hundred (100'0") feet from any well, ISTS or neighboring dwelling;

C) the drainage characteristics of the land shall be such that the concentration of animals and animal waste shall not cause real or potential pollution or nuisance problems;

D) the design and construction materials of the of the structure shall be consistent with the main dwelling on the property;

E) such other factors as may be deemed material by the City.

5.3.5 Bed and Breakfast Establishments

5.3.6 Vehicles, including motor homes, campers and trailers, in excess of 7,000 pounds or 20 feet in length.

5.3.7 Family Day Care Home

Section 5.4 Height Regulations

5.4.1 No principal structure shall exceed thirty-five (35'0") feet in height and no accessory structure shall exceed twenty-five (25'0") feet in height measured from the ground six (6'0") feet from the primary front entrance to the highest point of the roof structure.

5.4.2 Back and side facades may exceed thirty-five (35'0") feet in height but not more than forty-five (45'0") feet in height subject to a Conditional Use Permit which addresses, at a minimum, the following criteria:

A) The facade in question should be partially screened from comparable and reasonable vantage point views of the neighbors while in their dwelling(s), said screening to be by existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands with the amount of screening to be measured at full growth in the summer season; and,

B) the verticality of any facade in question shall be interrupted by roof line(s), deck(s), bow/bay window(s), or other such three-dimensional architectural feature(s) which preclude the creation of an uninterrupted vertical plane of greater than thirty-five (35'0") feet at any point; and,

C) chimneys, weather veins, cupolas, antennas and the like should not be counted as an element of the structure for height measurements; and,

D) lower level walkout design features may be included only in areas where the natural topography provides for the design and no artificial topographical build up or grading change in excess of four (4'0") feet collectively is required or created; and

E) whenever a side or rear elevation exceeds the allowed height for that district, the structure must be further set back from the side and rear lot lines by the standard set back distance plus two (2'0") feet for every one (1'0") foot above the standard front height; and,

F) such other factors as the City may determine based upon the special or unique conditions and circumstances of the lot and its surroundings.

Section 5.5 Area, Frontage and Yard Requirements

5.5.1 The following minimum requirements shall be observed:

TABLE 5.5.1

TOTAL AREA 5.0 acres	BUILDABLE AREA 50% total area	FRONTAGE 200 feet
FRONT YARD 50 foot set-back	SIDE YARD 30 foot set-back	REAR YARD 50 foot set-back
OPEN SPACE 75% total area	LAKE FRONTAGE 200 feet	

A) That portion of a lot considered as the front yard shall be as determined by the City Council.

B) All Residential structures shall be set-back at least one-hundred (100') feet from the ordinary high water level of the lake. The ordinary high water level of the lake shall be as determined by the Minnesota Department of Natural Resources (DNR).

5.5.2 The following structures can be erected within set-backs as long as no part of the structure is closer to the front of the lot than the rear of the principal structure:

A) Fences

1) Fences may only be placed directly on the property line with the written permission of the adjacent property owner and when maintenance free materials are used; and

2) All other fences may only be installed with adequate set back from adjacent property lines to provide for owner maintenance; and

3) All fences installed within the set-back area must provide for a finished facade facing adjacent property.

B) Patios, fireplaces, sheds and pools.

SECTION 6 - SINGLE FAMILY EXECUTIVE "RX" RESIDENTIAL DISTRICT

Most of the presently zoned "RX" land in the City of Gem Lake zoning area is developed. Additional new primary structures within this land use classification will likely be constructed within the range of 3,500 to 10,000 square foot of space, similar to the existing primary structures now in the rest of this district.

As additional land is considered for rezoning into this classification by planned re-development and subdivision from the "RE" zoned classification, master planning, clustering and other similar concepts should be used to maximize efficiency of roads and municipal services within the district. (Refer to pages 5-6 and 5-22 of the Gem Lake 2008 Comprehensive plan for the source of these details)

Section 6.1 Permitted Uses

6.1.1 Within any "RX" Zoned Residential District, no structure or land shall be used expect for one (1) or more of the following uses:

A) All uses permitted in Section 5.1 and as regulated therein except as herein amended.

Section 6.2 Permitted Accessory Uses

6.2.1 Within any "RX" Zoned Residential District, the following uses shall be permitted as accessory uses:

A) Those uses or structures permitted in Section 5.2 and as regulated therein shall be permitted accessory use, except as herein amended.

Section 6.3 Conditional & Interim Uses

6.3.1 Within any "RX" Zoned Residential District, no structure or land shall be used for the following uses except by Conditional Use Permit.

A) Those uses or structures listed as Conditional Uses in Section 5.3 and as regulated therein, except as herein amended.

B) Two (2) family dwellings.

6.3.2 Structures with side or rear elevations up to ten (10'0") feet in excess of the standard front building height.

6.3.3 Agricultural Structures, including but not limited to barns, stables, kennels and the like. Structures in which farm animals or fowl are to be housed shall require a set-back of one hundred (100') feet of any lot line except where the following conditions may provide for easing the restriction:

A) the structure shall be partially screened from the views from neighboring houses, with said screening to be existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands and with the amount of screening to be measured at full growth in the summer season;

B) the structure shall not be less than one-hundred (100'0") feet from any well, ISTS or neighboring dwelling;

C) the drainage characteristics of the land shall be such that the concentration of animals and animal waste shall not cause real or potential pollution or nuisance problems;

D) the design and construction materials of the of the structure shall be consistent with the main dwelling on the property;

E) such other factors as may be deemed material by the City.

6.3.4 Bed and Breakfast Establishments

6.3.5 Vehicles, including motor homes, campers and trailers, in excess of 7,000 pounds or 20 feet in length.

6.3.6 Family Day Care Home

6.3.7 Country clubs, golf courses and other private non-commercial recreation areas and facilities, including swimming pools; provided that any principal building or swimming pool shall be located not less than fifty (50') feet from any other lot in a residential District.

6.3.8 Essential Service Structures

6.3.9 Double Homes

6.3.10 Townhomes and Villas, attached and detached thru the PUD process

Section 6.4 Height Regulations

6.4.1 No principal structure shall exceed thirty (30'0") feet in height and no accessory structure shall exceed fifteen (15'0") feet in height measured from the ground six (6'0") feet from the primary front entrance to the highest point of the roof structure.

6.4.2 Back and side facades may exceed thirty (30'0") feet in height but not more than forty (40'0") feet in height subject to a Conditional Use Permit which addresses, at a minimum, the following criteria:

A) The facade in question should be partially screened from comparable and reasonable vantage point views of the neighbors while in their dwelling(s), said screening to be by existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands with the amount of screening to be measured at full growth in the summer season; and

B) the verticality of any facade in question shall be interrupted by roof line(s), deck(s), bow/bay window(s), or other such three-dimensional architectural feature(s) which preclude the creation of an uninterrupted vertical plane of greater than thirty (30'0") feet at any point; and,

C) chimneys, weather veins, cupolas, antennas and the like should not be counted as an element of the structure for height measurements; and,

D) lower level walkout design features may be included only in areas where the natural topography provides for the design and no artificial topographical build up or grading change in excess of four (4'0") feet collectively is required or created; and

E) whenever a side or rear elevation exceeds the allowed height for that district, the structure must be further set back from the side and rear lot lines by the standard set back distance plus two (2'0") feet for every one (1'0") foot above the standard front height; and,

F) such other factors as the City may determine based upon the special or unique conditions and circumstances of the lot and its surroundings.

Section 6.5 Area, Frontage and Yard Requirements

6.5.1 The following minimum requirements shall be observed:

TABLE 6.5.1

TOTAL AREA 3.0 acres	BUILDABLE AREA 20% total area	FRONTAGE 150 feet
FRONT YARD 40 foot set-back	SIDE YARD 15 foot set-back	REAR YARD 35 foot set-back
OPEN SPACE 50% total area	LAKE FRONTAGE 200 feet	

A) A side yard abutting a street shall not be less than twenty (20') feet.

B) That portion of a lot considered as the front yard shall be as determined by the City Council.

C) All Residential structures shall be set back at least one-hundred (100') feet from the ordinary high water level of the lake and its attendant wetlands. The ordinary high water level of the lake shall be as determined by the Minnesota Department of Natural Resources.

6.5.2 The following structures can be erected within set-backs as long as no part of the structure is closer to the front of the lot than the rear of the principal structure:

A) Fences

1) Fences may only be placed directly on the property line with the written permission of the adjacent property owner and when maintenance free materials are used; and

2) All other fences may only be installed with adequate set back from adjacent property lines to provide for owner maintenance; and

3) All fences installed within the set-back area must provide for a finished facade facing adjacent property.

B) Patios, fireplaces, sheds and pools.

SECTION 7 - SINGLE FAMILY "RO" RESIDENTIAL DISTRICT

The existing structures within this zoning district are single family homes found primarily along the edges of the City of Gem Lake. This district is almost fully developed with single family homes and the Gem Lake Comprehensive plan does not project or assume any gains in housing units from this Zoning area. It is expected that any new residential construction or re-development in this district would continue to be built in a density of 1 residential unit per acre to maintain the visual feel of the area and the value of the existing homes.

It is possible that additional areas, along the perimeter major thoroughfares and along the edges of the "RE" and "RX" zoning districts, could be zoned as "RO" districts to provide diversity of housing. There are also lots within this district that would allow re-development if multiple adjacent parcels are combined and existing structures moved or demolished. The combined land could then be subdivided in smaller lots.

If further residences are added in this district, master planning, clustering and similar concepts would be used to maximize the benefits from community resources such as municipal water and sanitary sewer.

(Refer to pages 5-6, 5.21 and 5-23 of the Germ Lake 2008 Comprehensive plan for the source of the above details)

Section 7.1 Permitted Uses

7.1.1 Within any "RO" Zoned Residential District, no structure or land shall be used except for one (1) or more of the following uses:

A) All uses permitted in Section 6.1 and as regulated therein except as herein amended.

B) The harboring and housing of agricultural animals on lots less than one (1.0) acre shall not be allowed.

Section 7.2 Permitted Accessory Uses

7.2.1 Within any "RO" Zoned Residential District, the following uses shall be permitted as accessory uses:

A) Those uses or structures permitted in Section 6.2, excluding and as regulated therein except as herein amended.

B) Swimming pools provided such pool is fenced so as to control access and is located not less than fifteen (15') feet from any other lot in an "R' District, and subject to Council approval.

Section 7.3 Conditional & Interim Uses

7.3.1 Within any "RO" Zoned Residential District, no structure or land shall be used for the following uses except by Conditional Use Permit.

A) Those uses or structures listed as Conditional Uses in Section 6.3 as regulated therein, except as herein amended.

B) Two-family dwellings.

C) The harboring and housing of agricultural animals on lots greater than one (1.0) acre.

D) Townhomes or Villas

7.3.2 Structures with side or rear elevations up to ten (10'0") feet in excess of the standard front building height.

7.3.3 Agricultural Structures, including but not limited to barns, stables, kennels and the like. Structures in which farm animals or fowl are to be housed shall require a set-back of one hundred (100') feet of any lot line except where the following conditions may provide for easing the restriction:

A) the structure shall be partially screened from the views from neighboring houses, with said screening to be existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands and with the amount of screening to be measured at full growth in the summer season;

B) the structure shall not be less than one-hundred (100'0") feet from any well, ISTS or neighboring dwelling;

C) the drainage characteristics of the land shall be such that the concentration of animals and animal waste shall not cause real or potential pollution or nuisance problems;

D) the design and construction materials of the of the structure shall be consistent with the main dwelling on the property;

E) such other factors as may be deemed material by the City.

7.3.4 Bed and Breakfast Establishments

7.3.5 Vehicles, including motor homes, campers and trailers, in excess of 7,000 pounds or 20 feet in length.

7.3.6 Family Day Care Home

Section 7.4 Height Regulations

7.4.1 No principal structure shall exceed thirty (30'0") feet in height and no accessory structure shall exceed fifteen (15'0") feet in height measured from the ground six (6'0") feet from the primary front entrance to the highest point of the roof structure.

7.4.2 Back and side facades may exceed thirty (30'0") feet in height but not more than forty (40'0") feet in height subject to a Conditional Use Permit which addresses, at a minimum, the following criteria:

A) The facade in question should be partially screened from comparable and reasonable vantage point views of the neighbors while in their dwelling(s), said screening to be by existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands with the amount of screening to be measured at full growth in the summer season; and,

B) the verticality of any facade in question shall be interrupted by roof line(s), deck(s), bow/bay window(s), or other such three-dimensional architectural feature(s) which preclude the creation of an uninterrupted vertical plane of greater than thirty (30'0") feet at any point; and,

C) chimneys, weather veins, cupolas, antennas and the like should not be counted as an element of the structure for height measurements; and,

D) lower level walkout design features may be included only in areas where the natural topography provides for the design and no artificial topographical build up or grading change in excess of four (4'0") feet collectively is required or created; and

E) whenever a side or rear elevation exceeds the allowed height for that district, the structure must be further set back from the side and rear lot lines by the standard set back distance plus two (2'0") feet for every one (1'0") foot above the standard front height; and,

F) such other factors as the City may determine based upon the special or unique conditions and circumstances of the lot and its surroundings.

Section 7.5 Area, Frontage and Yard Requirements

7.5.1 The following minimum requirements shall be observed:

TABLE 7.5.1

TOTAL AREA 1 acre	BUILDABLE AREA 20% total area	FRONTAGE 150 feet
FRONT YARD 40 foot set-back	SIDE YARD 15 foot set-back	REAR YARD 35 foot set-back
OPEN SPACE 40% total area		

A) A side yard abutting a street shall not be less than twenty (20) feet.

7.5.2 The following structures can be erected within set-backs as long as no part of the structure is closer to the front of the lot than the rear of the principal structure:

A) Fences

1) Fences may only be placed directly on the property line with the written permission of the adjacent property owner and when maintenance free materials are used; and

2) All other fences may only be installed with adequate set back from adjacent property lines to provide for owner maintenance; and

3) All fences installed within the set-back area must provide for a finished facade facing adjacent property.

B) Patios, fireplaces, sheds and pools.

SECTION 8 – SINGLE FAMILY "RS" RESIDENTIAL DISTRICT

The existing structures within this zoning district are single family homes found primarily along the edges of the City of Gem Lake. This district is almost fully developed with single family homes and the Gem Lake Comprehensive plan does not project or assume any gains in housing units from this Zoning area. It is expected that any new residential construction or re-development in this district would continue to be built with a density of approximately 1 residential unit per acre to maintain the visual feel of the area and the value of the existing homes.

It is possible that additional areas, along the perimeter major thoroughfares and along the edges of the "RE" and "RX" zoning districts, could be zoned as "RS" districts to provide diversity of housing. There are also lots within this district that would allow re-development if multiple adjacent parcels are combined and existing structures moved or demolished. The combined land could then be subdivided in smaller lots.

If further residences are added in this district, master planning, clustering and similar concepts ~~need to~~ would be used to maximize the benefits from community resources such as municipal water and sanitary sewer.

(Refer to pages 5-6, 5.21 and 5-23 of the Germ Lake 2008 Comprehensive plan for the source of the above details)

Section 8.1 Permitted Uses

8.1.1 Within any "RS" Zoned Residential District, no structure or land shall be used except for one (1) or more of the following uses:

A) All uses permitted in Section 7.1 and as regulated therein except as herein amended.

Section 8.2 Permitted Accessory Uses

8.2.1 Within any "RS" Zoned Residential District, the following uses shall be permitted as accessory uses:

A) Those uses or structures permitted in Section 7.2 and as regulated therein except as herein amended.

Section 8.3 Conditional & Interim Uses

8.3.1 Within any "RS" Zoned Residential District, no structure or land shall be used for the following uses except by Conditional Use Permit.

A) Those uses or structures listed as Conditional Uses in Section 7.3 and as regulated therein except as herein amended.

B) Dwelling - Two-family.

C) Townhomes and Villas, attached and detached thru the PUD process

D) The harboring and housing of agricultural animals on lots greater than one (1.0) acre.

8.3.2 Structures with side or rear elevations up to ten (10'0") feet in excess of the standard front building height.

8.3.3 Agricultural Structures, including but not limited to barns, stables, kennels and the like. Structures in which farm animals or fowl are to be housed shall require a set-back of one hundred (100') feet of any lot line except where the following conditions may provide for easing the restriction:

A) the structure shall be partially screened from the views from neighboring houses, with said screening to be existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands and with the amount of screening to be measured at full growth in the summer season;

B) the structure shall not be less than one-hundred (100'0") feet from any well, ISTS or neighboring dwelling;

C) the drainage characteristics of the land shall be such that the concentration of animals and animal waste shall not cause real or potential pollution or nuisance problems;

D) the design and construction materials of the of the structure shall be consistent with the main dwelling on the property;

E) such other factors as may be deemed material by the City.

8.3.4 Bed and Breakfast Establishments

8.3.5 Vehicles, including motor homes, campers and trailers, in excess of 7,000 pounds or 20 feet in length.

8.3.6 Family Day Care Home

Section 8.4 Height Regulations

8.4.1 No principal structure shall exceed thirty (30'0") feet in height and no accessory structure shall exceed fifteen (15'0") feet in height measured from the ground six (6'0") feet from the primary front entrance to the highest point of the roof structure.

8.4.2 Back and side facades may exceed thirty (30'0") feet in height but not more than forty (40'0") feet in height subject to a Conditional Use Permit which addresses, at a minimum, the following criteria:

A) The facade in question should be partially screened from comparable and reasonable vantage point views of the neighbors while in their dwelling(s), said screening to be by existing or planted and maintained vegetation or the natural topography of the lot and surrounding lands with the amount of screening to be measured at full growth in the summer season; and,

B) the verticality of any facade in question shall be interrupted by roof line(s), deck(s), bow/bay window(s), or other such three-dimensional architectural feature(s) which preclude the creation of an uninterrupted vertical plane of greater than thirty (30'0") feet at any point; and,

C) chimneys, weather veins, cupolas, antennas and the like should not be counted as an element of the structure for height measurements; and,

D) lower level walkout design features may be included only in areas where the natural topography provides for the design and no artificial topographical build up or grading change in excess of four (4'0") feet collectively is required or created; and

E) whenever a side or rear elevation exceeds the allowed height for that district, the structure must be further set back from the side and rear lot lines by the standard set back distance plus two (2'0") feet for every one (1'0") foot above the standard front height; and,

F) such other factors as the City may determine based upon the special or unique conditions and circumstances of the lot and its surroundings.

Section 8.5 Area, Frontage and Yard Requirements

8.5.1 The following minimum requirements shall be observed:

A) When on-site septic systems will be used for structures constructed in the "RS" zoning district the following applies:

TABLE 7.5.1 A)

TOTAL AREA .75 acre	BUILDABLE AREA 75% total area	FRONTAGE 100 feet
FRONT YARD 35 foot set-back	SIDE YARD 15 foot set-back	REAR YARD 25 foot set-back
OPEN SPACE 40% total area		

B) When city sewer is currently available and will be used for the structures constructed in the "RS" zoning district the following applies:

TABLE 7.5.1 B)

TOTAL AREA .50 acre	BUILDABLE AREA 75% total area	FRONTAGE 100 feet
FRONT YARD 35 foot set-back	SIDE YARD 15 foot set-back	REAR YARD 25 foot set-back
OPEN SPACE 40% total area		

C) A side yard abutting a street shall not be less than twenty (20) feet.

8.5.2 The following structures can be erected within set-backs as long as no part of the structure is closer to the front of the lot than the rear of the principal structure:

A) Fences

1) Fences may only be placed directly on the property line with the written permission of the adjacent property owner and when maintenance free materials are used; and

2) All other fences may only be installed with adequate set back from adjacent property lines to provide for owner maintenance; and

3) All fences installed within the set-back area must provide for a finished facade facing adjacent property.

B) Patios, fireplaces, sheds and pools.

SECTION 9 – GATEWAY "G" DISTRICT

9.1 The intent of the Gem Lake Gateway District ("Gateway" or "G") is intended to allow for development and redevelopment of the real property associated with Hoffman Corner and points westward along Ramsey County Road E extending northward to the border with the zoning districts identified in Sections 5 and 6 of this Ordinance. This area has been the subject of a visioning study and includes both commercial and residential opportunities as described in the City of Gem Lake Comprehensive Plan and other city documents. As introduced by the visioning plan and envisioned by the Comprehensive Plan, the Gateway will emphasize commercial development and/or redevelopment in the Hoffman Corner intersection which traditionally has been the location of the Gem Lake commercial district. As one moves westward along County Road E, the intent of the Gateway is to transition into more residential type neighborhoods becoming less dense until it transitions to either the Estate Residential district or the Executive Residential district.

It may be permissible to apply to rezone the Neighborhood Edge subzone of the G District to existing traditional zoning (RE, RX, RS, RO) provided all setbacks and area requirements of said sections are met. Any such rezoning may preclude the use of Planned Unit Development as an option.

9.1.1 Purposes. Specifically, the Gateway zoning district will attempt to:

A) Promote development and redevelopment consistent with the visioning plan for the Gateway area by encouraging residential uses in conjunction with commercial and expanded recreational activities which in turn will create an active street life, while enhancing the vitality of businesses and reducing vehicular traffic.

B) Provide for mixed-use development(s) that are carefully planned to promote efficient use of land, parking and roadway systems.

C) Provide enhanced oversight through conditional use permit provisions, to ensure compatibility of mixed uses and consistency with the approved master plan for the site.

D) Ensure compatibility with surrounding neighborhoods.

E) Provide significant incentives to promote mixed-use redevelopment projects.

F) Encourage sustainable architectural, engineering and landscape design that is implemented by responsive green construction practices.

G) Preserve natural resources, minimize the carbon footprint of the City, and establish a key zone within Gem Lake that is respectful of neighboring areas and is instructive for future generations.

H) Encourage pedestrian and bicycle use.

I) Ensure that commercial and residential uses in a development are designed to be compatible with each other.

J) Ensure high standards of site design, spatial relationships, architectural design, building materials and landscape design.

K) Seek to put in place those areas identified in the Comprehensive Plan (as supported by the master plan) that includes four "sub-zones":

1. Neighborhood Edge: Intended for lower density single-family residential housing development to act as a transition between new mixed-use construction and existing single-family detached structures on adjacent lands. This subzone in its basic form will accommodate single-family dwellings on larger lots, or with application of incentives, more compact homes on common larger lots or on compact lots with enhanced buffers (used in clustering), shared with accessory buildings and generally served from a front or side driveway. This subzone may be used to accommodate the development of public open spaces as identified in Section 10 and Section 18.20 of this Ordinance.

2. Neighborhood General: Intended to begin the transition from purely residential use at low densities to more intensive mixed-use development at the district's center. This subzone will accommodate a variety of residential structures at varying densities, and also begin to integrate lower-impact office or retail activities which complement the residential setting.

3. Neighborhood Mixed Use: Intended to establish a neighborhood focus that is distinguished by mixed use buildings, together with denser residential options and smaller-scale commercial and office buildings without residential components. This subzone will accommodate a variety of activities and services within easy walking distance from homes throughout the District, supporting daily convenience shopping and personal service needs, and also providing opportunities for public gathering and social contact.

4. Neighborhood Center: Intended for the most urban conditions within all of the shown mixed use areas. The mixture of land uses emphasizes ground-floor retail with offices and residential/rental above (as market acceptance matures) and structures providing commercial space for medium and large–sized retailers. Street frontages throughout this subzone should be pedestrian-oriented, and the public space should be defined by placing building facades at the edge of the sidewalk. Neighborhood Center land that abuts other subzones on the north and west sides will be carefully planned to ensure lower-density buildings. Where developers insert a minimum 200-foot buffer at existing non-Gateway residential properties, or especially along the extreme eastern edge of this subzone, the City may allow as a conditional use multifamily housing, including townhomes, row houses, or apartment buildings three stories or less in height.

9.2 Generally Applicable Regulations

9.2.1 Relationship to other portions of this Ordinance and other City Ordinances. The requirements of this Section may conflict with or duplicate some portions of this Ordinance. Any such conflict, when it relates to the use of land in the Gateway District, shall be resolved in favor of the language in this Section. All other provisions of this Ordinance apply within the Gateway "G" District, including provisions for Planned Unit Development (PUD) and Institutional Overlay. PUD or institutional overlay proposals may be used in combination with or in place of the regulations and procedures set forth in this Section.

All other Gem Lake ordinances which relate to the construction of buildings and use of land included in the Consolidated Land Use Ordinance and other land used Ordinances (including but not limited to the Adult Use Ordinance, Building Code Adoption, and Pawnbroker Ordinance) apply within the Gateway District.

9.2.2 Administration, Conditional Uses, Variance, and Appeal.

A) The Building Type standards are intended to be employed and used to entitle the construction of a building upon land in the same manner that listing a use as "permitted" entitled land in other Zones defined by this Ordinance. The processing of conditional use permits, variances, amendments, platted subdivisions and other land use applications which may necessarily accompany an application for building approval in the Gateway District shall be processed simultaneously with the review of the Gateway District proposal, whenever possible.

B) All new construction, remodeling or expansion (except for the remodeling or expansion of single-family detached dwellings) within the Gateway District requires a Zoning Compliance Permit. The Zoning Compliance Permit is indefinite in duration and the entitlements stated on the permit shall run with the land. A Zoning Compliance Permit is granted after determination that the proposal complies with all applicable standards set forth within this Section (Thoroughfare Standards, Civic Space Standards, Building Type Standards, Parking, and Design Standards). As set forth below, the final approval for the Zoning Compliance Permit will come from the City Council for proposals which require Council approval in some form (such as a platted subdivision or conditional use permit), and the Zoning Administrator for proposals which do not otherwise require Council review (such as single buildings or minor subdivisions without variances).

C) For the purpose of providing administrative review and processing of development proposals within the Gateway District, the City Council hereby appoints the Zoning Administrator to serve as the primary point of contact between the City and applicants for zoning approval. Upon receipt of an application for land use in the

Gateway District, the Zoning Administrator shall ensure that the application is complete within five (5) business days of receipt. If the application is not complete, the Zoning Administrator shall return all materials with an explanation of what is required to make the application complete. When the application is determined to be complete, the Zoning Administrator shall distribute copies of all submitted documents to the City's appointed consultants in architecture, engineering and planning. The Zoning Administrator shall obtain written comment on the application from each consultant before the scheduled Planning Commission review of the application, or before making an administrative approval where authorized.

D) If a City consultant identifies a failure to meet the standards of this Section, the Zoning Administrator may not administratively approve a permit for the proposal. The Zoning Administrator shall meet with the applicant to attempt to resolve the deficiency, and re-submit any revised or clarified proposal to the consulting professional who identified the problem for review. If the consultant agrees that the deficiency is corrected, the Administrator may issue the permit.

E) For applications on a City Council approval track, the Zoning Administrator shall also attempt to resolve any deficiencies noted in consultant review with the applicant prior to the final Council action on the proposal. The Planning Commission and City Council may choose to act on the proposal within their reasonably used discretion, even if the matter is not resolved prior to final action.

F) All applicants seeking a Zoning Compliance Permit must submit a development plan with their application.

G) Conditional Uses. All elements of a development plan which require conditional use permit approval may be combined into a single conditional use permit application for the proposal, with a single applicable CUP fee for review and processing in addition to other required application fees. Portions of proposed buildings which may be used for permitted or conditional uses need not apply for conditional use approval as part of the development application, unless the tenant, occupant or owner of the space is known at the time of application and will need a conditional use permit. All applications for conditional use permit approval shall otherwise be processed in the same manner as other applications for conditional use permit approval, using the procedures and criteria stated in Section 17.5 of this Ordinance.

H) Any variances requested in connection with a Gateway District development proposal shall be processed in the same manner as variances from other Sections of this Ordinance, using the procedures and criteria stated in Section 17.4 of this Ordinance

I) Any applicant aggrieved by a decision, mandate or other action of the Zoning Administrator may appeal the matter in the manner provided by Section 17.7 of this Ordinance.

9.2.3 Existing Uses and Structures at Adoption of Chapter.
The standards generally applicable under Section 16.3 of this Ordinance shall apply to existing structures and uses located within the Gateway District upon the adoption of this Section, or existing on land later added to the Gateway District by re-mapping on the date a new zoning map becomes effective. An applicant seeking a building permit to materially alter or expand a legally nonconforming structure within the Gateway District shall submit a partial development plan, containing information as requested by the Zoning Administrator to allow review of the alteration or expansion's compliance with Design Review requirements set forth at 9.8 and the Connectivity Requirements set forth at 9.5.3.

9.2.4 Incentives.
The City Council may establish incentives which apply to encourage certain types of land use or preservation activity within the Gateway District. The Council may set the incentives by adopting a separate ordinance which identifies clearly the item or items the Council seeks to encourage, the allowance or allowances which the Council is willing to offer applicants, and sufficient criteria to allow the Zoning Administrator and City consultants to evaluate and score applications seeking to apply the incentives and allowances. The following text is an example only:

The City of Gem Lake seeks to improve transit options within the City. Proposals which incorporating public transit options into an overall development plan will receive enhanced civic space credit for the space dedicated to the public transit option. Space bonuses will apply as follows:
Bus waiting area, uncovered: 2% bonus

Bus waiting area, covered: 4%
Bus waiting area, integrated w/ building: 8%
Bus Rapid Transit access: 10%
Rail access or access to station: 10%
Rail transit station: 30%
Intermodal transit center: 50%

Proposed spaces must meet the criteria for public transit facilities established by the Metropolitan Council in order to qualify for space bonuses. The City Council shall approve all requests for transit incentive bonuses. The Zoning Administrator shall consult with the City Engineer to review and make recommendations on the request for incentive treatment within an application.

The ability to alter or change incentives may not be used to allow a variance from the standards of this Section or this Ordinance overall. An ordinance establishing or modifying available incentives shall not take effect until 45 days after adoption and publication, and shall not apply to any applications filed with the City prior to the effective date. The ordinance creating incentives may, at the City Council's discretion, provide a method for an applicant to propose an incentive as part of a development application in lieu of only seeking a modification of dimension or placement standards through amendment or variance.

9.3 Placement of Subzones and Integration with Neighboring Zones

9.3.1 The Gateway district is composed of four sub-zones:

A) Neighborhood Edge

B) Neighborhood General

C) Neighborhood Mixed-Use

D) Neighborhood Center

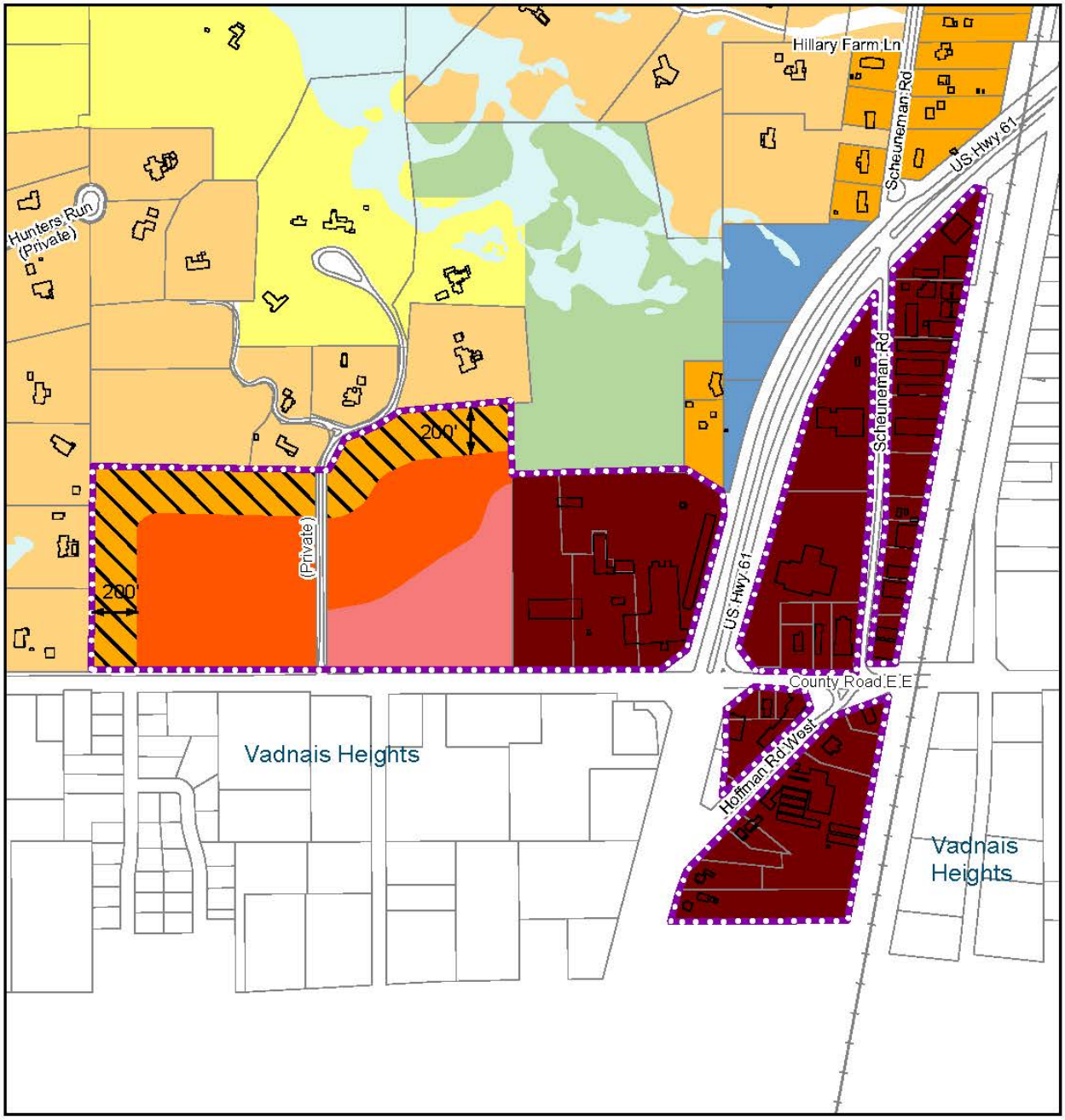
9.3.2 Mapping requirements. The City Council shall assign the sub-zones to land included within the Gateway District. The Council shall assign land to each sub-zone without reference to existing lot lines or tax parcels contained within the Gateway District. In assigning land to sub-zones, the Council shall at a minimum:

A) assign all land lying within 200 feet of a developed parcel zoned Estate Residential (RE) or Executive Residential (RX) as Neighborhood Edge; and

B) not assign any land lying within 450 feet of a developed parcel zoned Estate Residential (RE) or Executive Residential (RX) as Neighborhood Center.

City of Gem Lake

Gateway Zone
Sub Zones Map



N
W E
S

SEP 2017

0 300 600 1,200 Feet

Source: Gem Lake, Ramsey County GIS, Mn/DOT, and SEH Inc.

LEGEND

- Gateway and Village Center Mixed Use *Requires Master Planning and PUD*
- Neighborhood Edge (NE)
- Neighborhood General (NG)
- Neighborhood Mixed Use (NMU)
- Neighborhood Center (NC)

SEH

Figure 1

9.4 Thoroughfare standards. Streets, sidewalks and other pedestrian or bicycle ways within dedicated rights-of-way shall be considered and designed together as "thoroughfares." The street and pedestrian circulation system in any development plan shall be used to organize and define the community, acting as functional and visual links between neighborhoods, the neighborhood center, civic and commercial areas and open space. The circulation system shall be based on a defined, interconnected network to provide adequate traffic capacity, provide connected pedestrian and bicycle routes, control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the community.

9.4.1 General street design principles. The following principles should be followed in street layout and design:

A) Local street lengths should be short.

B) Streets should be designed with gentle curves and changes in grade to break the sight line of the road into smaller visual elements and cause drivers to slow down.

C) Traffic calming features such as curb extensions, traffic circles, and medians should be used to encourage slow traffic speeds.

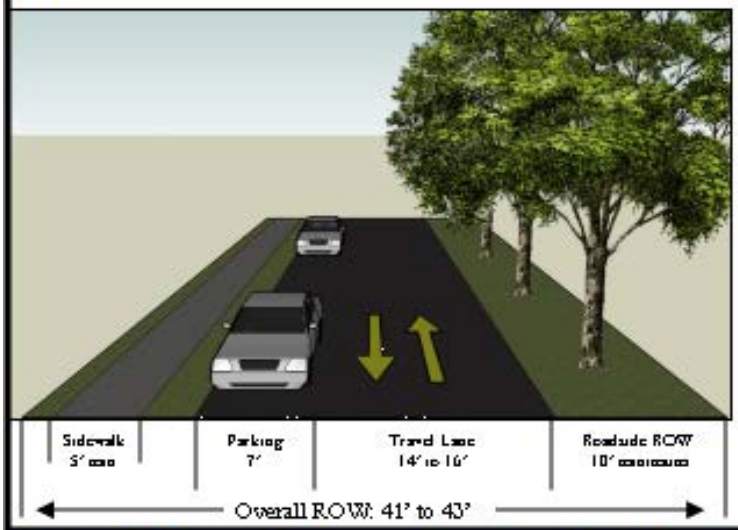
9.4.2 Thoroughfare Types Permitted by Subzone. The thoroughfare design in a given area of the Gateway District is determined in part by the subzone to which the land is assigned. Right-of-way dedication and the use of the right-of-way is set forth in the Thoroughfare Type diagrams at Figures 2 and 3. The presence of trees within a diagram indicates a requirement to plant "street trees" within the indicated area. A development plan's thoroughfares shall comply with the dimensional and layout standards applicable to each thoroughfare type. The following Thoroughfare Types are allowed in each sub-zone:

i) Neighborhood Edge: A, B, Alley;
ii) Neighborhood General: A, B, C*, Alley, Boulevard
(Type C only allowed within 250' of Mixed-Use sub-zone boundary);
iii) Neighborhood Mixed-Use: C, D, Alley, Boulevard;
iv) Neighborhood Center: D, Alley, Boulevard; Scheuneman Road and Hoffman Road should be treated as Type D thoroughfares in plans.
(May also propose a Plaza with a thoroughfare as regulated by Figure 5).

NOTE: County Road E and Highway 61 are not included within these Thoroughfare Types and should not be used or depicted as "frontage" for any Building Type when using this Code.

Figure 2: Light-Use Thoroughfare Types

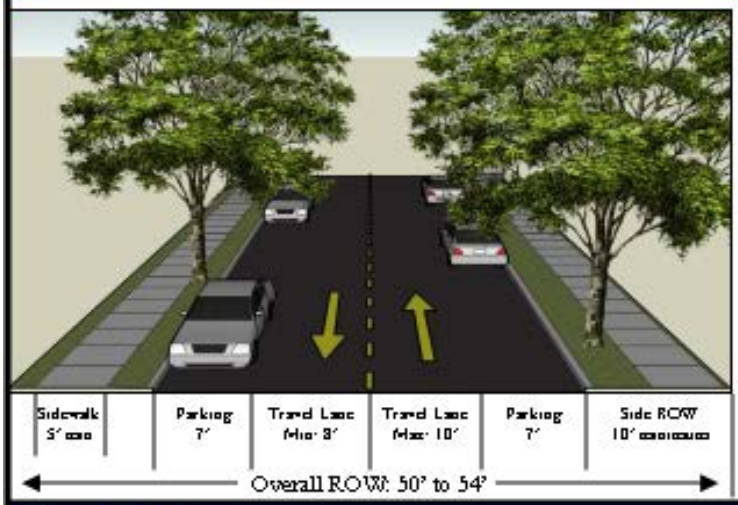
Type A: Residential Access Lane



Average Daily Traffic: Less than 250

Travel Lanes:	1, 14' - 16'
Parking:	Parallel, one or both sides
Sidewalks:	One or both sides, 5' minimum May not cover side ROW
Curb/Gutter:	None.

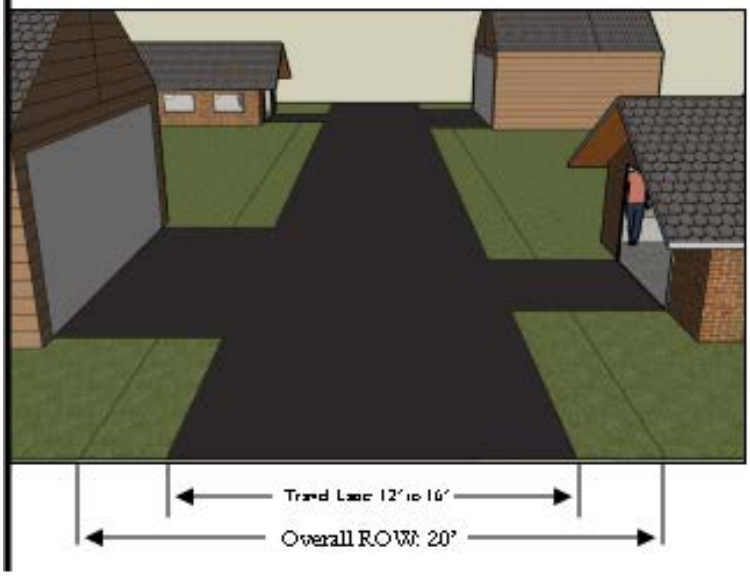
Type B: Low-Volume Residential Street



Average Daily Traffic: 250—750

Travel Lanes:	2, 8' - 10'
Parking:	Parallel, both sides
Sidewalks:	Both sides, 5' minimum May not cover side ROW
Curb/Gutter:	None required.

Type: Alley

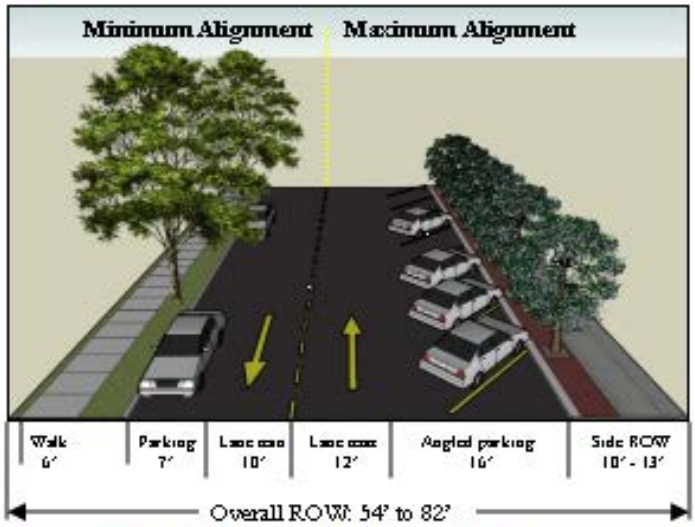


Runs behind lots and buildings to provide off-street parking, loading, utility and waste-hauling access.

Travel Lane:	12' to 16'
ROW:	20'
Curb/Gutter:	Inverted curb for asphalt; None for concrete

Figure 3: Medium-Use Thoroughfare Types

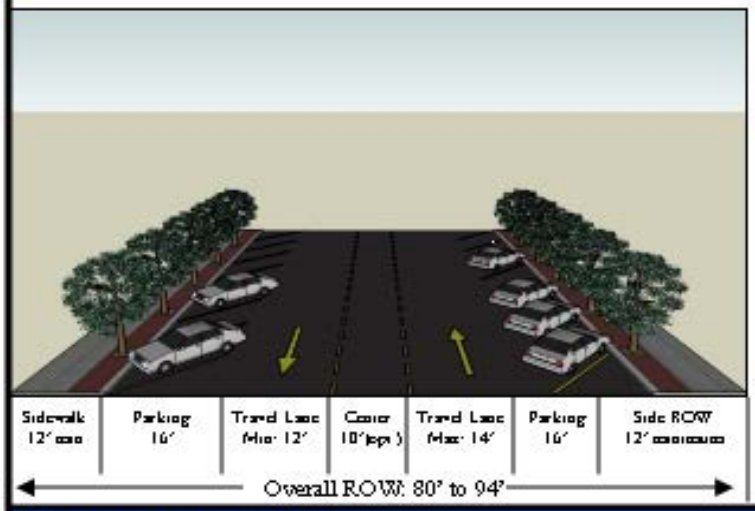
Type C: Medium Volume Residential Street



Average Daily Traffic: 750—1500

Travel Lanes: 2, 10' - 12'
Parking: Both sides, parallel or angle
Sidewalks: Both sides, 6' minimum
May cover side ROW
Curb/Gutter: Required for fully paved side ROW, optional if grass or permeable surface used for parking lane and/or side ROW.

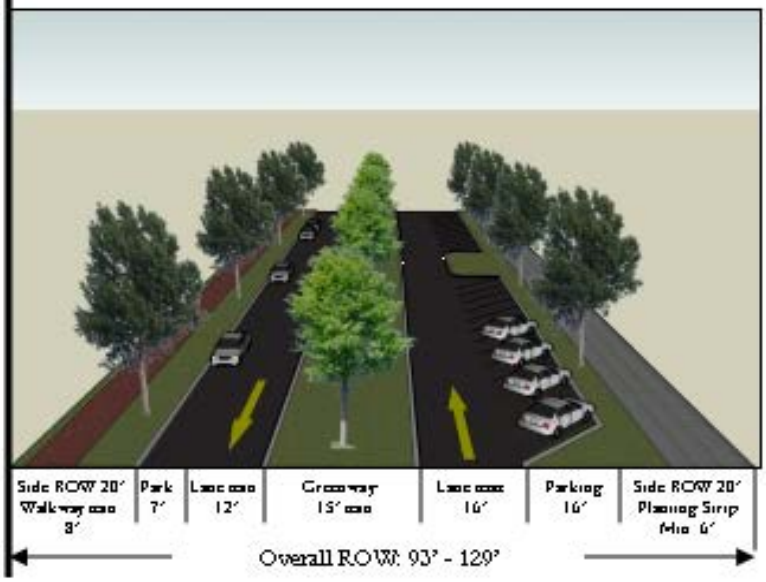
Type D: Medium-Volume Commercial Street



Average Daily Traffic: 750+

Travel Lanes: 2-3, 12' - 16' with optional 10' center turn lane
Parking: Both sides, angle
Sidewalks: Both sides, 12' minimum
Must cover side ROW
Curb/Gutter: Required; pedestrian bump-outs required at intersections (see Boulevard diagram)

Type: Boulevard



Non-roadway portions considered Civic Space.

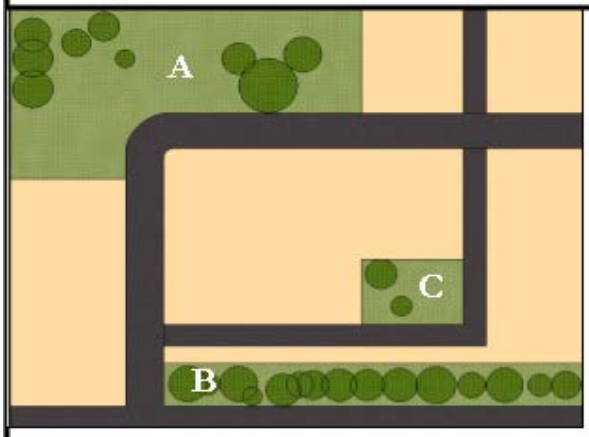
Average Daily Traffic: 750+

Travel Lanes: 2-3, 12' - 16' with optional 10' center turn lane
Parking: Both sides, angle
Sidewalks: Both sides, 12' minimum
Must cover side ROW
Curb/Gutter: Required only when side ROW more than 50% impervious surface. Pedestrian bump-out required at intersections and every 150' for angle parking.

9.5 Civic Space Standards.

The City of Gem Lake's visioning plan requires well-planned and functional open spaces, preservation areas, parks and gathering places, which are generally referred to in this Section as "civic space." An application's development plan shall dedicate or otherwise set aside sufficient land for public civic space. At a minimum, 10% of the total acreage in development shall be identified on the plans as Civic Space. The acreage of wetlands protected by state statute and any wetland buffer required by a governing watershed district shall be excluded from calculations of "total acreage in development" and from the calculation of the 10% dedication to civic space. A Civic Space shall conform to one or more of the Civic Space Templates at Figures 4 and 5. The Civic Space Type used to design a given Civic Space shall be indicated on any plan or diagram intended to show compliance with this section.

Figure 4: Civic Spaces

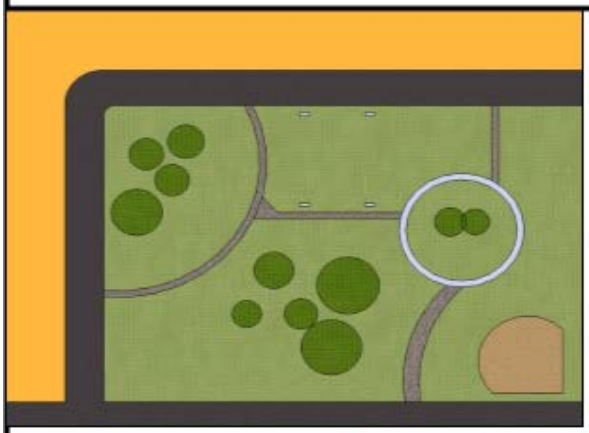


A. Passive Open Space
B. Preserved Tree Line
C. Green/Small Park

A. **Passive Open Space**. The concentration of open spaces which separates more urbanized areas from less dense residential and naturalized areas. This open space has no required features but may contain environmental preserves, paths and trails, and open shelters, all naturalistically disposed.

B. **Preserved Tree Line**. Area used to preserve tree lines indicated on the City's Existing Land Use Plan or areas with pre-existing tree screening of 50% opacity or greater.

C. **Green/Small Park**. An open space available for recreation and neighborhood gathering. Area may be unimproved or used for playground, community garden, pergola, picnic areas, or similar park activities. The civic space is defined by at least one through street and should be accessible via sidewalk or path.



D. Neighborhood Park

A larger open area available for recreation, which may include facilities for structured activities such as athletic fields or courts (limited to 40% of space). The landscape shall provide paved paths and trails, and some combination of open lawn, trees, and open shelters.

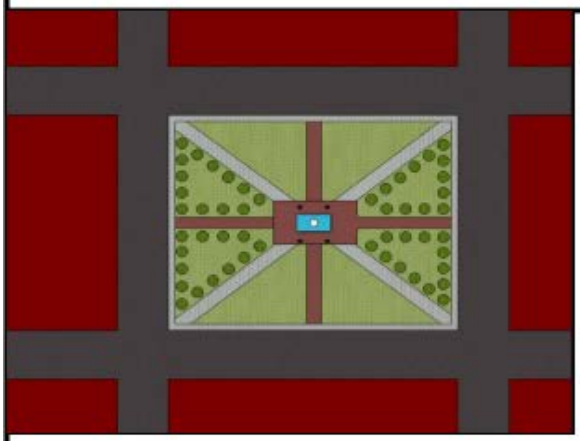
Park Type	Area (acres)		Min. Streets Fronting Park	Type Streets Fronting Park
	Min.	Max		
N'hd Park	.3	5	2	B, C, Blvd

9.5.1 No cash payment in lieu of civic space may be approved for applications within the Gateway District.

9.5.2 The minimum width required for any Building Type under Figures 6 through 15 may be reduced by up to 30% if the area which would have been contained within that building lot before the reduction is transferred to a Civic Space located within 1/4 mile of the lot.

9.5.3 For Civic Spaces which include at least one automotive traffic lane or access, the area of the traffic lane or access is not applied toward the 10% minimum requirement. Areas within the Civic Space, areas within a thoroughfare or shared parking can apply toward the requirement if designed in conformity with applicable Thoroughfare or Building Type templates and the Parking regulations in Section 9.9.

Figure 5: Civic Spaces



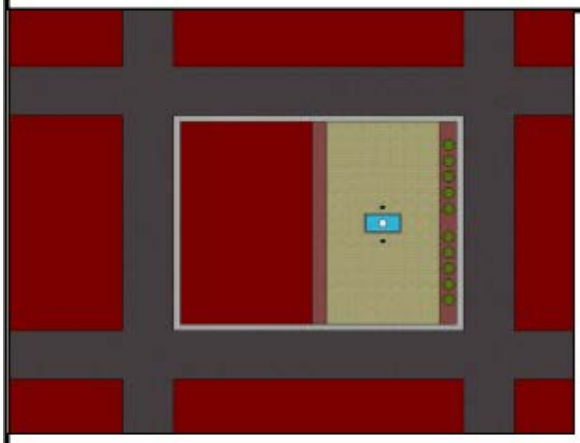
E. Square

An open space, available for unstructured recreation and civic purposes. A square is spatially defined by roadway and building frontages. Its landscape shall consist of paved paths, lawns and formally arranged trees. The paved paths within the square shall be distinguishable from surrounding sidewalks and streets by choice of materials and design.

Improvements such as fountains, pergolas, bandshells, kiosks and pedestrian amenities such as benches may be installed within the square.

Buildings adjacent to or across the street from the square shall treat the square (or street shared with the square) as the building's primary frontage.

Angle parking on at least two of the streets fronting the square is encouraged to provide additional on-street parking for nearby buildings.



F. Plaza

An open space, available for civic purposes and commercial activities. A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement and formally arranged trees. Materials used to pave the plaza shall be different than the adjacent sidewalk and street, and should complement the colors used in nearby buildings. It shall be located near the intersection of important streets. The plaza itself may be configured as a street, with a single travel lane no wider than 14' placed between pedestrian-only walkways of at least equal width..

Improvements such as bandshells or similar public gathering spaces are permitted. Benches and similar pedestrian amenities shall be installed.

Adjacent buildings shall treat the plaza as the primary frontage. When approved as part of a Development Plan, a portion of the plaza shall be designated as available to commercial uses which front the plaza (such as outdoor seating for restaurants).

Park Type	Area (acres)		Min. Streets Fronting Park	Type Streets Fronting Park
	Min.	Max		
Plaza	0.1	1	1	D, Blvd.

9.6 Building Type Standards.

9.6.1 New construction in the Gateway District shall conform to one of the following Building Types:

A) Single Family Detached House (Figure 6)

B) Single-Family Attached Housing

1. Twin Home (Figure 7)

2. Townhouse/Rowhouse (Figure 8)

C) Apartment/Condominium (Figure 9)

D) Bungalow Court (Figure 10)

E) Live/Work Unit (Figure 11)

E) Mixed Use Building (Figure 12)

F) Commercial

1. Retail/Office Building (Figure 13)

2. Single Use Building (Figure 14)

a. With Liner Building (Figure 14a)
b. With Collar Uses (Figure 14b)

3. Auto-Oriented Layout (Figure 15)

9.6.2 Use of Building Type Templates. Figures 6 through 15 contain all regulatory information governing the dimensions of lots and the dimensions, setbacks, height, mass, placement and use of buildings in the District. The City's review of a development application shall primarily apply the information contained in the applicable Building Type Templates. Terms and concepts used within the Building Type Templates are further defined as follows:

A) Frontage Street. The Thoroughfare Type on which the Building Type may be placed. The building must be oriented toward the frontage street and have its primary entrance on the permitted frontage street, unless an alternative is allowed by the terms of the Building Type chosen. "Width" is measured along frontage street; "depth" measured perpendicular to the frontage street. For purposes of placing buildings, Highway 61 and County Road E are not frontage streets, and the property boundary with those roads' rights-of-way should be aligned as the rear lot line to the greatest extent possible. Parking lots may abut the Highway 61 or County Road E rights-of-way, subject to the landscaping requirements of the Gem Lake Landscaping Ordinance.

B) Height by Story. The permitted height of any building is determined by the number of stories allowed and built. The height of each story is determined by the space between the upper surface of any floor and the upper surface of the floor next above, or the ceiling (peaked roof) or roof (flat roof) above for top stories. A story must have a minimum height of 12 feet and a maximum height of 15 feet; buildings with assigned ground-floor retail and commercial shall have a ground-floor height of at least 15 feet and no more than 20 feet. The top of a peaked roof is limited to the average story height of the building, measured from the ceiling of the topmost floor to the highest gable of the roof. Half-stories (finishing the space, if any, between the roof and the topmost full-story ceiling) are permitted for all building types in all subzones.

C) Building types with specified height limits shall be measured from the average elevation of the sidewalk on which the building's primary entrance is located and the coping of a flat roof or the deck line of a mansard roof.

D) Basements. All building types are permitted to have basements if it is technically feasible to build basements on the chosen building site. A walk-out basement is considered a "story" for height regulation, but other kinds of basements are not counted against the height of the building.

E) Footprint. The building footprint is the area occupied by the horizontal projection of the building's first floor, excluding the floor area of attached garages and porches or decks built as allowed encroachments into setbacks. Within the building envelope defined in the Building Type Template, the horizontal projection of upper floors may not extend more than ten feet in any direction over the footprint, except for portions of the upper floor built directly over an attached garage.

F) Mass, Ratio. When used on a Building Type Template, the percentages listed in the Mass table define the maximum area allowed the horizontal projection of one floor in relation to the area of the horizontal projection of the building footprint and attached garage, if any.

G) Building Placement Diagram. The diagram on each Building Type Template provides regulatory information on the setbacks, build-to lines (lines on which some or all of the building façade must be placed), the "building envelope" in which the footprint may be placed, frontage types, permitted encroachments of porches, decks and balconies, placement of accessory structures, and other items which regulate the built environment on a given lot.

9.6.3 Combination of Building Types on Single Lot. The Building Type templates regulate lot size, but it is not required that each building be on a separately conveyed lot. If multiple building types are proposed, the dimensional standards should be applied as though the lot were being divided. Any total surface coverage or building footprint standards may be combined among all of the buildings included on a particular lot.

9.6.4 New Building Types. New building types may be proposed in the manner of other amendments to the Zoning Code using the procedure in Section 17.6 of this Ordinance. A proposal must contain all information included in existing analogous Building Types, including but not limited to the dimensional standards, use designations, and frontage requirements.

9.6.5 Use Regulation in the Gateway District. The Gateway District's regulatory focus is first upon the form of each building and its relation to the surrounding environment. This section regulates the use of space within buildings, except to the extent that any structure or land use existed as a legally nonconforming use prior to the adoption of this Section, as a matter secondary to the built form. The use of land in the District is regulated by the Building Type Templates and is directly related to the building form.

A) General Terms and Permitted Uses. The Building Type Templates assign categories of uses to certain floors of a building. When multiple use categories are listed and separated by a slash (such as "office/retail"), the uses may be combined on the floor at the discretion of the owner or occupant of the building. When multiple use categories are stated as alternatives (such as "office or residential") the floor may only be assigned one category of use, at the discretion of the owner or occupant of the building. Building Type Templates may also contain specific exclusions or limitations which modify the application of a use category to the particular building. The categorical terms are defined as follows:

Residential - Premises for long-term human dwelling.

Office - Non-residential premises used for administrative, clerical, professional or similar activities. Office as used in this section includes medical and dental offices used by five (5) or fewer medical principals (doctor, dentist, chiropractor or similar professional).

Retail - Premises for the sale of merchandise and food service. For purposes of this Section, banks with teller service are considered "retail" instead of "office." Athletic clubs and fitness centers that are not the primary use of the building space are considered a "retail" use. Certain personal service businesses are considered "retail" if not the primary use of a building: barbershop/beauty salon; clothing rental and dry cleaning pickup (but not on-site processing); and tailor shops.

Commercial - Premises for the conduct of the following activities, which are not included within the meaning of "office" or "retail" for purposes of this Section: Athletic club/fitness center (when primary or only use of building space); business school or trade school; veterinary clinic; funeral home; hotel; recreational primary use (such as a bowling alley); cabinet and carpentry shops, heating, plumbing or electrical sales and service; printing shop, upholstery shop, warehousing. Conditional uses of space assigned as "commercial" are: automotive repair and service (including gas stations); car wash; light industrial uses which manufacture, process, store and distribute foods and materials not likely to create offensive noise, odors, vibrations, dust smoke, heat, glare or other objectionable influences and are in general dependent upon raw materials refined elsewhere.

Figure 6: Single Family Detached House

Definition: One dwelling unit on its own lot, detached from other adjoining lots. It may have an attached or detached garage, and an accessory unit to the rear of the property.

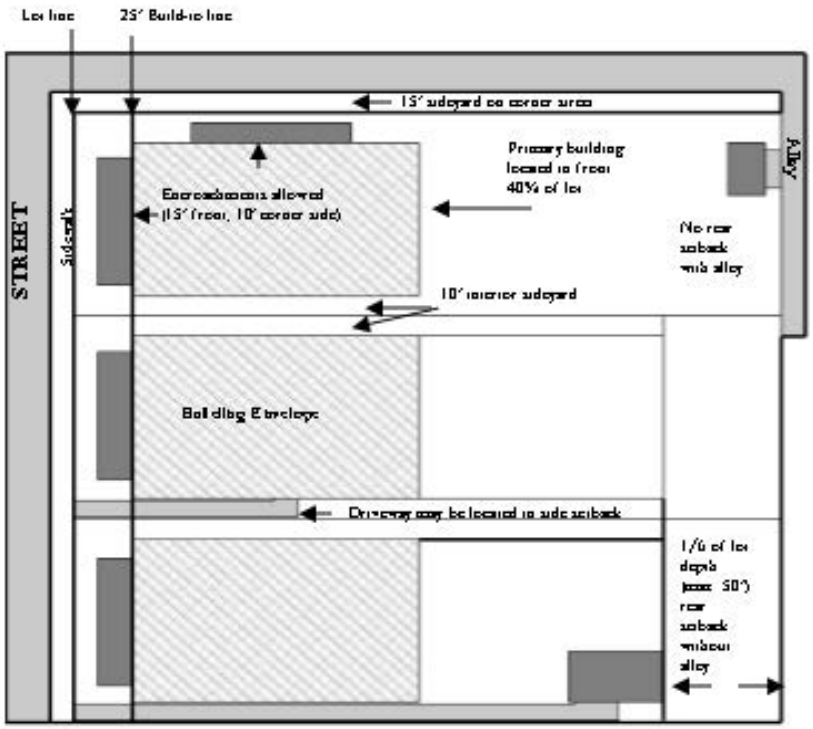
Lot Size and Placement:

Lot Width:	200' minimum, no maximum
Width/Depth:	1:1 minimum, no maximum
Frontage Street::	Type A or Type B
Alley:	Permitted, not required
Parking:	2 off-street spaces (street parking not applicable)
Total impervious Surface coverage:	40%

Building Disposition

Building Footprint:
Footprint: lesser of 10% of lot or 2,500 sf

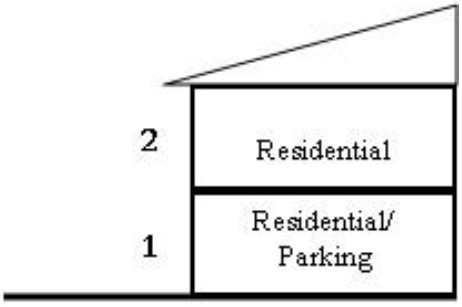
Building Placement and Relation to Streets:





Height and Use

Minimum Height: 1 story
Maximum Height: 2 stories



Modifications and Exclusions:

Building may have attached or detached garage of up to 800 sf as part of initial proposal or by separate building permit approval. Larger garages may be approved by CUP. Lots for this type may have a separate shed in addition to any garage, up to 200 sf, without need for any permit approval. Larger sheds (up to 1,000 sf) may be approved by CUP.

May apply to use building for Bed & Breakfast as a conditional use in Neighborhood General subzone.

See Figure 16 for full list of accessory and conditional uses associated with this Building Type.

Figure 7: Twin Home

Definition: A structure with two dwelling units sharing a common wall or stacked one over the other, architecturally presented as a larger single-family house in a typical neighborhood setting.

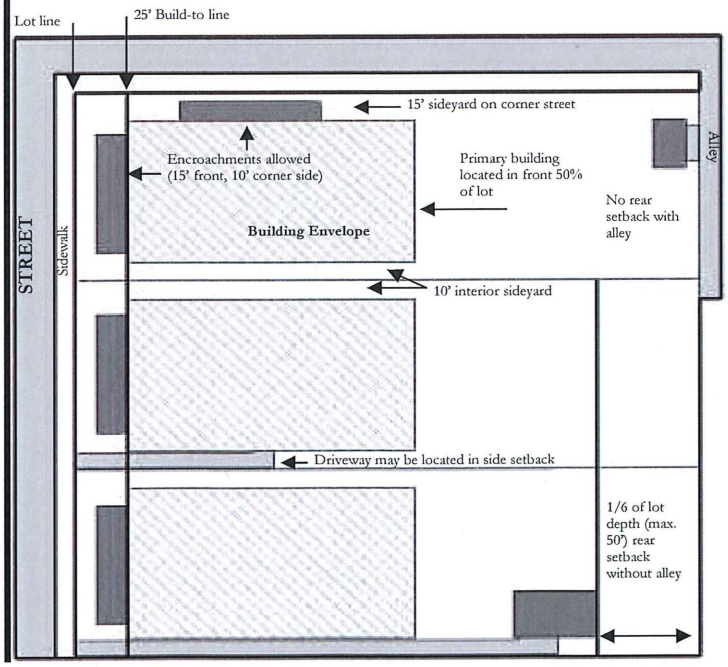
Lot Size and Placement:

Lot Width:	150' minimum, no maximum
Width/Depth:	1:1 minimum, no maximum
Frontage Street:	Type B or Type C
Alley:	Permitted, not required
Parking:	2 off-street spaces per unit (street parking not applicable)
Total impervious Surface coverage:	40%

Building Disposition

Building Footprint:
Footprint: lesser of 15% of lot or 3,000 sf

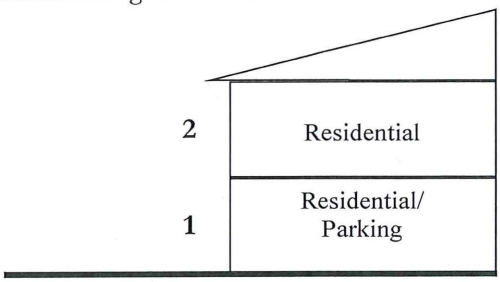
Building Placement and Relation to Streets:





Height and Use

Minimum Height: 1 story
Maximum Height: 2 stories



Modifications and Exclusions:

Not authorized in Neighborhood Edge.

Building may have attached or detached garage of up to 800 sf as part of initial proposal or by separate building permit approval. No larger garage is permitted with this type. Property may have a separate shed of up to 200 sf without need for any permit approval. A larger shed may be approved by CUP in the Neighborhood General subzone only.

May apply to use building for Bed & Breakfast or for unassisted Senior Housing as a conditional use.

See Figure 16 for full list of accessory and conditional uses associated with this Building Type.

Figure 8: Townhouse/Rowhouse

Definition: An individual structure on a parcel with a rear yard and individual (standalone or tuckunder) garage accessed from an alley, occupied by one primary residence in an array of at least three such structures side by side along the common frontage.

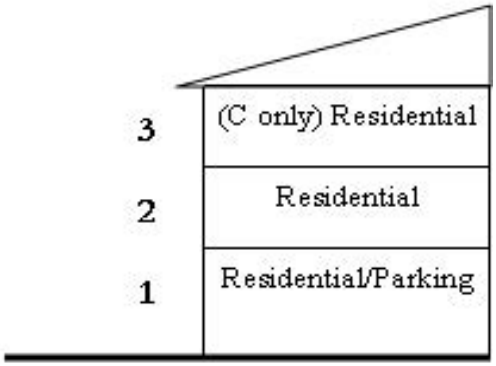
Lot Size and Placement:

Lot Width:	30' minimum, 80' maximum (see below for courtyard lot)
Width/Depth:	No set ratio
Frontage Street:	Type B or Type C
Alley:	Required
Parking:	2 off-street spaces per unit (street parking not applicable)
Total Impervious Surface Coverage:	75%



Height and Use

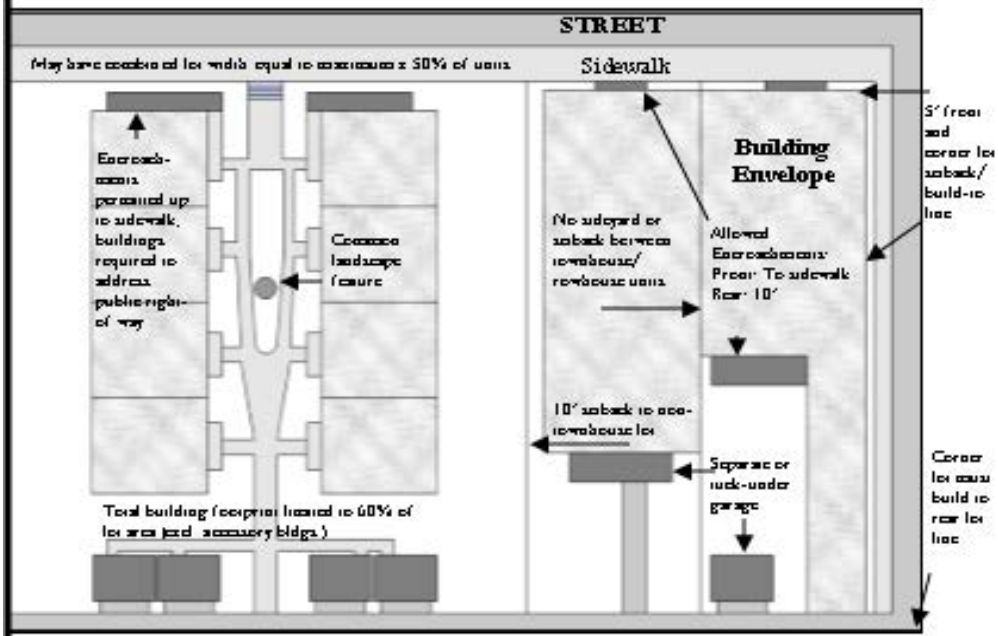
Minimum Height: 2 stories
Maximum Height: B: 2 stories
C: 3 stories



Building Disposition

Building Footprint:
Footprint: limited to of 70% of lot

Building Placement and Relation to Streets:



Common Yard Arrangement **Separate Lot Arrangement**

Modifications and Exclusions:

Not authorized in Neighborhood Edge subzone.

Building may have attached or detached garage of up to 800 sf as part of initial proposal or by separate building permit approval. Property may have a separate shed of up to 200 sf without need for any permit approval.

May apply to use building for Bed & Breakfast or for unassisted Senior Housing as a conditional use.

See Figure 16 for full list of accessory and conditional uses associated with this Building Type

Figure 9: Apartment/Condominium

Definition: A structure with more than two dwelling units on a single lot.

Lot Size and Placement:

Lot Width:	125' minimum, 200' maximum
Width/Depth:	4:1 minimum, 1:4 maximum
Frontage Street:	Type C or Type D
Alley:	Required
Parking:	2 off-street spaces per unit (street parking not applicable)
Total Impervious Surface Coverage:	70%



Height and Use

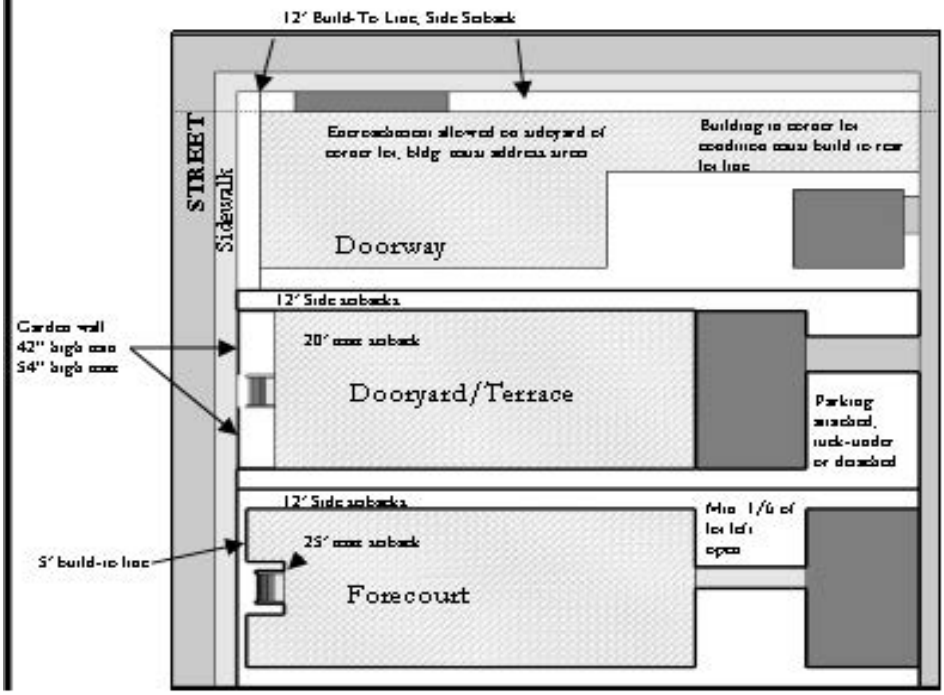
Minimum Height:	2 stories
Maximum Height:	C: 3 stories D: 4 stories

4	(D only) Residential
3	Residential
2	Residential
1	Residential/Parking

Building Disposition

Mass Scenarios (In Stories)	Max. Ratio of Each Story (see 9.6.2(F))				
	2	3	3.5	4	4.5
3.5 or less	100%	100%	55%		
4	100%	100%	—	85%	
4.5	100%	100%	—	95%	55%

Building Placement and Relation to Streets:



Modifications and Exclusions:

Building in Neighborhood General subzone may have additional residential features such as separate sheds for residents.

May use building for unassisted Senior Housing without city approval, or as an assisted-living facility as a conditional use.

See Figure 16 for full list of accessory and conditional uses associated with this Building Type

Figure 10: Bungalow Court

Definition: Four or more smaller standalone homes around a shared central court or walk on a single lot, with pedestrian access to the street.

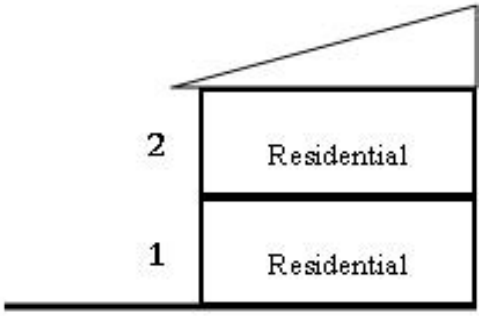
Lot Size and Placement:

Lot Size:	.1 acre minimum per unit
Lot Width:	100' minimum, no maximum
Depth/Width:	no set ratio required
Frontage Street:	Type C, Boulevard
Alley:	Required
Parking:	2 off-street spaces per unit (street parking not applicable)
Total Impervious Surface Coverage:	50%



Height and Use

Minimum Height:	1 stories
Maximum Height:	2 stories



Modifications and Exclusions:

Building may provide detached garage of up to 800 sf per unit as part of initial proposal or by separate building permit approval. Larger garages may be approved as part of initial development proposal. Lots in Neighborhood General may have a separate shed in addition to any garage, up to 200 sf, without need for any permit approval.

May apply to use one or more units for Bed & Breakfast (mixed-use subzone only) or as an assisted-living facility as a conditional use.

See Figure 16 for full list of accessory and conditional uses associated with this Building Type.

Building Disposition

Building Footprint:
Footprint: min 750 sf, max 1,500 sf per unit.

Building Placement and Relation to Streets:

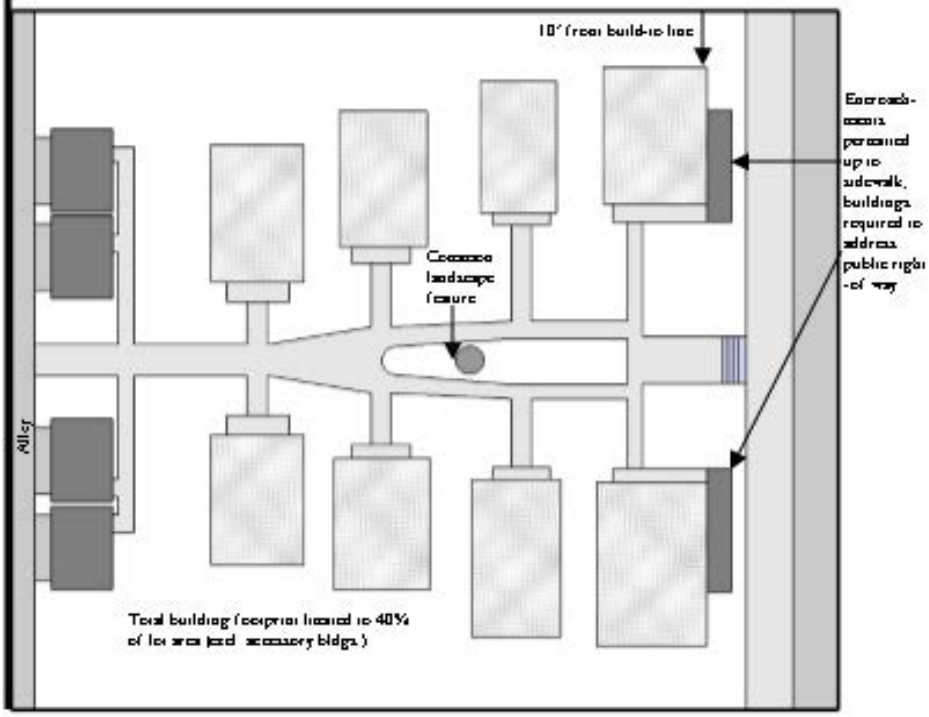


Figure 11: Live/Work Unit

Definition: Integrated rowhouse-style dwelling unit and ground floor working space, consisting of at least 3 units arrayed side-by side along the primary frontage.

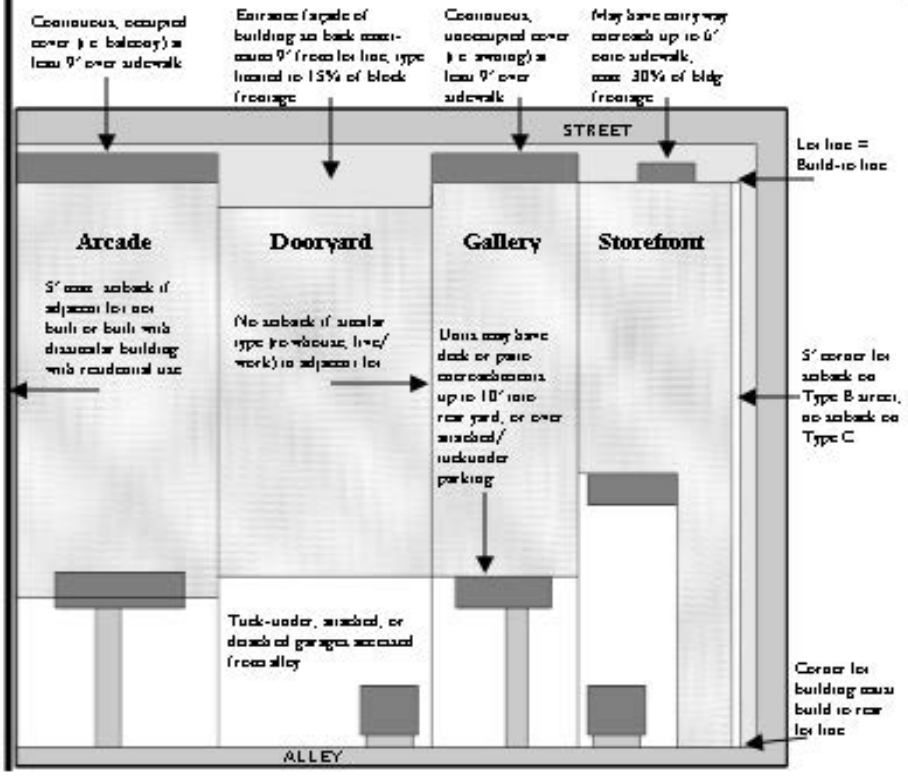
Lot Size and Placement:

Lot Width:	30' minimum, 80' maximum
Width/Depth:	No set ratio
Frontage Street:	Type B, Type C, Boulevard
Alley:	Required
Parking:	2 off-street spaces per dwelling (street parking not applicable) 2 spaces per 1000 sf office uses 4 spaces per 1000 sf retail uses
Total Impervious Surface Coverage:	75%

Building Disposition

Building Footprint:
Footprint: limited to 70% of lot

Building Placement and Relation to Streets:





Height and Use

Min. Height:	2 stories
Max. Height:	B: 2 stories C/Blvd: 3 stories
Office/Retail:	400 sf min., entry from street frontage req'd.

3	Residential (C/Blvd Only)
2	Residential
1	Res./Retail/ Office/Parking

Modifications and Exclusions:

Not authorized in Neighborhood Edge subzone.

Retail use of first floor space is only allowed with building frontage on a Type C street or Boulevard in the Neighborhood Mixed-Use subzone.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type

Figure 12: Mixed Use Building

Definition: A structure with a vertical mixture of uses. The upper floors may be used for office or residential uses and the ground floor may be used for office or retail.

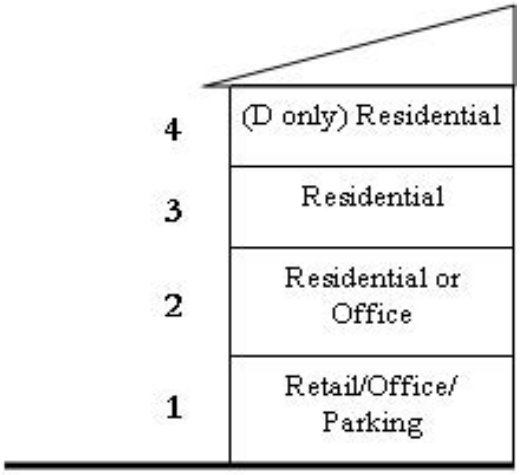
Lot Size and Placement:

Lot Width:	150' minimum
Width/Depth:	4:1 minimum, 1:4 maximum
Frontage Street:	Type C, Type D, Boulevard
Alley:	Required
Parking:	2 off-street spaces per dwelling (street parking not applicable) 2 spaces per 1000 sf office uses 4 spaces per 1000 sf retail uses
Total Impervious Surface Coverage:	80%



Height and Use

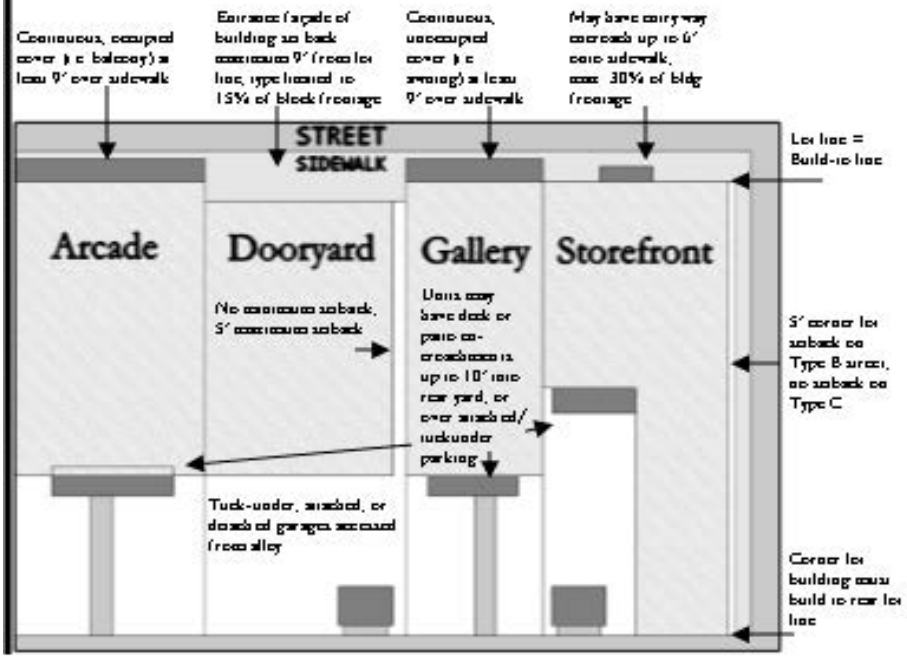
Min. Height:	3 stories
Max. Height:	C/Blvd: 3 stories D: 4 stories
Office/retail:	400 sf min.



Building Disposition

Mass Scenarios (In Stories)	Ratio of Each Story (see 9.6.2(F))			
	3	3.5	4	4.5
3 or 3.5	100%	55%		
4	100%	—	85%	
4.5	100%	—	95%	55%

Building Placement and Relation to Streets:



Modifications and Exclusions:

Residential component may be used as an assisted living facility as a conditional use, and restricted to senior housing community without permit.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 13: Retail/Office Building

Definition: A building designed for occupancy by retail and office uses where the building is intended for subdivision into tenant spaces, with no residential component. The building may have a primary user and smaller tenant spaces (as in a bank building with upper-floor office space for rent), but buildings intended for single-tenant use must use the Single-Use Building template at Figure 14.

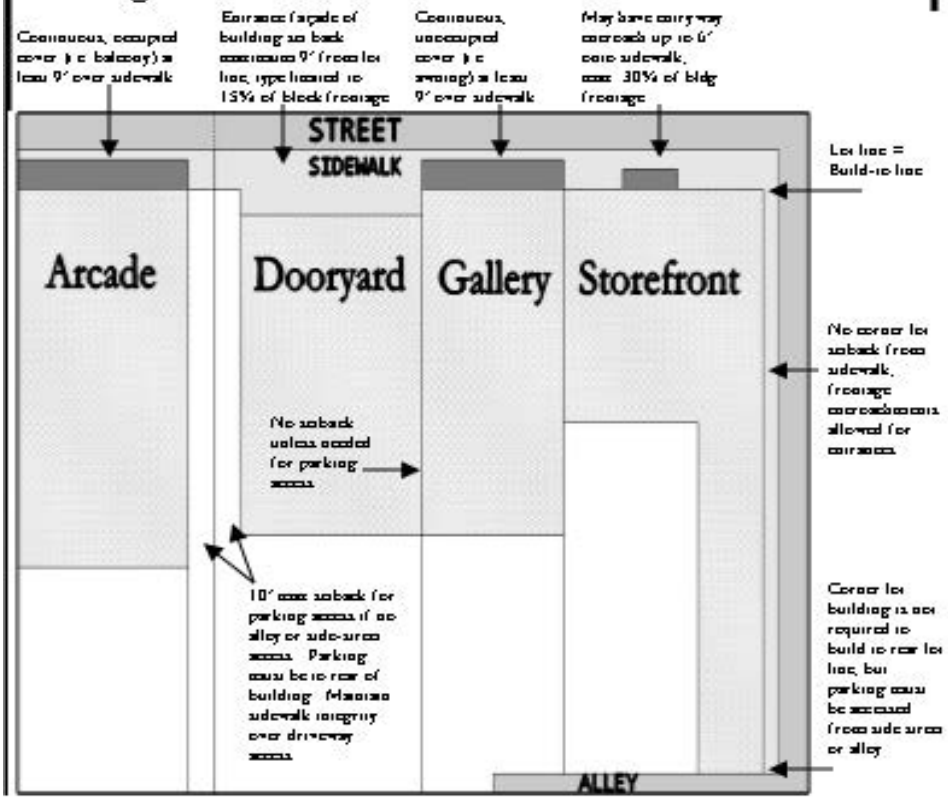
Lot Size and Placement:

Lot Width:	60' minimum, 200' maximum
Width/Depth:	1:4 minimum, 4:1 maximum
Frontage Street:	Type D, Boulevard
Alley:	Permitted, not required
Parking:	2 spaces per 1000 sf office use 4 spaces per 1000 sf retail use
Total Impervious Surface Coverage:	80%

Building Disposition

Building Footprint and Mass:
Footprint: Principal bldg maximum of 60% of lot area

Building Placement and Relation to Streets:





Height and Use

Minimum Height:	2 stories
Maximum Height:	3 stories

3	Office/Parking
2	Office/Retail/ Parking
1	Office/Retail/ Parking

Modifications and Exclusions:

May be oriented using Building Placement standards in Auto-Oriented Layout (Figure 15) when building is located in the Neighborhood Center subzone.

Building may have a deck or patio for common or individual tenant use in the Neighborhood Mixed-Use subzone by conditional use permit.

Surface parking lot landscaping is subject to the Gem Lake Landscaping Ordinance. A parking structure is permitted by CUP.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 14: Single-Use Building

Definition: A building designed for occupancy by retail, service or office uses on the ground floor with an optional mezzanine. May also be used as template for placing a standalone parking structure in a proposed development

Lot Size and Placement:

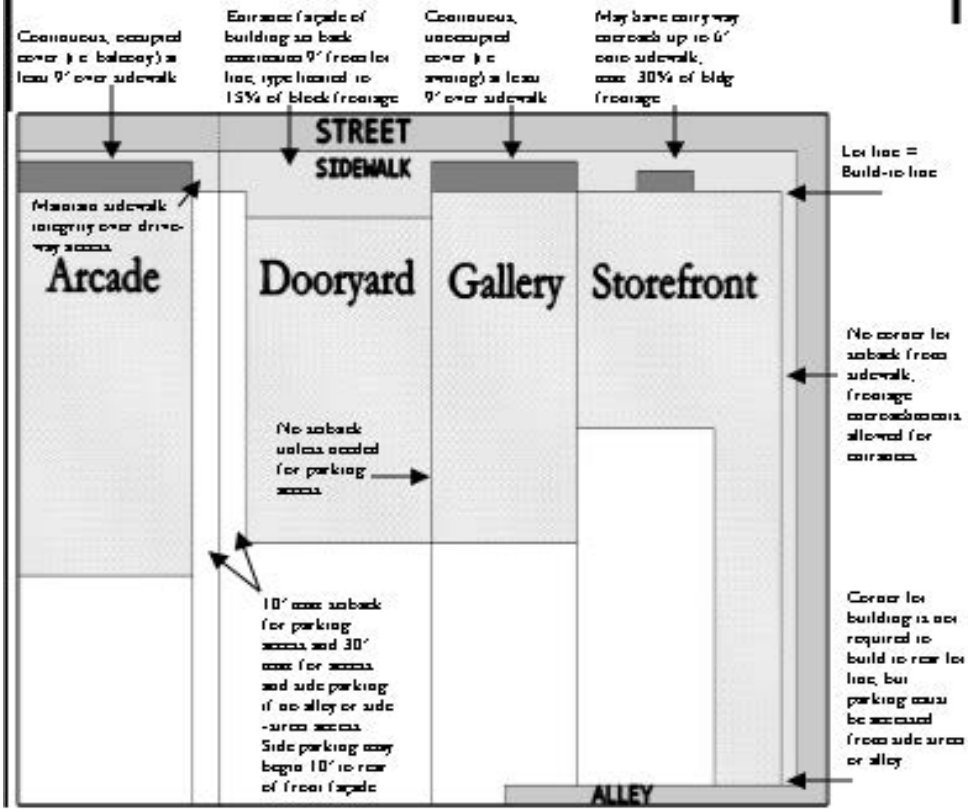
Lot Width:	60' minimum; 300' maximum
Width/Depth:	4:1 minimum, 1:4 maximum
Frontage Street:	Type D (w/o liner bldg)
Alley:	Permitted, not required
Parking:	4 spaces per 1,000 sf of retail 2 spaces per 1,000 sf of other
Total Impervious Surface Coverage:	80%



Building Disposition

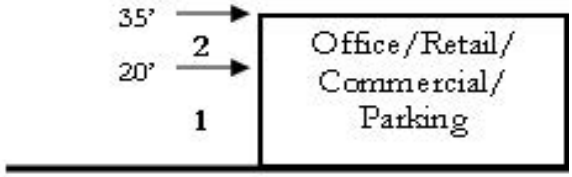
Building Footprint and Mass:
Footprint: maximum 60% of lot

Building Placement and Relation to Streets:



Height and Use

Maximum Height: 35 feet; for application of massing rule, portion of building over 20 feet is considered 2nd story.



Modifications and Exclusions:

Alternate placements and alignments are allowed by use of Liner Building (Figure 14a), Collar Building (Figure 14b), or Auto-Oriented Layout (Figure 15).

"Commercial" uses in any single-use building arrangement are allowed on sites east of Highway 61 only. A single-use building may not be used as an off-sale liquor store.

Outdoor storage and outdoor display and sales of merchandise or equipment may be approved as a conditional use.

Surface parking lot landscaping is subject to the Gem Lake Landscaping Ordinance. A parking structure is permitted by CUP.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 14a: Liner Building

Definition: A building that conceals from street view a Single-Use building for which it is impractical to design compliant front or side façades (such as a warehouse or a parking garage) . Liners may have retail or office uses on the ground floor and office or residential uses on the upper floors, if any are built.

Lot Size and Placement:

Lot Dimension: See Single-Use Building

Frontage Street: Type C, Type D, Boulevard

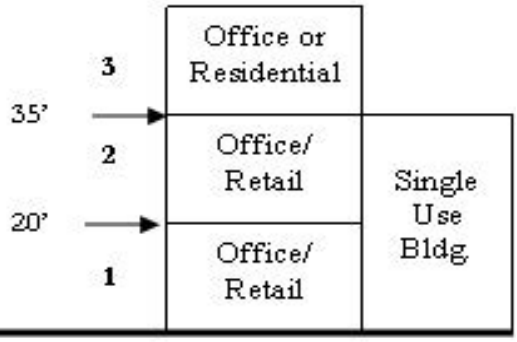
Alley: Permitted, not required

Parking: See Single Use Building;
2 spaces per residential unit if used
(on-street parking not applicable)



Height and Use

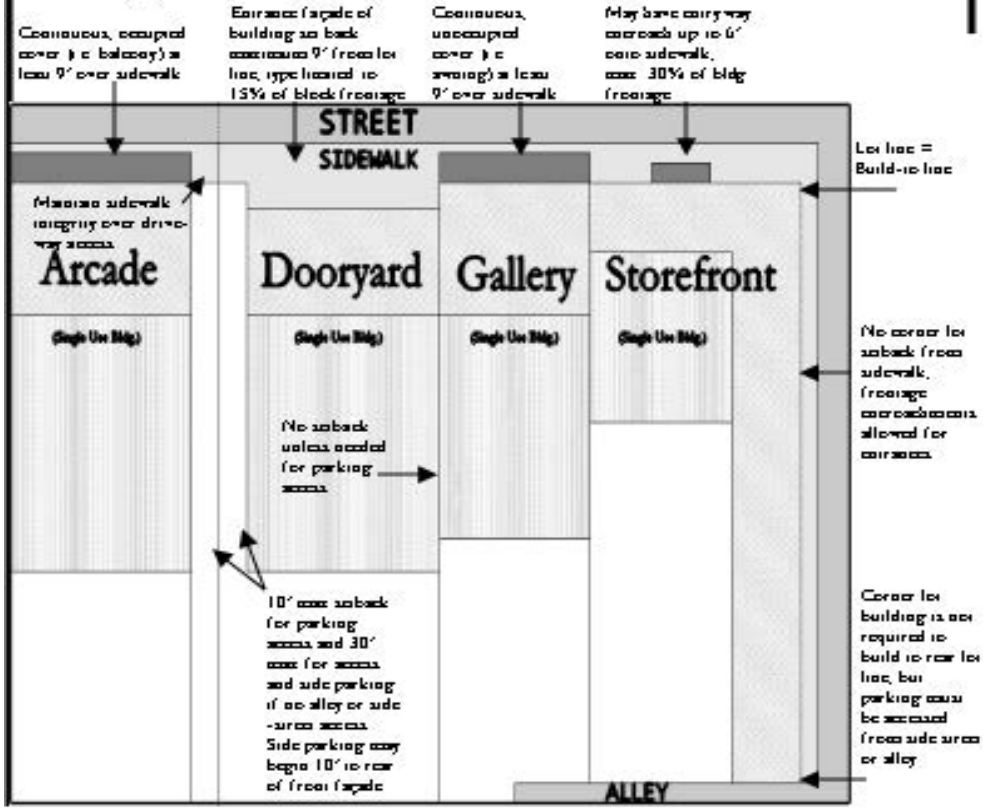
Minimum Height: Same as inner bldg.
Maximum Height: 1 story over inner single-use building.



Building Disposition

Building Footprint and Mass:
Footprint: within maximum footprint allowed to the Single Use Building on the site, no minimum/maximum size.

Building Placement and Relation to Streets:



Modifications and Exclusions:

Can only be constructed in connection with a single-use building. The liner building itself may be separated from the Single-Use Building by up to 20' to provide an access drive or pedestrian arcade, provided that the Single-Use Building remains shielded from street view.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 14b: Collar Building

Definition: Structure(s) accompanying a commercial use with large parking requirements, intended to maintain storefronts and entrances on the public street. A Collar Building configuration permits an exception to Design Standards, allowing the primary entrance of the Single-Use Building to face an interior parking lot instead of the frontage street. The Collar Building can be integrated with the Single Use Building, built with common walls, or separated by up to 20' for vehicle access or a pedestrian arcade. The side and rear facades of the Single-Use Building which are not screened from the street by the Collar Building must satisfy Design Standards applicable to side and rear façades.

Lot Size and Placement:

See single-use building

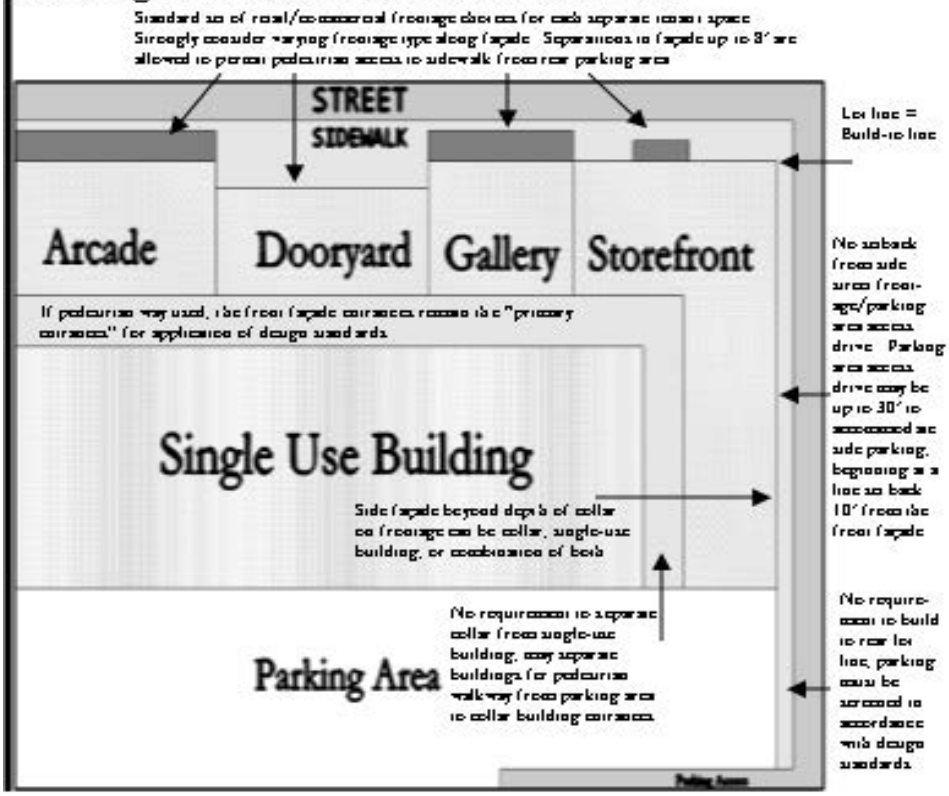
Parking: 2 spaces per 1,000 sf of retail/office space; any off-street space required should be shared with central single-use building parking

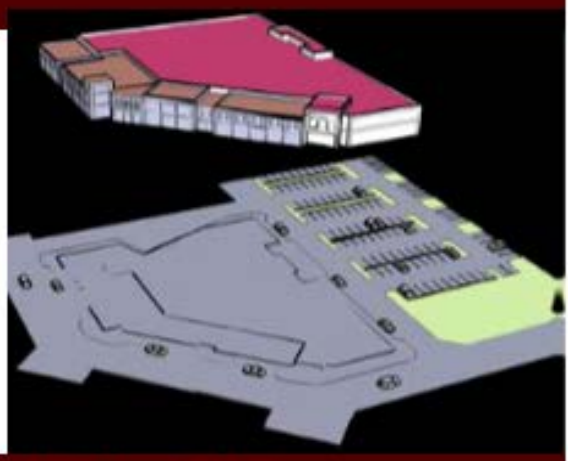
Building Disposition

Building Footprint and Mass:

Footprint: within maximum footprint allowed to the Single Use Building on the site, no minimum/maximum size.

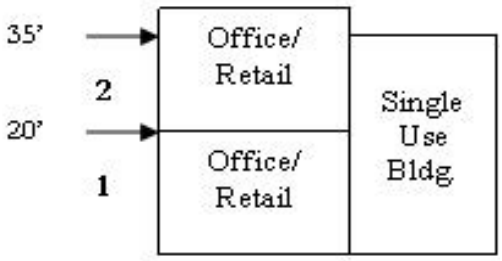
Building Placement and Relation to Streets:





Height and Use

Minimum Height: 1 story
Maximum Height: 5' over inner single-use building.



Modifications and Exclusions

Can only be constructed in connection with a single-use building.

The minimum height of a collar building is measured by use of a "story." However, the interior of the building is not required to have a second story floor in order to exceed 20 feet; the building (and individual tenant spaces within the building) may be open for its entire height.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 15: Auto-Oriented Layout

Definition: Alternative layout standard for Single-Use Buildings and Retail/Office Buildings designed and intended for occupancy by automotive service businesses using drive-through lanes, service bays, or a combination thereof.

Lot Size and Placement:

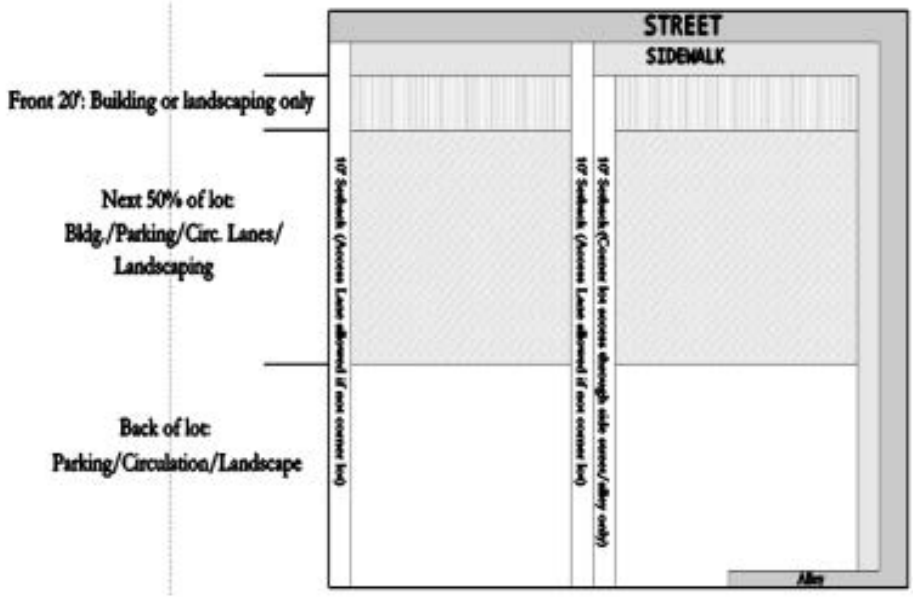
Lot Dimension:	See Template for building used..
Frontage Street:	Type D
Alley:	Permitted, not required
Parking:	See template for building used For automotive services: Greater of 1 space per 1,000 sf or 3 per service bay
Total Impervious Surface Coverage:	80%

Building Disposition

Building Footprint and Mass:
Footprint: See template for building used.

Building Placement and Relation to Streets:

As drive-through for permitted retail use, may use setbacks shown below for access, but otherwise must comply with applicable build-to line and façade rules for building type. For auto-specific uses, no specific build-to line for front or side facades. Front facades must comply with design standards (by itself or with use of liner building). Side facades may have service bay openings if set back 25' or more from sidewalk. Access drives must preserve integrity of sidewalk.





Height and Use

Maximum Height: See Type Template for applicable building.

Modifications and Exclusions:

Alternative layout in this Template is available through conditional use permit, either for an automotive-oriented use (such as auto repair or other auto services) or for a drive-through service window. A Retail/Office building type or Single Use Building with a Liner Building may employ this layout along any Type D thoroughfare; a proposed Single-Use Building standing alone or with a Collar Building may request this layout east of Highway 61 only.

See Figure 17 for a full list of residential and office/retail accessory and conditional uses associated with this Building Type.

Figure 16: Building Use Matrix: Residential Buildings and Lots

	SF Detached House		Twin Home		Townhouse/ Rowhouse		Apartment/Condominium			Bungalow Court	
	Edge	General	General	M-U	General	M-U	General	M-U	Center	General	M-U
Accessory Structures/Uses											
Garage, less than 800 sf	P	P	P	P	P	P	*	*	*	P	P
Garage, 800 sf or larger	CUP	CUP	*	*	1	1	P	P	P	1	1
Shed, less than 200 sf	A	A	A	A	A	A	A	*	*	A	*
Shed, 200-1000 sf	CUP	CUP	CUP	*	CUP	*	CUP	*	*	*	*
Storage of large vehicles	CUP	CUP	CUP	*	CUP	*	*	*	*	*	*
Deck or Patio	P	P	P	P	P	P	*	*	*	P	P
Pool, tennis court or similar	P	P	P	P	P	P	P	P	P	P	P
Conservatory/Greenhouse	P	P	P	P	P	P	*	*	*	CUP	CUP
Health/fitness facility	*	*	*	*	*	*	P	P	P	CUP	CUP
Alternative Residential Uses											
Bed & breakfast	*	CUP	CUP	CUP	CUP	CUP	*	*	*	*	CUP
Senior housing (unassisted)	n/a	n/a	CUP	CUP	CUP	CUP	P	P	P	P	P
Assisted living facility	*	*	*	*	*	*	CUP	CUP	CUP	CUP	CUP
Occupancy of dwelling unit by more than 3 unrelated individuals	R	R	R	R	R	R	R	R	R	R	R

Notes:

A = allowed without permit

P = use permitted with initial zoning review or with building permit

CUP = conditional use permit required

* = not allowed for this combination

R = as required by Minnesota Statute or requested as a reasonable accommodation under the Americans with Disabilities Act, Fair Housing Act, or related law.

1 = combined garage for 2 or more units may be approved on initial zoning review

Figure 17: Building Use Matrix: Commercial-Use Buildings and Lots

	Live-Work Unit		Mixed Use Building			Retail/Office		Single Use Building		Liner Building		Collar Building
	General	M-U	General	M-U	Center	M-U	Center	M-U	Center	M-U	Center	Center
Office-Related Uses												
Showroom(6)	CUP	A	CUP	A	A	A	A	A	A	A	A	A
Supplemental Retail(6)	CUP	CUP	CUP	CUP	A	CUP	A	A	A	CUP	A	A
Related Repair(6)	CUP	A	CUP	A	A	A	A	A	A	A	A	A
"Open" hours between 8—11 PM	*	CUP	*	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Retail/Commercial Related Uses												
Operation between 8 - 11 PM	*	P	*	P	A	P	A	P	A	3	3	3
Operation between 11 PM - 8 AM	*	*	*	*	*	*	CUP	*	CUP	*	3	3
Drive-through window	*	*	*	*	*	CUP	CUP	CUP	CUP	3	3	3
Outdoor seating(7)	*	P	*	P	P	*	P	P	P	P	P	P
On-sale liquor	*	P	*	P	P	P	P	P	P	P	P	P
Off-sale liquor	*	CUP	*	CUP	P	P	P	*	*	P	P	P
Live entertainment	*	CUP	*	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Single-tenant space over 50,000 sf	n/a	n/a	*	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Related repair (6)	*	A	*	A	A	A	A	A	A	A	A	A
Outdoor display and sales (5)	*	*	*	*	*	CUP	CUP	CUP	CUP	3	3	3

Notes:

A = allowed without permit

P = use permitted with initial zoning review or with building permit

CUP = conditional use permit required

* = not allowed for this combination

3 = may be approved in connection with accompanying single-use building

5 = not permitted as a primary use; not including outdoor restaurant seating

6 = limited to 25% of related floor space; non-automotive repair

7 = applicable to restaurants and bars, administrative permit required

9.7 Proposals for Undeveloped Land or for Large Redevelopment. An applicant shall follow the following procedure when seeking approval for construction upon land undeveloped at the time this Section was adopted, or upon any plan requiring the platted subdivision of land or the construction of new streets. Proposals which include a major subdivision of land shall proceed through the platting procedure mandated by the Gem Lake Subdivision Ordinance, and shall submit the materials requested herein in addition to the materials required to support the application for subdivision.

9.7.1 Pre-application Meeting. Before making a formal application for a land use plan which will involve the creation of new streets or platted subdivision of land, the potential applicant shall prepare sketch plans and preliminary descriptions which reflect the six items addressed below and any additional items required by Section 12.1 of the Subdivision Ordinance. The applicant shall schedule and attend the pre-application meeting described in Section 11.1 of the Subdivision Ordinance, in which the participants shall address all of the following areas:

A) Subdivision plat and related infrastructure;

B) Thoroughfare network and civic space;

C) Building Type placement and disposition;

D) Proposed Design of completed buildings;

E) Potential incentives, if any, which may apply to the proposal; and

F) Likelihood that environmental review under Ordinance 92 is necessary.

9.7.2 Submission of Development Plan. An applicant shall submit an application for a Zoning Compliance Permit and supporting documentation to the City which addresses all components of the proposed development. The applicant shall submit twelve (12) sets of all applications and required supporting materials in forms acceptable to the Zoning Administrator, including:

A) Development Plan. All attachments to development plans shall be drawn to scale and provide the following information, unless otherwise specifically waived by the Zoning Administrator:

1. A vicinity map, to include locations of any public streets, railroads, major streams or rivers and other major features within 500 feet of the site.

2. Boundaries and dimensions shown graphically, along with a written legal description of the property.

3. Present and proposed topography of the site and adjacent areas within 50 feet by contour lines at intervals of no more than five feet, and directional arrows showing proposed flow of stormwater runoff from the site.

4. The location of existing and proposed structures, with height and gross floor area noted.

5. Elevation views of all proposed buildings and structures, with building materials and proposed colors noted.

6. Phasing plans, where applicable.

7. Location and dimensions of existing and proposed curb cuts, aisles, off-street parking and loading spaces, and walkways.

8. Location, height and material for screening walls and fences, and other screening devices.

9. Location of all existing and proposed water and sewer facilities and storm drainage systems.

10. Existing and proposed public streets or rights-of-way, easements, or other reservations of land on the site.

11. Location and method of screening of outdoor trash storage areas.

12. Location and size of all proposed signage.

13. Location and height of proposed lighting facilities.

B) Subdivision Plat supporting data as required by Section 12 of the Subdivision Ordinance (if subdivision is proposed);

C) Grading and Filling Plan;

D) Tree Preservation Plan;

E) Sediment and Erosion Control Plan or Stormwater Pollution Prevention Plan, as applicable; and

F) Landscaping Plan.

9.7.3 Thoroughfare Network.

A) Orientation of Thoroughfares. The orientation of streets and pedestrian access should enhance open spaces and prominent buildings and provide for the maximum number of lots with southern exposure. All streets shall terminate at other streets or at public land, except as specified below:

i) Type A thoroughfares that terminate in cul-de-sacs may be permitted only when topography prevents the use of loop streets.

ii) Any thoroughfare may terminate in a stub street when the stubs act as connections to future phases of the development or adjacent undeveloped areas. A stub requires a dedication of public right-of-way or similar title restriction encumbering the area on the property from the closest intersection to the phase line or property boundary over which the thoroughfare would run if built out.

B) Street Layout.

i) No lot shall be more than 550 feet from a street intersection. A future intersection proposed as part of a later phase of the same development may be used to meet this requirement. Local streets shall be designed to limit and slow through traffic by narrower roadways, short lengths and other geometric configurations.

ii) Low volume streets (Types A and B) should be aligned to form three-way intersections when possible. Three-way intersections create an inherent right-of-way assignment (the through street receives precedence), which significantly reduces accidents without the use of traffic controls.

iii) A low volume street that intersects a higher-order street (Types C, D and Boulevard), should be aligned with another street to form a four-way intersection, which can easily be regulated by a stop sign or other traffic control device.

iv) Right angle intersections shall be used whenever possible. No street shall intersect another at an angle of less than 75 degrees.

v) The roadway edge at street intersections shall be rounded by a tangential arc with a minimum radius of 20 feet for low-volume streets and 30 feet for intersections involving higher-order streets.

a. Where the intersection of low-volume streets will be controlled by the placement of stop signs, the radius may be reduced to 15 feet.

b. The intersection of a low-volume street and an alley shall be rounded by a tangential arc with a minimum radius of 10 feet.

vi) Pedestrian crossing distances at intersections shall be shortened to the greatest extent possible, using curb bump-outs to cover space assigned to parking in other parts of the thoroughfare (see Figure 5, Boulevard, for example), or similar methods to reduce the average time required for a pedestrian to cross the travel lanes of a thoroughfare.

vii) Clear sight triangles shall be maintained at intersections, unless controlled by traffic signal devices.

a. For Type C and D streets intersecting low-volume streets the minimum required clear sight distance shall be 120 feet.

b. For a Type C or D street intersecting another Type C or D street the minimum required clear sight distance shall be 130 feet.

c. For any street intersecting either County Road E or U.S. Highway 61, the minimum required clear sight distance is subject to the standards of Ramsey County or the Minnesota Department of Transportation.

d. For Type A and B streets intersecting any other streets the minimum required clear sight distance shall be 15 feet.

C) Pedestrian Network. Pedestrian sidewalks, paths and walkways shall be provided within the community and shall constitute an integral element of the overall site design. They shall provide safe, convenient and attractive connections to, from and among community focal points, including residential neighborhoods, town and neighborhood centers, transit stops, schools, parks and recreation areas, municipal buildings, and other public facilities.

i) Sidewalks shall be provided along both sides of all streets, except for residential access lanes (Type A streets), which may have sidewalks on one side.

ii) Pedestrian paths shall be landscaped to provide scale, enclosure and shade.

iii) Intersections of pedestrian paths with streets shall be designed with clearly defined edges. Crosswalks shall be well-lit and defined with contrasting paving materials or striping.

iv) Sidewalks and paths shall be a minimum of 5 feet in width in residential areas, and 10 feet within commercial and civic areas, where practicable. Where space for the minimum width is not available, the maximum practicable width shall be used.

v) Within lots, walkways shall provide pedestrian access through parking areas or open space to building entries. Such walkways shall be located and aligned to directly and continuously connect areas and points of pedestrian origin and destination. Such walkways shall be at least 5 feet in width and be delineated by grade separation, planters, or alternate paving material.

vi) Where the primary pedestrian access to a building or site crosses an internal traffic lane or other automotive access, the pedestrian crossing shall emphasize and place priority on pedestrian access and safety. The material and layout shall be continuous as the pedestrian access crosses, with a break in continuity of the automotive paving and not in the pedestrian access way.

vii) All sidewalks and pedestrian paths shall be handicapped accessible. Curb cuts and ramps shall be located at convenient, safe locations for the physically disabled, bicyclists, and people pushing strollers or carts. The location and design of curb cuts and ramps shall meet the requirements of County and State Americans with Disabilities Act ramp standards, and shall avoid crossing or directing pedestrian and bicycle traffic through loading areas, drive-in lanes, and solid waste storage and collection areas.

viii) Where transit service is available or planned, site plans shall provide pleasant and convenient access to transit stops. Where transit shelters are provided, they shall be placed in locations that promote security through natural surveillance and visibility, and shall be well-lighted and weather-protected.

9.7.4 Civic Space Placement. The plans should identify the 10% or more of the total acreage in development which will be developed as Civic Space. Layout and relation to surrounding thoroughfares should be clearly depicted on the plans. If a development is proposed in phases, the 10% Civic Space requirement shall be calculated for the development as a whole, instead of for each phase. The apportionment of Civic Space dedication may be unbalanced among the proposed phases, though any initial phase of a development must include at least one Civic Space in proportion to the size of the phase. Phased development plans which propose to meet over half of the Civic Space requirement in a second or later phase must include a timetable which shows the development dedicating or building at least half of the required Civic Space within 3 years of initial development approval.

9.7.5 Building Placement Standards. The types of buildings proposed in the plan and their placement within the property is governed by the Building Type Standards set forth at Section 9.6 and depicted in Figures 6 through 15. The plan must depict the types of buildings intended for construction, their proposed disposition, any incentives sought by virtue of the intended design of any buildings or arrangement of building types, and any special requirements or requests for variance required to implement the building placement plan.

9.7.6 Design Review. The Zoning Administrator shall refer all applications requiring evaluation of the Design Standards in 9.10 to the City Architect. The Architect shall review the development plan and supporting documents for conformance with the Design Review guidelines at Section 9.10 and provide written comment to the Zoning Administrator. If any deficiencies are noted by the City Architect in the design when the applying the Design Standards, the Architect shall describe the deficiency and suggest at least one complying alternative.

9.7.7 Evaluation of Incentives. Any incentives created by the City Council and in effect at the time of development application may be sought by the applicant. The incentive items and allowances, and their effect on the overall Development Plan, shall be approved by the City Council, unless specifically delegated within the ordinance creating the applicable incentive. The Zoning Administrator shall confer with at least one City consultant, as directed by ordinance or at the Administrator's best discretion, in order to evaluate the proposed incentives and make recommendations to the approving authority. If incentives are applied for, the applicant and Zoning Administrator shall reach agreement on the application of incentives prior to submitting the application to the Planning Commission. If any applied-for incentives are recommended for rejection, the applicant may elect to re-submit portions of the plans to incorporate the recommendation without incurring new application fees; the applicant electing to re-submit plans shall submit a written statement agreeing to an extension of applicable timelines under Minn. Stat. § 15.99, Minn. Stat. § 462.358, and other applicable laws and ordinances. The extension request shall be indefinite; the City shall process the re-submitted materials within the timelines specified by law, treating the date of re-submission as the first day of any applicable time period.

9.8 Plans for Re-development of Single Lots or Small Subdivisions.
An applicant shall follow the following procedure when seeking approval for new building construction (not an addition or expansion to an existing building) upon land which was developed at the time of the application, either requires no subdivision or is eligible for minor subdivision approval, and for which no new streets are required. Such applications should be processed for a Zoning Compliance Permit administratively by the Zoning Administrator unless the proposal requires conditional use permit or variance approval.

9.8.1 Suggested Presentation. The plans for this type of development shall use the Building Type templates at Figures 6 through 15, as allowed by the sub-zone in which the property lies. Plans should introduce new lot lines, if any, and then depict the placement and disposition of the proposed building type for each lot.

9.8.2 Required Submissions. The applicant shall submit four (4) sets of the application materials listed in 9.7.2. The Zoning Administrator may allow the applicant to omit certain items if it is clear that they are not applicable to the overall proposal. In all circumstances, the proposal shall include the elements required for review under Sections 9.7.5 (Building Type) and 9.7.6 (Design).

9.8.3 Connectivity requirements. While improvements to an existing roadway are not required, plans under this subsection must indicate how the proposed construction would relate to the roadway if it were reconstructed in

accordance with the requirements of Section 9.7.3. Proposals under this Section 9.8 involving more than one lot shall comply with Section 9.7.3(C). Single-lot proposals must indicate design incorporating the requirements of 9.7.3(C), but only must build the improvements when the adjacent lots on the same side of the right-of-way also have built such improvements or have been approved for construction under this Section.

9.8.4 Evaluation of Incentives. Any incentives created by the City Council and in effect at the time of development application may be sought by the applicant. The incentive items and allowances, and their effect on the overall development plan, shall be approved by the City Council, unless specifically delegated within the ordinance creating the applicable incentive. The request for incentive approval does not require City Council approval of the entire plan. The Zoning Administrator shall confer with at least one City consultant, as directed by ordinance or at the Administrator's best discretion, in order to evaluate the proposed incentives and make recommendations to the approving authority. If incentives are applied for, the applicant and Zoning Administrator shall reach agreement on the application of incentives prior to submitting the application to the Planning Commission. If any applied-for incentives are recommended for rejection, the applicant may elect to re-submit portions of the plans to incorporate the recommendation without incurring new application fees; the applicant electing to re-submit plans shall submit a written statement agreeing to an extension of applicable timelines under Minn. Stat. § 15.99, Minn. Stat. § 462.358, and other applicable laws and ordinances. The extension request shall be indefinite; the City shall process the resubmitted materials within the timelines specified by law, treating the date of re-submission as the first day of any applicable time period.

9.8.5 Administrative Approval. If the application satisfies all applicable criteria, the Zoning Administrator shall approve the Zoning Compliance Permit. The applicant shall execute a Development Agreement with the City prior to the receipt of any building permit under the plan.

9.9 Parking Regulations.

9.9.1 On-street parking, either diagonal (angled) or parallel, shall be provided along all streets other than Alleys. Parking is indicated on the Thoroughfare standards at Figures 2 and 3. Where angle parking is permitted or required, the parking may be forward or reverse angle. Parking spaces (other than handicapped spaces) on thoroughfares and on-grade parking lots shall be no wider than 9 feet. Plans for new development and other major subdivisions are encouraged to plan thoroughfares and civic spaces to provide a significant portion of the parking required for planned buildings. On-street parking within 1/8 of a mile of a building entrance may be applied toward that building's applicable parking requirement.

9.9.2 A parking plan shall be included for all buildings, indicating how the parking requirement for each proposed building is met through on-street parking, shared off-street parking or dedicated off-street parking. Reductions in the number of spaces required by the Building Type regulations may be approved if the proposal is supported by a parking study specific to the proposed building(s) and likely tenants. Shared parking proposals are encouraged and should reference the Urban Land Institute's Shared Parking Guidelines or similar guidance. Plans including off-street parking and loading facilities within the Gateway District shall be reviewed by the City Engineer and City Planner. If, upon review, either consultant determines that an alternative to the proposed parking plan is desirable, it will recommend an alternate parking plan to the Planning Commission, which shall make a recommendation to the City Council for final review and approval.

9.9.3 The Planning Commission may recommend and the City Council may require a contribution of land or money toward community parking facilities in lieu of providing off-street parking facilities on the property to be developed.

9.9.4 On-grade parking areas within lots are prohibited within any front yard setback or in front of the principal building. On-grade parking areas shall be located at the side or the rear of buildings in mid-block areas, and may not be located within 50 feet of the intersection of any public streets (excluding Alleys). Parking areas shall be landscaped in accordance with the Gem Lake Landscaping Ordinance.

9.9.5 Reduction of impervious surfaces through the use of interlocking pavers or similar materials is strongly encouraged for areas that serve low-impact parking needs, such as remote parking lots, parking areas for periodic uses and parking in natural amenity areas.

9.9.6 Bicycle Parking. Parking plans shall include designed space and facilities for bicycle parking, at a ratio of 1 bicycle parking space for each 4 residential units or 20 required automobile spaces. Bicycle parking facilities shall be located

within fifty (50) feet of building entrances and shall be visible from the uses they serve. They shall not be located so as to impede pedestrian or automobile traffic flow or to cause damage to plants and trees from bicycle traffic. The facilities shall be of permanent construction, attached to the ground, and designed to allow the bicycle frame and both wheels to be securely locked to the parking structure. Facilities shall be at least two feet in width and six feet in length, and be placed to allow a minimum of five feet of back-out or maneuver space.

9.10 Design Review Standards.

The guidelines established in this section are for the purpose of promoting quality development that is attractive, convenient and compatible with surrounding uses. These guidelines are intended to be general in nature and not to restrict creativity, variety or innovation. However, unless site characteristics or conditions dictate otherwise, Gem Lake's expectation is that these guidelines be adhered to. In cases where building and site design standards are specific to Building Types, those standards are noted within the Building Type Template.

9.10.1 Site layout guidelines.

A) Site design shall incorporate existing topography and natural features, such as hillsides, wooded areas and greenways. Important vistas and viewpoints, both from the site and into the site, should be protected and enhanced.

B) Building arrangement. When multiple buildings are proposed for a site, care should be taken to provide maximum street exposure for all buildings.

C) Service and docking facilities. Loading, delivery and service bays should be oriented away from existing residences and public streets. When this is impractical, service and docking areas shall be screened from view through the provision of walls, fencing or landscaping.

D) Drive-through facilities, where permitted, shall be designed with safe and easily understood traffic patterns and shall provide sufficient stacking space, based on requirements of Section 9.9. Drive-through windows should not face public streets; and loudspeakers should not create nuisances for adjacent properties.

E. Shadowing. Where possible, buildings shall be located so that they minimize shadowing on adjacent properties. A sun and shadow study may be required for any building that is more than 2 ½ stories or 35 feet in height.

9.10.2. Building placement – Nonresidential and Mixed uses. At least 70 percent of the front facade of any building shall be located on the front build-to line as indicated by the Building Type Template (with the exception of a "dooryard" layout as indicated on the template's layout diagram). The placement of buildings shall reinforce the street wall, maximize natural surveillance and visibility, enhance the character of the surrounding area and facilitate pedestrian access and circulation. Parking areas shall be located to the side or rear of the principal building or use served. The City Council, with the City Architect's recommendation, may approve alternatives to this requirement, provided that any adverse effects shall be mitigated by a masonry wall, decorative fence or planted materials, between 38 and 46 inches in height, which reinforces the street wall.

9.10.3. Building placement – Residential-only uses. Buildings shall be located so that the front doors of the building or individual units face the public street rather than the interior of the site, unless a courtyard layout is authorized on the Template for the particular building. Parking areas and garages larger than 3 cars shall be located to the rear or interior of the site, or underground. The City Council, with the City Architect's recommendation, may approve alternatives to this requirement when one or more of the following occurs:

A) The proposed building has primary or corner frontage on a Type C or Type D street.

B) Commercial buildings are located across the street from the proposed building.

C) Unusual or unique site conditions make the requirement impractical.

9.10.4. Building height and scale. In addition to the height and mass instructions contained within the Building Type

Templates, the height and scale of new buildings shall be related to the prevailing scale of surrounding development and shall be compatible with surrounding buildings in roof form and pitch. Larger buildings, where permitted, shall be designed to reflect the same architectural massing and style as other buildings built or proposed within a two-block area. If no other single, large buildings are present or proposed in the area, then the facade of the new building shall be designed to reflect the form, mass and shape of several contiguous smaller buildings within the two block area. The City Council, with the City Architect's recommendation, may approve alternatives to this requirement if a larger building is proposed, to reduce its apparent size by dividing the building mass into smaller sections, including:

A) Stepping back or extending a portion of the building façade;

B) Emphasizing architectural elements, including windows and entries; and

C) Emphasizing architectural elements of the roof, including dormers, chimneys and gables.

9.10.5. Building facades. Building facades shall provide architectural detail and shall contain windows at the ground level in order to create visual interest and maximize outdoor surveillance and visibility. Exterior materials and appearance shall be compatible with surrounding buildings.

A) Front Facades and Entries.

1. Primary entries to residential buildings shall be emphasized through the use of architectural features such as porches and roofs, recessions into the facade, or other details that express the importance of the entrance. At least 20 percent of the first floor facade that faces a public street or sidewalk shall consist of windows and doors. Windows shall be distributed in a more or less even manner. Plans should avoid placing garage doors and openings on the front façade of a building. If the garage door or opening is placed on the front façade, it shall not be located on the building's leading edge facing the street, but shall be set back at least six feet from the front line of the building or an approved front yard encroachment (such as a porch, or a deck over a tuck-under garage).

2. Primary entries to nonresidential or mixed-use buildings shall be emphasized through the use of architectural features such as roofs, recessions into the facade, or other details that express the importance of the entrance. At least 60 percent of the first floor facade that faces a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allow views into and out of the building. The windows shall be distributed in a more or less even manner. The use of traditional window dimensions and a one-over-one or two-over-one sash arrangement is strongly preferred. Buildings shall have entrances to a street or public open space placed no more than sixty (60) feet apart. Buildings are strongly encouraged to use awnings on the front façade, particularly over the main entry. The awning should be compatible in style, material and color to the rest of the building, and the width of the awning should fit the geometry of the building façade. There may be signage on the end panel or front valance of an awning, proportional to the space available. The installation of the awning should not hide any architectural detail or character features of the building.

B) Side and Rear Facades. The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building. Where the façade is visible from a public street or right-of-way or any residential district and concrete-block construction is used, the façade shall use integrally colored block or textured block. Any exterior building wall adjacent to or visible from a public street, public open space, or abutting property may not exceed sixty feet (60') in length without significant visual relief consisting of one or more of the following:

1. The façade shall be divided architecturally by means of significantly different materials or textures;

2. Horizontal offsets of at least four feet (4') in depth;

3. Vertical offsets in the roofline of at least four feet (4'); or

4. Fenestration at the first-floor level which is recessed horizontally at least one foot (1') into the façade.

9.10.6. Architectural variety. The use of a variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character. When accent colors are proposed, the number of colors should be limited to prevent a gaudy appearance.

9.10.7. Materials. All buildings shall be constructed with materials that are attractive in appearance, durable with a permanent finish, and of high quality. New mixed-use or commercial buildings erected within the Gateway District shall be of masonry construction, an equivalent, or better. Exterior building materials shall be classified as either primary, secondary, or accent materials. Primary materials shall cover at least sixty percent (60%) of the façade of a building. Secondary materials may cover no more than thirty percent (30%) of the façade. Accent materials may include door and window frames, lintels, cornices and other minor elements, and may cover no more than ten percent (10%) of the façade.

A) Primary materials may be face brick, stone, glass, architectural concrete or precast concrete units (integrally colored block or textured block), provided that surfaces are molded, serrated examples or treated with a textured material in order to give the wall surface a three-dimensional character.

B) Secondary materials may be decorative block or integrally colored stucco, fiber cement siding (integrally colored or painted) with hidden seams. Synthetic stucco may be used as a secondary material on upper floors only.

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

D) Prohibited Materials. No buildings shall be constructed of sheet aluminum, asbestos, iron, steel, corrugated metal, plastic or fiberglass siding. Face materials which rapidly deteriorate or become unsightly such as galvanized metal or unfinished structural clay tile are not permitted.

9.10.8 Colors. Colors used for exterior surfaces shall be harmonious with surrounding development and shall visually reflect the traditional concept of the town center. Contrasting colors should be used to emphasize architectural detail. Where a development plan proposes multiple buildings, the plan shall carry over colors and materials across adjacent buildings.

9.10.9 Roofs. The predominant roof shape in the Neighborhood Center subzone is flat with articulated parapets; the predominant roof shape in the Neighborhood General subzone is peaked. Roof shapes in the Neighborhood Mixed-Use subzone should achieve a gradual transition between the two roof types.

9.10.10 Outdoor Storage. There shall be no outdoor storage of either materials or products except through the issuance of a conditional use permit.

9.10.11 Screening. Property boundaries abutting property that is not included within the Gateway District shall have significant dense vegetative screening.

9.10.12 Signage. Signage should be integrated as an architectural element, with attention given to the color, scale and orientation of all proposed signs in relation to the overall design of the building. Signs shall conform to the regulations in Section 19 of the Zoning Ordinance.

SECTION 10 - PUBLIC OPEN SPACE/RECREATIONAL DISTRICT "OS/R"

10.1 Intent and Purpose

This zoning district is for land in the City of Gem Lake reserved for: 1) open space or, 2) Recreational uses. There currently is no publicly held open or recreation space within the City of Gem Lake. The only recreational facility within the City is a private golf course and it is the desire of the City to have the golf course property remain recreational in nature. There may be an interest in the future for small neighborhood "parks" in other areas of the City.

The City desires that this golf course recreational area space use be continued in the future. Based on past zoning practices, the golf course owners wishes, and the City's likely inability to purchase the golf course property, the golf course will continue as a conditional use within residential districts. The land under the golf course is currently zoned as being in the "RE" zoning district.

Section 10.2 Uses

10.2.1 A golf course shall be a conditional use in residential areas of the City of Gem Lake.

10.2.2 Public parks may be provided as part of development formed by a PUD in residential areas in the City.

10.2.3 The City will continue to explore options for acquiring true public open spaces or preservation areas, focusing on land which directly impacts the water quality of the water body called Gem Lake.

SECTIONS 11 TO 12 RESERVED.

SECTION 13 - PLANNED UNIT DEVELOPMENT

Section 13.1 PURPOSE

13.1.1 The purposes of this section are:

A) To encourage a more creative and efficient development of land and its improvements through the preservation of natural features and amenities than is possible under the more restrictive application of zoning requirements. This section may allow modifications such as non-standard lot sizes, private streets and driveways, reduced rights-of-way and street widths, housing types, zero lot lines and building setbacks. These changes shall meet the standards and purposes of the City of Gem Lake Comprehensive Plan while preserving the health, safety, and welfare of the citizens of the city.

B) To allow for the potential mixture of uses in an integrated and well planned area.

C) To ensure concentration of open space into more usable areas, and a preservation of the natural resources of the site.

D) To facilitate the economical provision of streets and public utilities.

E) To facilitate mixed use developments, and/or affordable housing, recreational uses and institutional uses.

F) Parks and open space. The creation of public open space may be required by the city. Such park and open space shall be consistent with the comprehensive park plan and overall trail plan.

G) Energy conservation through the use of more efficient building designs and sightings and the clustering of buildings and land uses.

H) Use of traffic management and design techniques including the provision of transit and pedestrian linkages to reduce the potential for traffic conflicts. Improvements to area roads and intersections may be required as appropriate. Where appropriate, the use of transportation demand management strategies may be required within a project.

Section 13.2 PERMITTED USES.

13.2.1 Specific uses and performance standards for each PUD shall be delineated in a development plan.

A) Each PUD shall primarily be used for the use or uses for which the site is designated in the City of Gem Lake Comprehensive Plan. Specific uses and performance standards for each PUD shall be delineated in a PUD development plan.

B) Where the site of a proposed PUD is designated for more than one land use in the Comprehensive Plan, the city may require that the PUD include all the land uses so designated or such combination of the designated uses as the City Council shall deem appropriate to achieve the purposes of this ordinance and the Comprehensive Plan.

13.2.2 A PUD is an allowable conditional use in all zoning districts in the City of Gem Lake except for land zoned Open Space/Recreational ('OS/R").

Section 13.3 COORDINATION WITH SUBDIVISION REGULATION.

13.3.1 It is the intent of this section that subdivision review be carried out simultaneously with the review of a planned development under this section.

13.3.2 The plans required under this section must be submitted in a form, which will satisfy the requirements of the Gem Lake subdivision section of this Consolidated Land Use Ordinance for the preliminary and final plats.

13.3.3 Flexibility of design standards and criteria of the Gem Lake subdivision section may be allowed as part of a planned unit development.

Section 13.4 SUBMISSION OF MATERIAL REQUIRED FOR APPROVAL

13.4.1 The materials and description of contents required for approval of a PUD are described in the City of Gem Lake Planned Unit Development Procedure 4-17 available from City Hall. Request a copy of this procedure with your PUD application form.

Section 13.5 ENFORCEMENT OF DEVELOPMENT SCHEDULE

13.5.1 The construction and provisions of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same phase of the construction of dwelling units. From time to time the zoning administrator may review all of the building permits issued for the planned development and examine the construction which has taken place on the site. If he shall find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, he shall forward this information to the city council, which may modify or revoke the planned unit development permit.

Section 13.6 CONVEYANCE AND MAINTENANCE OF COMMON OPEN SPACE

13.6.1 All land shown on the final development plan as common open space must be conveyed to homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowners association or similar organization subject to covenants to be approved by the City Attorney which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

13.6.2 If a homeowners association is created, the applicant shall submit any required homeowner association documents at the time of the first final plat of development to the City Attorney and City Staff which explain:

13.6.2.1 Ownership and membership requirements.

13.6.2.2 Articles of incorporation and bylaws.

13.6.2.3 Time at which the developer turns the association over to the homeowners.

13.6.2.4 Approximate monthly or yearly association fees for homeowners.

13.6.2.5 Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

Section 13.7 STANDARDS FOR COMMON OR OPEN SPACE

13.7.1 No open area may be approved as common open space under the provisions of this article unless it meets the following standards:

13.7.1.1 The location, shape, size, and character of the common open space must be suitable for the planned development.

13.7.1.2 Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

13.7.1.3 Common open space must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

13.7.1.4 Outlots to be dedicated for park, ponding or other purposes shall be deeded to the city before the final plat is released for recording.

Section 13.8 REVIEW AND AMENDMENT

13.8.1 From time to time the Zoning Administrator may review PUDs within the city and may make a report to the City Council on the status of non-compliance for a particular PUD. If the Zoning Administrator finds that the development has not commenced within one (1) year after the original approval of the conditional use for the PUD, the Zoning Administrator may recommend that the City Council extend the time or revoke the conditional use permit as set forth in Section 17.5 of the Consolidated and Use Ordinance. Prior to cancellation or revocation of this permit, the City Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

13.8.2 For additional phases of the PUD, if within three (3) years the project has not progressed, the Zoning Administrator may recommend that the City Council determine what action will be taken with the remainder of the project. Prior to determining the outcome of the PUD, the City Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.

13.8.3 Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the final plan was approved.

13.8.4 Approval of the Planning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

13.8.5 Any amendment to the PUD shall require the same procedures as for the application for a conditional use permit as set forth in Section 17.5 of this Consolidated Land Use Ordinance.

SECTION 14 - GARDEN OVERLAY DISTRICT

Section 14.1 Findings and Purpose.

14.1.1 The City Council makes the following findings:

A) The land-use plans of the City of Gem Lake historically have not assigned any land in the City for long-term agricultural use, as the City has developed and continues to develop as a primarily residential community surrounded by fully developed suburban neighborhoods. The City Council reaffirms the City's intent to encourage development of the City in accordance with its adopted comprehensive plans.

B) At the time this Ordinance is considered, large land parcels in the City have yet to develop any primary use and stand vacant. Additional large-lot property in the City is projected to subdivide and develop into smaller lots over the next 10 to 30 years. The City Council recognizes that economic conditions are not always favorable for real estate development, and that the costs to carry vacant land can create pressures that promote sub-optimal development. Permitting small-scale agriculture as a primary use will allow owners of large undeveloped parcels to qualify for agricultural tax classification, and thus lower tax payments, without affecting the long-term plans for the land. The Council finds that providing this means to temporarily ease this pressure will enhance the City's ability to fully realize the goals of its comprehensive plans.

C) Several cities and metropolitan areas are placing a greater emphasis on local food production as a means of improving public health. Allowing the use of available space in the City for "community gardens" or "market gardens" to grow food will promote local food production and improve public health in Gem Lake and the surrounding community.

D) As an interim use of land, subject to the regulations proposed, community gardening and market gardening will be compatible with all allowed land uses in the City of Gem Lake, and with the goals of the City's comprehensive plan.

14.1.2 The Council intends that the Garden Overlay District be available to overlay on parcels of land in any existing zoning district to add the uses described in the district regulations to the list of uses allowed upon that land. The Garden Overlay District may be applied to and superimposed as an overlay upon any zoning district, defined in this Zoning Ordinance, as existing or amended by this section and as shown on the official Zoning Map. Nothing in this Section is intended to affect the ability of landowners to maintain accessory uses that are allowed without the Overlay zone upon their property, whether or not the Overlay zone covers their property. This overlay district is intended to permit a temporary land use, and should no longer be needed on a parcel when it eventually develops in accordance with the regulations of the underlying zoning district.

Section 14.2 Requesting Garden Overlay. Applications to create a Garden Overlay District shall be made and considered as a re-zoning request in accordance with Section 17.6 of this Ordinance. In addition to the documents and materials generally required for a re-zoning application, the applicant shall supply copies of draft leases, contracts or use agreements to which the groups or individuals using the gardens will agree prior to using the garden space. Such agreements must provide the land owner or designated representative with the legal ability to evict a tenant and bar entry to any individual member of a group, if the tenant or individual violates the terms of this Ordinance, the terms of the Interim Use Permit for the property, any restrictive term of the lease or agreement, or any other applicable City Ordinance or state law.

Section 14.3 Termination of Garden Overlay. A Garden Overlay District shall remain in effect until one of the following occurs:

14.3.1 City approval of a zoning application for a use or uses permitted in the underlying zone (e.g. development plan, conditional use permit, or building permit); the Garden Overlay status and any permits granted under the terms of this Section shall expire six months from the date of approval; or

14.3.2 The Interim Use Permit for the property expires, and no application is made to renew the permit within six months of the expiration; or

14.3.3 The Interim Use Permit for the property is revoked by the City Council for violations of this Ordinance, permit conditions, or any other applicable law or ordinance.

Section 14.4 Interim Uses.

14.4.1 Subject to applicable provisions of this Ordinance, the following are considered to be Interim Uses in the Garden Overlay District:

A) Community Gardens.

B) Market Gardens.

14.4.2 Interim Use Permits granted under this Section expire on March 15th of each year. The permit may be renewed annually, at the discretion of the City Council. Application for and approval of an Interim Use Permit shall follow the procedures set forth in Section 17.5 of this Ordinance. In addition to the requirements of that Section, the applicant shall provide a written summary of the proposed uses of fertilizers, pesticides and other agricultural chemicals in the maintenance of the gardens. In approving an Interim Use Permit, the City Council may attach such additional conditions as it deems necessary to assure compatibility with surrounding land uses, including conditions relating to the use of agricultural chemicals on the property.

Section 14.5 Permitted Accessory Uses. Subject to applicable provisions of this Ordinance, the following are allowed accessory uses to any validly issued Interim Use Permit in any Garden Overlay District:

14.5.1 Hoop houses, cold frames and similar structures used to extend the growing season.

14.5.2 Benches, planting beds, compost bins, rain barrels and similar structures used to facilitate the growth of plants.

14.5.3 Off-street parking and loading areas.

Section 14.6 Prohibited Practices.

14.6.1 No motorized implements or machinery may be used in the cultivation and maintenance of any garden, except for plowing of the plots between the hours of 8:00 A.M and 5:00 P.M, Monday through Friday. Motor vehicles of less than 7,000 lbs. gross vehicle weight may be used to deliver and carry away equipment, supplies and product.

14.6.2 Animal husbandry and aquaculture are not permitted activities within a Garden Overlay zone.

14.6.3 No fuel, fertilizer, pesticides or similar chemicals shall be stored on the property.

Section 14.7 General Regulations.

14.7.1 The minimum land area for application of a Garden Overlay shall be ten acres.

14.7.2 All gardening activity and all structures and equipment shall be set back at least 20 feet from the property line of any property not included within a Garden Overlay Zone, and at least 150 feet from any dwelling.

14.7.3 All gardens shall be divided into garden plots, separated from other plots and from required setback areas by unpaved walkways of at least 6 feet in width. No single plot shall cover more than 10% of the total land area of the property on which the plot is located.

14.7.4 Off-street parking and loading areas shall be unpaved and shall not exceed 15% of the lot area covered by garden plots and required walkways.

14.7.5 The property owner is responsible for the collection and disposal of litter on the property.

14.7.6 The hours of operation for a permitted garden are ½ hour before sunrise until ½ hour after sunset.

14.7.7 The property owner is responsible for ensuring compliance with all other applicable laws, ordinances and regulations, including city ordinances and watershed district rules governing wetlands and stormwater control.

SECTION 15 - INSTITUTIONAL OVERLAY DISTRICT

Section 15.1 Purpose

15.1.1 The Institutional Overlay District is intended to provide a means of overlaying an existing Zoning district located in the City of Gem Lake, for facilities devoted to serving the public. This district is unique in that the primary objective of uses within this district is for the providing of services, frequently on a non-profit basis, rather than for the sale of goods or services. It is intended that all uses within such an overlay area will be compatible with all adjoining uses.

15.1.2 The Institutional Overlay District shall be applied to and superimposed as an overlay upon any zoning district, defined in this Zoning Ordinance, as existing or amended by this section and as shown on the official Zoning Map. The Institutional Overlay District will remain in effect as long as the use and the user remains the same. If an overlay area is no longer used, uses are changed or terminated, the parcel will revert back to its original underlying zoning classification.

Section 15.2 Permitted Uses. Subject to applicable provisions of this Ordinance, the following are permitted uses in an Institutional Overlay District:

15.2.1 Religious institutions such as churches, chapels, temples and synagogues, but with activities limited to worship and related social activities.

15.2.2 Private Child Care and Education facilities as defined in the definitions section of this Ordinance, but with activities limited to school/educational activities.

A) An enrollment with an age not to exceed twelve (12) years:

B) A total enrollment of not less than twenty-five (25) nor more than one-hundred fifty (150);

C) A maximum of one-hundred twenty (120) "full-day equivalent" students with a full-day* defined as ten (10) hours.

D) The "full-day equivalent" shall be calculated by adding together the total number of students present during each hour of the "full-day" of school. This total shall not exceed 1,200, which is 120 students times 10 hours.

Section 15.3 Permitted Accessory Uses. Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in any Institutional Overlay District:

15.3.1 Accessory uses, customarily incidental to the uses permitted as a Permitted Use or Conditional or Interim Use (if a Conditional or Interim Use is allowed).

15.3.2 Off-street parking and loading areas.

15.3.3 Accessory building as described in Appendix A of this Ordinance.

Section 15.4 Conditional or Interim Uses. Subject to applicable provisions of this Ordinance, the following are considered to be Conditional Uses in the Institutional Overlay District.

15.4.1 Living quarters (such as parsonage, rectory or care-takers house) that are supplied as an accessory use to a principal use provided that:

A) The use shall not be used as rental property.

B) The maximum of one (1) such dwelling shall be allowed.

C) There shall be a demonstrated and documented need for such a facility.

15.4.2 Governmental and public regulated buildings and essential service structures as defined in this Ordinance and necessary for the health, safety and general welfare of the City, excluding public works facilities and uses provided that:

A) Compatibility with the surrounding neighborhood is maintained and required setback and side yard setbacks and side yard requirements are met. Architectural standards for all buildings shall be consistent with those in adjacent residential property.

B) Any equipment is completely screened in a permanent structure with no outside storage.

C) Adequate screening from neighboring uses and landscaping is provided in compliance with other sections of this Ordinance.

15.4.3 Public recreational facilities provided that:

A) The site is landscaped.

B) The use is available to the "public".

C) The land area of the property containing such uses or activity meets the minimum established for the district.

D) Adequate screening from neighboring uses and landscaping is provided in compliance with other sections of this ordinance.

15.4.4 Publicly owned or cultural buildings, such as libraries, city offices, auditoriums, public administration offices and historical developments, but excluding public works type facilities and uses, provided that:

A) Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met. Architectural standards for all buildings shall be consistent with those in the adjacent residential property.

B) Any equipment is completely screened in a permanent structure with no outside storage.

C) Adequate screening from neighboring uses and landscaping is provided in compliance with other sections of this ordinance.

15.4.5 Day care, social services or other non-directly related worship activities, as an accessory use within a religious building, provided that:

A) Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met. Architectural standards for all buildings shall be consistent with those in the adjacent residential property.

B) Any equipment is completely screened in a permanent structure with no outside storage.

C) Adequate screening from neighboring uses and landscaping is provided in compliance with other sections of this ordinance and the Landscape Ordinance.

15.4.6 Accessory buildings with a cumulative total greater than one-thousand (1,000 sq ft.) square feet.

Section 15.5 Lot Area and Setback Requirements.
The following minimum requirements shall be observed in an Institutional Overlay District subject to additional requirements, exceptions and modifications set forth in this ordinance:

15.5.1 The minimum land area for an Institutional Overlay shall be two and three quarter (2.75) acres of buildable area. For the purposes of this Ordinance, buildable area means two and three quarter (2.75) acres of land, not including wetlands and land seasonally flooded on an annual basis, land containing drainage ways or surface water or land containing aquatic vegetation, and land with slopes in excess of twelve (12%) percent.

15.5.2 Lot width:

A) Two hundred (200) feet of frontage which must be located on a County or State maintained roadway.

15.5.3 Setbacks TABLE 15.5.3

FRONT YARD	SIDE YARD	REAR YARD
50 foot set-back	50 foot set-back	50 foot set-back

A) Set-back measured from the closest of any lot line, road easement, road right-of-way or the like.

15.5.4 Accessory Structure(s) Setbacks. TABLE 15.5.4

FRONT YARD	SIDE YARD	REAR YARD
100 foot set-back	50 foot set-back	50 foot set-back

A) Set-back measured from the closest of any lot line, road, road easement, road right-of-way or the like.

Section 15.6 Lot Coverage and Height Requirements.
The following lot coverage and height requirements shall be observed in the Institutional Overlay district.

15.6.1 The total lot coverage of all buildings and other structures shall not exceed fifteen (15%) percent.

15.6.2 The minimum open space requirement for any proposed use shall be twenty-five (25%) percent, including green areas not covered by buildings, parking lots, access roads, storage areas or other areas covered by impervious surfaces.

15.6.3 No building structure shall exceed thirty-five (35') feet in height.

15.6.4 No accessory structure shall exceed two (2) stories or twenty-five (25') feet in height, whatever is lesser and no accessory structure any part of which is within three-hundred (300') feet of an "R" district or a roadway bordering an "R" district shall exceed fifteen (15') feet in height.

Section 15.7 Landscaping and Screening

15.7.1 As most Institutional Overlays will occur in residential areas or closely adjacent to Residential areas, landscaping and screening shall be provided to isolate all light and noise from the Institutional Overlay use from entering the adjacent Residential areas. This landscaping and screening must be done in accordance with the procedures in this Ordinance.

Section 15.8 Procedures for Requesting an Overlay

15.8.1 Application for re-zoning for an overlay.

A) An Institutional Overlay shall be considered a rezoning for a specific parcel of land. This overlay may occur in any zoning district in the City of Gem Lake. The application for an Institutional Overlay shall be made on a form provided by the City Clerk. The fee for an Institutional Overlay shall be the same as the rezoning fee, defined in the Zoning Ordinance. This application for rezoning will only be deemed to be complete when the following are received:

1) A properly completed application and payment in full is received;

2) A registered property surveyors report is provided properly identifying the parcel to be rezoned;

3) All requirements of the Plan Review described in Appendix A ~~Section 14.1~~ of this Ordinance have been met. These plans must be reviewed and approved by the Zoning Administrator, Planning Commission and City Council before any overlay shall be granted. If this is a rezoning to initially define and overlay, the rezoning activities and the Plan Review shall occur at the same time;

4) Proof of ownership or authorization shall be provided. The applicant shall supply proof of title and the legal description of the property for which the Institutional Overlay is requested consisting of and abstract of the title or registered property abstract currently certified together with unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest or supply written authorization from the owner(s) of the property in question to proceed with the requested Institutional Overlay.

5) A list of all the property owners within three-hundred fifty (350') feet of the proposed site. This certified list shall be obtained from the County Assessor and supplied to the City Clerk.

15.8.2 Procedures

A) Pursuant to Minnesota Statues 15.99 as may from time-to-time be amended, an application for an institutional Overlay shall be approved or denied within the time allowed for by law from its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required state and federal agencies may extend the review and decision making period by the additional time allowed by law unless this limitation is waived by the applicant. Additional City requirements are as follows:

1) Applications for rezoning for an Overlay District shall be filed with the Zoning Administrator on an official application form available for available from the City Clerk. Such applications shall also be accompanied by five (5) large scale copies and one (1) reduced scale copy of detailed written and graphic materials fully explaining the processed change, development, or use. The request for an institutional Overlay shall be placed on the agenda of the first possible Planning Commission meeting after the date of submission of the completed application. The request shall only be considered officially submitted when all the informational requirements are complied with.

2) Upon receipt of such application, the City shall set a public hearing following proper hearing notification as applicable. The Planning Commission shall conduct the hearing and report its findings and recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of the request, and shall be published in the official newspaper at least ten (10) days prior to this hearing and written notice of said hearing shall be mailed at least ten (10) days prior to all owners of land within three-hundred fifty (350') feet of the property in question. The City Clerk shall have the right to provide additional property owners notification beyond the three hundred fifty (350') foot distance if it is judged that the request will have an impact upon additional properties. The records of the County Assessor shall be deemed sufficient for determining the location and ownership of all such properties. A copy of the notice and a list of the property owners and addresses to which the notice is sent shall be attested and made a part of the records of the proceeding.

3) Failure of a property owner to receive such notice shall not invalidate any such proceedings as set forth in this Ordinance provided a bona fide attempt has been made to comply with the notice requirements of this section.

4) When reviewing the proposed institutional overlay, the following additional factors shall be included in the review:

a) The proposed action in relation to specific policies and provisions of the Official City Comprehensive Plan

b) The proposed use's conformity with present and future land uses in the area.

c) The proposed use's conformity with all performance standards contained herein.

d) The proposed use's effect on the area in which it is proposed.

e) The proposed use's impact upon property value in the area in which it is proposed.

f) Traffic generation by the proposed use in relation to capabilities of streets and roads serving the property.

g) The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities and the City's service capacity.

5) The Planning Commission or the Zoning Administrator shall have the authority to request additional information from the applicant or to retain expert testimony at the ~~eh~~ expense of the applicant, said information to be declared necessary to evaluate the request and establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for recommendation of denial of the request.

6) The applicant or a representative thereof shall appear before the Planning Commission in order to answer question concerning the proposed request.

7) The Planning Commission shall recommend approval or denial of the request.

8) The City Council shall not act upon such an Overlay request until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after thirty (30) days from the first regular meeting at which the request was considered, the City Council may proceed with its consideration and action on the request.

9) Upon receiving the report and recommendation of the Planning Commission, the City shall place the report and recommendation on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered into and made part of the permanent written record of the City Council meeting.

10) Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to hold another public hearing if deemed advisable.

11) If, upon receiving such reports and recommendations from the Planning Commission, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council will differ from that of the Planning Commission, the City Council may before taking any final action, refer the matter back to the Planning Commission for further consideration. The City council shall provide a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular request.

15.8.3 Approvals

A) Approval of the Overlay request shall require passage by a four-fifths (4 of 5 votes) majority of the entire City Council.

B) The Institutional Overlay zoning shall not become effective until such time as the City Council approves the overlay and after said approval is published in the official newspaper.

C) Prior to the start of building or any remodeling that will change the outside dimensions of a building or structure, in the Institutional Overlay Zone, a plan review, in accordance with section 14.1 of the Zoning Ordinance, shall be made. No building permits shall be issued until this plan review is complete.

15.8.4 Denials

A) If the City Council finds that a proposed use contemplated for the parcel which is the subject of an application for rezoning to Institutional Overlay Classification is likely to have a material adverse effect on the public health, safety of general welfare after considering possible adverse effects which may include, but not be limited to, those delineated in Section 15.8.2.A.4 (a-g) above, then such application shall be denied.

15.8.5 Recording of actions taken

A) If a request for an Institutional Overlay receives approval by the City Council, the applicant shall record such with the County Recorder within thirty (30) days of the approval date. The applicant, immediately upon recording such or as soon as is reasonably possible, furnish the City proof of recording, no building permits for the property in question will be granted until such proof of recording is furnished to the City.

15.8.6 Actions if the overlay is denied

A) Whenever an application for an overlay district has been considered and denied by the City Council, a similar application and proposal for an overlay affecting the same property shall not be considered again by the Planning Commission or the City Council for at least one (1) year from the date of its denial except as follows:

1) Applications for an overlay are withdrawn prior to the City Council taking action on the matter.

2) If the City Council determines by a vote of not less than four-fifths (4 of 5 votes) majority that the circumstances surrounding a previous application have changed significantly.

15.8.7 Time period (duration) of this Institutional Overlay approvals

A) An Institutional Overlay shall remain in effect until one of the following occurs:

1) Unless the City Council specifically approves a different time when action is officially taken on the request, the rezoning for an Institutional Overlay shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started construction of any building, structure, addition or alteration, or use requested for this overlay. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.

2) If any one of the following occur the overlay shall expire:

a) The use of the property is changed to not be in accordance with the uses outlined in this section of this Ordinance,

b) The organization to which the permit for and Overlay District has been given is no longer the occupant of the building or facilities on the site. No leases or subletting of the building or facilities operating on an Institutional Overlay shall be permitted.

3) If an Institutional Overlay is allowed to expire or is revoked for cause, the parcel of property shall revert back to the underlying zoning of the parcel.

SECTION 16 - GENERAL PROVISIONS

Section 16.1 Application of this Ordinance

16.1.1 In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

16.1.2 Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.

16.1.3 Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose, nor in any manner which is not conformity with this Ordinance.

16.1.4 When land is proposed to be annexed to the City of Gem Lake the Planning Commission shall hold a public hearing upon the permanent zoning of said land. The results of the hearing, along with a recommendation, shall be presented to the City Council. In the event of annexation proceedings becoming final before the permanent zoning is determined, the annexed area shall be placed in the "RE" District and such classification shall be considered as an interim step pending permanent classification.

16.1.5 Real Property Development. making application for development of real property in the City of Gem Lake, the developer shall submit twelve (12) sets of all plans, variance requirements, and permit requirements in forms acceptable to the Zoning Administrator or City officials including, but not limited to, the following:

A) A Site Plan; and

B) A Grading and Filling Plan; and

C) A Landscape Plan; and

D) A Tree Preservation Plan; and

E) A Sediment and Erosion Control Plan; and

F) A Storm Water Management Plan; and

G) A Description of the Project; and

H) A Description of Future Expansion Plans; and

I) All Variances, Conditional and Interim Use Permits, and Zoning Amendments required; and

J) All other such plans or information as may be required for specific zoning districts.

16.1.6 Development Review Considerations. When making recommendations and decisions considering land use, variance applications, or rezoning applications, the Planning Commission and City Council shall review and measure the impact of such uses including, but not limited to, the following as criteria:

A) The impact of the use on adjacent uses; and

B) The impact of the use on air and water quality; and

C) The impact of the use on traffic generation

D) The impact of the use on public safety, health and welfare; and

E) The impact of the use on the economy

Section 16.2. Severability
It is hereby declared to be the intention of the Mayor and City Council that the several provisions of this Ordinance are severable. If any court of competent jurisdiction shall adjudge any provision of this Ordinance or application thereof to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.

Section 16.3 Non-Conforming Uses and Structures

16.3.1 Any structure or use lawfully existing upon the effective date of this Ordinance may be continued at the size and in a manner of operation existing upon such date except as hereinafter specified.

16.3.2 Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the City.

16.3.3 When any lawful non-conforming use of any structure or land in any district has been changed to a confirming use it shall not thereafter be changed to any non-conforming use.

16.3.4 Whenever a lawful non-conforming building or structure shall have been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, it may be reconstructed and used as before if it be reconstructed within twelve (12) months after such calamity, unless the damage to the building or structure is fifty percent (50%) or more of its fair market value, in which case the reconstruction shall be for a use in accordance with the provisions of this Ordinance.

16.3.5 Whenever a lawful, non-conforming use of a building or structure or land is discontinued for a period of six (6) months, any future use of said building or structure or land shall be in conformity with the provisions of this Ordinance.

16.3.6 Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the nonconforming use.

16.3.7 A lawful non-conforming use may be changed only to a use of the same or more restricted classification.

16.3.8 Alterations may be made to a structure or building containing lawful non-conforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units.

16.3.9 Uses Not Provided for Within Zoning Districts

A) Whenever, in any Zoning District, a use is neither specifically allowed nor denied, the use shall be considered as prohibited. In such cases, the City Council or the Planning Commission may, by their own initiative, or upon request of the property owner, conduct a study to determine if:

1) The use can be deemed consistent with the Comprehensive Municipal Plan;

2) The use is acceptable to and will not adversely affect adjacent property owners;

3) The use is in the public interest and is not determined to be offensive;

4) Which defined Zoning District would be most appropriate for the use;

5) What conditions and standards relating to development of the use should be imposed. Upon completion and consideration of the study, the City Council or Planning Commission or the real property owner may initiate a request for an amendment to the Zoning Ordinance to provide for the particular use under consideration in accordance with the definitions and provisions contained in this Ordinance.

Section 16.4 Lot Provisions

16.4.1 Land covered by Gem Lake, its contiguous bog area including islands (measured to the mean high water mark) and other DNR protected wetlands shown on applicable section maps covering the area shall not be included in any area calculations required by this Ordinance.

16.4.2 In all residential districts, a lot must include contiguous buildable area as shown in tables located elsewhere within the ordinance unless the lot is part of a cluster or planned unit development that has been reviewed and recommended for approval by the Planning Commission and approved by the City Council.

Section 16.5 Accessory Buildings

16.5.1 No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

16.5.2 No accessory building shall exceed the height of the principal building. However, in no case, shall such accessory building exceed twenty-five (25') feet in height.

16.5.3 An accessory building shall be considered to be an integral part of the principal building unless it is six (6) feet or more from the principal building.

16.5.4 No detached accessory building shall be less than sixty (60') feet from the public right-of-way except on a corner lot, unless it conforms to the side yard requirements of the principal building. Those accessory buildings located sixty (60') feet or more behind the right-of-way line shall have a side yard of two (2') feet or more and a rear yard of three (3') feet or more.

16.5.5 No combinations of accessory buildings shall be allowed to exceed one-thousand (1,000) square feet in size, except by Conditional or Interim Use Permit from the City Council.

Section 16.6 Required Yards, Open Space and Heights

16.6.1 No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced.

16.6.2 No required yard or other open space allocated to a building or dwelling group shall be used to satisfy minimum lot area requirements for any other buildings.

16.6.3 The following shall be considered as permitted encroachments on set-back and height requirements:

A) In any yards: posts, off-street open parking spaces, open terraces, awnings, open canopies, steps, chimneys, and flag poles.

B) In front yards: service stations pump islands and fences. Fences must be at least eighty (80%) percent open.

C) In side and rear yards: fences or walls six (6') feet in height or less. However, in a corner lot no obstruction higher than three (3') feet above curb level shall be located within twenty (20') feet of the lot corner formed by any two streets, or within fifteen (15') feet of any street right-of-way. See Residential Zoning Districts for additional regulations for fences.

D) In rear yards, recreational and laundry drying equipment, open arbors and trellises, balconies, breeze ways, porches, detached outdoor living rooms, barbecue facilities and portable seasonal living structures.

E) Height limitations shall not apply to barns, silos, and other structures on farms; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles; public utility facilities; Accessory and Secondary Use antennas and parapet walls extending not more than four (4') feet above the limiting height of the building.

Section 16.7 Traffic Visibility

16.7.1 No fences, structures or planting exceeding thirty (30") inches in height above the center line grade of the street shall be permitted within the required front yard set-back on a corner lot.

Section 16.8 Farming Operations

16.8.1 All farms in existence upon the effective date of this Ordinance and all farms which are brought into the City by annexation shall be a permitted use where the operator can conduct a farming operation. However, all regulations contained herein and other City Ordinances as in effect shall apply to all changes of the farming operation which will cause all or part of the area to become more intensively used or more urban in character. See Residential Zoning Districts for additional regulations of agricultural buildings.

Section 16.9 Essential Services

16.9.1 Essential services shall be permitted as authorized and regulated by state law and ordinances of the City of Gem Lake.

Section 16.10 (Deleted)

Section 16.11 (Deleted)

Section 16.12 Relocation of Dwelling Units

16.12.1 It shall be the stated policy of the City of Gem Lake to maintain a harmonious and high standard of residential development and to protect residential areas from deleterious effects through insuring that both new and relocated dwellings form other areas, both within the City of Gem Lake and from outside, shall meet specified requirements. Such relocation of dwellings as stated above must conform to all regulations of the Building Code and shall be permitted in the zoning district where all necessary specifications as to lot sizes, setbacks, type of use, height regulations and all other conditions as laid down in this Ordinance are met.

16.12.2 In addition, such relocations shall require a Conditional Use Permit from the City Council wherein the following procedures shall be followed and provisions shall be met:

A) Application shall be made on forms provided by the City Clerk.

B) A fee for the Relocation of Dwelling Units shall be required in an amount established by resolution of the City Council at its first meeting in January of each year. Further, the City may impose additional fees including, but not limited to, engineering costs, attorney's fees, expert opinions and publishing costs payment of which may also be required of the applicant as part of the process. The building mover shall meet all requirements for licensing and insurance as required by Minnesota Statues 221.81 and as from time to time amended.

C) The application shall be referred to the City Council, who shall set a time and place for a public hearing giving at least ten (10) days' public notice of such hearing.

D) At least ten (10) days before such hearing, the Council shall mail a notice of said hearing to property owners within three-hundred fifty (350') feet of the relocation premises. Failure of the Council to mail the notice, or failure of the title holder to receive the notice shall not invalidate the proceedings.

E) The Planning Commission shall make a report to the City Council on the matter before or at the public hearing.

F) The City Council shall make a finding and declare whether or not the structure to be moved is architecturally compatible.

Section 16.13 Fences

16.13.1 General Provisions

A) No fences shall be placed on or extend into a public or private right-of-way or utility easement.

B) The side of the fence considered the "face' (i.e. the side having no structural supports) shall face abutting property or the public or private right-of-way.

C) Both sides of the fence shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become or remain in a condition of disrepair or danger or constitute a nuisance, public or private.

D) No physical damage of any kind shall occur to abutting property during fence construction.

E) All fences shall be constructed inside the property lines of a lot. If corner property stakes cannot be readily identified, a certificate of survey and setting of corner property stakes is necessary before fence construction starts.

F) All man-made fences shall consist of materials comparable in grade and quality to the following: decorative masonry, wrought iron or wood, provided the surfaces are finished for exterior use, or wood of proven durability such as cedar or redwood is used.

G) Chain link fences shall only be used for dog confinement areas (six (6'0") foot maximum height), around swimming pools or spas four (4'0") foot maximum height) or for tennis courts (twelve (12'0") foot maximum height) in rear and side yards only. Chain link fences which need additional height or for other uses or placement shall require a Conditional Use Permit.

H) Fences, utilized for the protection of gardens, crops and shrubs from deer and other wildlife which are setback a minimum of twenty-five (25'0") feet from any property line, are at least eighty (80%) percent open and not greater than six (6'0") feet in height and are limited to specified areas requiring protection, shall be exempt from any City review or processing requirements.

I) It is recommended that all fences be screened with trees or shrubs to buffer views, neighboring property or public right-of-way, or to generally ensure aesthetic quality and compatibility with the natural character of the community.

16.13.2 Specific Fence Standards. Fences may be allowed in the City of Gem Lake subject to the following standards:

A) Split rail fences not exceeding forty-eight (48") inches in height are permitted anywhere within the property lines of a lot located within the City. Location of the fence in relation to the property line as described in 16.13.1 E) must be followed.

B) Except as may be provided herein, fences up to six (6'0") feet in height and no more than eighty (80%) percent solid matter shall be permitted along the boundaries of the side and rear yard of a lot on a permanent basis. Location of the fence in relation to the property line as described in 16.13.1 E) must be followed.

C) Fences not exceeding six (6'0") feet in height, in areas other than for residential areas of the City, may be permitted in front of the front building lines as established by the primary structure on the lot, where required for screening of adjacent property.

D) On corner lots, no fence greater than thirty (30") inches high shall be located in the sight visibility triangle on the corner of the lot defined as within twenty (20'0") feet of the lot corner formed by any two streets or within fifteen (15'0") feet of any street right-of-way.

E) All swimming pools must be completely enclosed with a safety fence at least four (4'0") feet in height which shall completely enclose the pool. This fence shall be as described in Section 16.14.3. A temporary fence as described in 16.14.3. C) shall be installed and shall be in-place before the pool is filled.

F) All outdoor spas shall have either a fence or a latchable cover, as described in 16.14.3 D)

G) Freestanding stone, brick, stucco, concrete, wood or other walls, not required as retaining structures, are considered fences under this section of this Ordinance.

H) There are no height restrictions on natural hedges or plantings utilized as fences in any residential zoning district except no plantings greater than thirty (30") inches high shall be located in the sight visibility triangle on the corner of the lot defined as within twenty (20'0") feet of the lot corner formed by any two streets or within fifteen (15'0") feet of any street right-of-way.

I) Temporary snow fences can be erected for temporary site protection or for diverting snow. Snow fences shall not be used as permanent fencing. Snow fences shall not be located in the sight visibility triangle on the corner of the lot defined as within twenty (20'0") feet of the lot corner formed by any two streets or within fifteen (15'0") feet of any street right-of-way.

16.13.3 Fence standards allowed by Conditional Use Permits.
The following fences may be approved by Conditional Use Permit only, in accordance with the standards as set forth by the City Council:

A) Fences allowed by Conditional Use Permit are as follows:

1) All chain link fences with a height greater than described in Section 16.13.1.G).

2) Fences, such as sales lot security fences, which include a security gate at a point where access is provided to the property and/or principal building.

3) Fences greater than six (6') feet in height around a garden, crops, and shrubs utilized for the protection of such from deer and other wildlife.

4) Barbed wire and electrically charged fences. (All such fences must be marked with caution signs on all exposures).

16.13.4 Non-conforming fences.
It is the intent of this section to allow the continuation of such non-conforming fences as may already exist until they are discontinued as provided herein. However, it is not the intent of this Section to encourage the survival of non-conforming fences and such fences are declared to be incompatible with permitted conforming fences and such fences are declared to be incompatible with permitted fences within the City. Such fences shall be regulated by the following provisions:

A) An existing fence not permitted by this Ordinance, except when required to do so bylaw or ordinance, shall not be enlarged, extended, reconstructed or structurally altered unless such fence is changed to one permitted. Maintenance of a non-conforming fence will be allowed, however, when this includes necessary repairs and incidental alterations which do not expand or intensify the non-conforming use.

Section 16.14 Outdoor Swimming Pools and Spas

16.14.1 Private swimming pools shall be constructed so as to avoid hazard or damage to the occupant of the subject property or the occupants of adjacent property and shall conform as follows:

A) Permit Required - No outdoor swimming pool shall be constructed or established and no such pool construction shall be commenced in the City of Gem Lake without first obtaining building and plumbing and, as necessary mechanical permits approved by the City Building Official.

B) Applications - Applications for a swimming pool related permits may be secured from and shall be submitted to the City Clerk along with a fee determined by the fee schedule for construction permits in effect at the time of application and based upon the estimated value of the construction. Applications for swimming pool permits shall include, without limitation the following information:

1) Complete plans and specifications for the construction of the pool.

2) A site plan showing the location of all structures on the lot including the house, garage, fences, trees, overhead or underground wiring, utility easements, sewage systems and other significant improvements or natural features;

3) The proposed locations of pumps, filters, electrical power source (if applicable), flushing and drainage outlets and other operational features;

a) A plan showing where pool water will be discharged and the path such discharged water will follow. In no case shall any water discharged from a swimming pool or spa be allowed to flow directly into any lakes, ponds or wetlands.

4) Location and specifications of protective fencing.

16.14.2 Construction setback requirements for pools.
Private outdoor swimming pools shall be constructed as to avoid hazard or damage to the occupants of the subject property or the occupants of adjacent property and shall meet the following minimum requirements;

A) Underground or overhead utilities shall be located in conformance with the National Electric Code;

B) No pool shall be located within any private easement, public or private utility easement, ingress or egress easement, drainage way, marsh, or other location in which it will represent a threat to the natural environment;

C) In areas zoned or used for single family residential purposes, pools are prohibited in the front yard and shall not be located within thirty (30'0") feet of any lot lines, nor within ten (10'0") feet of any principal structure or accessory buildings except accessory building without frost footings. No mechanical equipment shall be located closer than thirty (30'0") feet to any lot line;

D) No portion of any swimming pool or appurtenances thereto shall be located less than ten (10'0") feet to any portion of a sewage disposal line or sewage treatment system, nor shall any water supply line for a swimming pool be less than fifteen(15'0") feet from any portion of the sewage treatment system.

16.14.3 Safety Fence Required.
A safety fence of at least four (4'0") feet in height shall completely enclose the outdoor pool. All openings or points of entry into the pool area shall be equipped with self-closing and self-latching gates or doors. All gates and doors shall have a latch which is no less than four (4'0") feet above the ground level and which shall be so constructed and so placed as to be inaccessible to small children. All gates and doors shall be latched when the pool is not in use or is unattended by an adult with demonstrated swimming ability. Any opening between the bottom of the fence and the ground level shall not exceed three (3") inches.

A) Safety fences shall be constructed of materials with minimum spaces between the materials and shall be constructed so as to inhibit the climbing thereof by any person. If a safety fence is located within an area subject to and covered by a homeowners association, and if such homeowners association has an architectural review committee, then the architectural review committee shall approve the location and style of the fence.

B) Above ground pools of four (4') feet or more in wall height shall be exempt from complete closure by a type of fence resistant to being climbed, however, above ground pools shall be equipped with a fence and gate system at all point of entry to the pool. Said fence and gate system shall effectively control access to the pool and shall be constructed pursuant to the specifications herein contain for underground pools.

C) Temporary fence. No person shall introduce or cause to be introduced any water to a depth of more than eighteen (18") inches into the shallowest portion of any swimming pool newly constructed or being constructed until such time as the Building Official authorizes the filling of such pool with water. Such authorization shall be withheld until, as a minimum, the permittee has caused such pool to be completely enclosed by a swimming pool construction fence. Said construction fence shall:

1) Be of snow fence like of similar design and be securely anchored in place.

2) Be constructed with its base flush to the ground.

3) Be at least four (4'0") feet in height and have supportive posts placed no more than eight (8'0") feet apart.

4) Remain in place until a permanent fence completely enclosing the swimming pool is installed.

D) All outdoor Spas shall either have a fence as described in this section for outdoor swimming pools or a latchable cover. The cover should be constructed of a material impenetrable by toddlers and subject to inspection by the City building Official.

16.14.4 Miscellaneous requirements

A) All back-flushing water or pool drainage water shall be directed to be on the property of the owner or on approved drainage ways. Drainage onto public or private streets or other public or private drainage ways shall require a permit from the City Building Official.

B) Any outdoor lighting of the pool shall not be permitted to spill or shine upon adjacent properties.

C) All electrical installations shall comply with the State Electrical Code.

D) Precautions during construction:

1) Avoid damage, hazards or inconvenience to adjacent or nearby property..

2) Assure that proper care shall be taken in stockpiling excavating materials to avoid erosion, dust or other infringements upon adjacent property..

3) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to streets and adjacent private or public property.

16.14.5 Nuisance.
The conduct of persons and the operation of pools shall be the responsibility of the owner and any tenants thereof and such conduct of persons and operation of the pool shall be done in a manner so as to avoid any nuisance or breach of the peace, and it shall be unlawful to allow loud noises to go beyond the boundaries of the property upon which the pool is located to adjacent property.

Section 16.15 Land Reclamation

16.15.1 Under this Ordinance, Land Reclamation shall be defined as the reclaiming of land by depositing of material so as to elevate the grade. In all Zoning districts, Land Reclamation shall be permitted only upon issuance of a Special Use permit. Any lot or parcel upon which an aggregate amount of four hundred (400) cubic yards or more of fill is to be deposited shall be defined as Land Reclamation. The request for a Land Reclamation permit shall contain at least the following:

A) Completed Special Use Permit form and necessary fees
B) Survey of the site where Land Reclamation is to occur showing land contours before and after Land Reclamation. This survey shall be large enough in scale to allow for at least the inclusion of the immediate adjacent parcels of land.

C) A sketch showing current water drainage from/to the site and any modifications of such drainage after Land Reclamation is complete.

D) A description or sketch showing the soil erosion control measures to be used during this Land Reclamation activity.

E) Description of the amount, origin and types of materials to be placed on the land as part of this Land Reclamation.

F) A sketch and/or description of the final cover material to be placed on the fill deposited by this Land Reclamation. The City Council may require a monetary deposit be placed with the City to insure that the final grading and landscaping be completed per the supplied sketches and description.

G) Statement of when this Land Reclamation is to occur including the hours of the day and days of the week of such planned activities. The City might further limit these hours and days of operation.

H) A route map showing the route for the trucks moving to and from the site. Copies of any special permits needed from the county or state highway departments should be attached.

16.15.2 Each Land Reclamation Special Use permit shall be valid for a maximum of one year or as described in the Special Use permit issued by the City.

Section 16.16 Mining

16.16.1 Under this Ordinance, mining shall be defined as the extraction and incidental processing of sand, gravel, or other materials from the land in the aggregate amount of four hundred (400) cubic yards or more of removal thereof from a single site. In all zoning districts, the conduct of Land Mining shall be permitted only upon issuance of a Special Use Permit. Each request for a permit for Land Mining shall at least include the following:

A) Completed Special Use Permit form and necessary fees

B) Survey of the site where Land Mining is to occur showing land contours before and after the Mining. This survey shall be large enough in scale to allow for at least the inclusion of the immediate adjacent parcels of land.

C) A sketch showing current water drainage from/to the site and any modifications of such drainage after Land Mining is complete.

D) A description or sketch showing the soil erosion control measures to be used during this Land Mining activity.

E) A sketch and/or description of the final cover material to be placed on the land exposed by this Land Mining. The City Council may require a monetary deposit with the City to insure that the final grading and landscaping be completed per the supplied sketches and description.

F) Statement of when these Land Mining activities are to occur including the hours of the day and days of the week of such planned activities. The City might further limit these hours and days of operation.

G) A route map showing the route for trucks moving to and from the site. Copies of any special permits needed from the county or state highway departments should be attached.

16.16.2 Each Land Mining Special Use permit shall be valid for a maximum of one year or as described in the Special Use permit issued by the City.

SECTION 17 - ADMINISTRATION AND ENFORCEMENT

Section 17.1 Enforcing Officer

17.1.1 The Mayor shall appoint a Zoning Administrator, subject to the approval of the City Council, who shall have the duty and responsibility of enforcing and administering this Ordinance.

Section 17.2 Building Permit

17.2.1 No structure shall hereafter be erected, or structurally altered until a building permit shall have been issued indicating that the existing or proposed structure and the use of land, comply with this Ordinance and all Building Codes. All applications for building permits pertaining to the erection, or major alteration which will affect the outside dimensions of a structure shall be accompanied by three (3) copies of a site plan to scale showing the actual dimensions of the lot, lots or parcel to be built upon, the dimensions of the ground plan and the extensions beyond the outside wall of the proposed structures to be erected or structurally altered, their location on the site in relation to the outside boundary and such other information as may be necessary to provide for the enforcement of these regulations. One copy of the site plan is to be approved and is to be made available on the site.

Section 17.3 Duties of the Zoning Administrator

17.3.1 The Zoning Administrator shall enforce this Ordinance and in addition thereto and in furtherance of said authority he shall:

A) Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance;

B) Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, and conditional and interim uses, variances, appeals and applications, thereto;

C) Receive, file and forward all applications for zoning amendments, variances, conditional or interim uses or other matters to the Planning Commission and City Council;

D) Institute in the name of the City of Gem Lake any appropriate actions or proceeding against a violator as provided by law;

E) Approve all building permits, submitted by the Building Inspector, after determining that the permit is in compliance with this Ordinance. This approval must be made before the permit is issued.

F) Act as Chairman of the Gem Lake Plan Review Commission.

17.3.2 The City Council may, on prior recommendation of the Zoning Administrator, empower the Ramsey County Sheriff in specific instances to perform any of the acts which the Zoning Administrator is directed or authorized to perform by this Section.

Section 17.4 Variances

17.4.1 Purpose and Intent.
The City Council, sitting as the Board of Appeal and Adjustment, may grant Variances from the strict applications of the provisions of this Zoning Ordinance and impose conditions and safeguards in the Variances so granted. These Variances shall be considered in cases where by reason of narrowness, shallowness, or shape of a lot or where by reason of exceptional topographic or water conditions or where other extraordinary and exceptional conditions of such lot exist, the strict application of the terms of the Zoning Ordinance would result in practical difficulties upon the owner of such lot in complying with the regulations of the zoning district in which said lot is located. "Practical difficulties," as used in connection with the grant of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not

limited to, inadequate access to direct sunlight for solar energy systems. A variance may not be granted to allow any use that is not allowed in the zoning district in which the property is located.

17.4.2 Application. An application for any Variance from the Zoning Ordinance shall be made on a form provided by the City. If the Variance is to be considered in association with any other Building Permits, Conditional or Interim Use Permits, or Subdivision, all related applications shall be submitted simultaneously with the Variance application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state full all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the Variance as required and communicated by the Zoning Administrator.

A) An application will be considered complete on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, the City shall act on the application within the period prescribed unless said required period is extended or waived.

B) When reviewing variance applications, impact on the following criteria shall be reviewed and measured by the Planning Commission and City Council:

1) Adjacent Uses; and

2) Air and Water Quality; and

3) Traffic Generations; and

4) Public Safety and Health; and

5) Area Aesthetics; and

6) Economic Impact on the Entire Area; and

7) Consistency with the Comprehensive Plan.

17.4.3 Referral to Planning Commission.
The matter along with all related information shall be referred to the Planning Commission which shall review the application(s) and hear the applicant or representative thereof at its first regular meeting following receipt of complete application(s). To insure preservation of health, safety, and general welfare of the public, the Planning Commission shall have authority to request additional information from the applicant concerning the Variance or to retain expert testimony with the consent and at the expense of the applicant concerning the application.

17.4.4 Public Hearing.
In consideration of the application(s), a public hearing shall be held before the Planning Commission or the City Council to receive public comment on the matter. Notice of the public hearing shall be published in the City's official legal publication not less than ten (10) nor more than thirty (30) days with said notice stating the date, time, place and a summary of the application.

17.4.5 Referral to City Council.
The Planning Commission shall make written findings of fact and recommendation to the City Council which shall include such actions or conditions relating to the request as may be deemed necessary to carry out the intent and purpose of this Ordinance and the Comprehensive Plan.

17.4.6 Action by City Council.
Upon receipt of the written recommendation of the Planning Commission and public comment, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than the number of days allowed by law after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. The City Council shall, in the form of a resolution, make a written finding of fact, and convey its decision to approve or deny the

application. The Council may impose conditions on the grant of a variance, provided that any condition imposed is directly related to a likely impact of the variance, and in rough proportionality to the scope of said impact. Approvals shall require a majority vote of the City Council.

17.4.7 Issuance of Variance.
Following a decision by the City Council to approve or deny the application, the Zoning Administrator shall promptly notify the applicant in writing of the decision of the City Council, said notice considered delivered upon deposit for delivery with the US mail.

17.4.8 Lapse of Variance. Any Variance issued shall lapse if not acted upon within one (1) year of the date of issuance.

Section 17.5 Conditional and Interim Use Permits

17.5.1 Purpose and Intent.
The City Council may, by resolution, grant Conditional or Interim Use Permits for the uses and purposes described elsewhere in this Ordinance as Conditional or Interim Uses and may, in the granting of such Conditional or Interim Use Permits, impose conditions and safeguards which promote the guidelines set forth in the Comprehensive Municipal Plan and which are in harmony with the general purpose and intent of this Ordinance.

17.5.2 Application.
An application for a Conditional or Interim Use permit shall be made on a form provided by the City. If the Conditional or Interim Use Permit is to be considered in association with any other building permits, variances, or subdivision, all related applications shall be submitted simultaneously with the Conditional or Interim Use Permit application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the application as required and communicated by the Zoning Administrator. An application will be considered complete on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, the City shall act on the application within the period prescribed unless said required period is extended or waived.

A) When reviewing Conditional and Interim Use Permit applications, except those for residential building height, impact on the following criteria shall be reviewed and measured by the Planning Commission and City Council:

1) Adjacent Uses; and

2) Air and Water Quality; and

3) Traffic Generations; and

4) Public Safety and Health; and

5) Area Aesthetics; and

6) Economic Impact on the Entire Area; and

7) Consistency with the Comprehensive Municipal Plan; and

~~9~~8) Anticipated Duration of the Conditional or Interim Use.

B) Residential Building Heights.
When reviewing Conditional Use Permit applications which deal exclusively with residential building heights, the matter shall be forwarded to the Gem Lake Plan Review Commission who shall, in a timely manner, review all such applications in accordance with criteria established and, from time to time, modified, by the Plan Review Commission. Upon completion of the review, the Plan Review Commission shall forward the application along with its written recommendation to the City Council for consideration and approval or denial at its next regular

meeting. No review by the Planning Commission as required in Section 17.5.3 or Public Hearing as required in Section 17.5.4 shall be required for this Conditional Use unless specifically ordered by the City Council. In all such matters, the City Council shall be considered the Board of Appeals.

17.5.3 Referral to Planning Commission.
The matter along with all related information shall be referred to the Planning Commission which shall review the application(s) and hear the applicant or representative thereof at its first regular meeting following receipt of complete application(s). To insure preservation or health, safety, and general welfare of the public, the Planning Commission shall have authority to request additional information from the applicant concerning the application or to retain expert testimony with the consent and at the expense of the applicant concerning the application. The Planning Commission shall review the matter determining the effect of the proposed Conditional or Interim Use on: the Comprehensive Municipal Plan; the character and development of the neighborhood and Zoning District; conformance with the Performance Standards and other provisions of this Ordinance; compliance with other applicable law, regulations, and provisions which may affect the Conditional or Interim Use.

17.5.4 Public Hearing.
In consideration of the application(s), a public hearing shall be held before the Planning Commission or the City Council to receive public comment on the matter. Notice of the public hearing shall be published in the City's official legal publication not less than ten (10) nor more than thirty (30) days with said notice stating the date, time, place and a summary of the application. A similar notice shall be mailed to all owners of real property located within three hundred fifty (350'0") feet of the Conditional or Interim Use site based upon a list and mailing labels secured from Ramsey County Property Records and Revenue.

17.5.5 Referral to City Council.
The Planning Commission shall make written findings of fact in accordance with Section 12.1.5 C. of the Comprehensive Municipal Plan and recommendation to approve or deny the application to the City Council which shall include such actions or conditions relating to the request as may be deemed necessary to carry out the intent and purpose of this Ordinance.

17.5.6 Action by City Council.
Upon receipt of the written recommendation of the Planning Commission and public comment, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than the number of days allowed by law after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. In considering the application, the City Council shall determine that the proposed Conditional or Interim Use: 1) will not be detrimental to public health, safety, and general welfare; 2) is in harmony with the general purpose and intent of the Comprehensive Municipal Plan; 3) is in compliance with this Ordinance. The City Council shall, in the form of a resolution, make a written finding of fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

17.5.7 Issuance of Conditional or Interim Use Permit.
The Zoning Administrator shall promptly notify the applicant in writing of the decision of the City Council, said notice considered delivered upon deposit for delivery with the US mail. In the case of approvals, a Conditional or Interim Use Permit shall apply only to the use stated on the permit and the application.

17.5.8 Lapse of Conditional or Interim Use Permit.
If the use stated on the permit and application is not taken up and implemented within one (1) year of the date of issuance, such issued Conditional or Interim Use Permit shall lapse.

17.5.9 General Standards. All Conditional and Interim Uses shall comply with the following general standards.

A) Existing Uses. Shall be in accordance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.

B) New Uses. Shall conform as follows:

1) Compliance with all zoning and other regulations as may otherwise be applicable;

2) The date or the event that will terminate the use can be identified with certainty;

3) The existence of the Conditional or Interim Use will not impose additional costs on the public if it becomes necessary for the public to take the property in the future;

4) The user agrees to any conditions of approval associated with the approval of the Conditional or Interim Use Permit by the City Council.

C) Existing and New Uses. Shall conform as follows:

1) Shall maintain harmony and compatibility with surrounding uses and with the architectural character and design standards of existing uses and development;

2) Shall meet or exceed all Performance Standards contain elsewhere in this Ordinance;

3) Shall not generate such additional traffic associated with the use that would overburden or exceed the capabilities of streets and other public services and facilities including, but not limited to, parks, schools, and utilities serving the area.

Section 17.6 Amendments

17.6.1 General. In accordance with provisions of Minnesota Statues, the City Council may, from time to time, adopt amendments to this Ordinance providing such amendments are consistent with the intent of the Comprehensive Municipal Plan.

17.6.2 Initiation.
The City Council or the Planning Commission may, upon their own motion, initiate a request to amend the text, tables or district boundaries and maps of this Ordinance. Any person(s), firm(s), or corporation(s) who are the fee title owners of real property in the City or who have been designated in writing to represent the interest of the fee title owners of real property in the City may initiate a request to amend the text, tables or district boundaries and maps so as to affect the said real property or such real property adjacent thereto.

17.6.3 Application.
An application to Amend The Zoning Ordinance shall be made on a form provided by the City. If the application to Amend The Zoning Ordinance is to be considered in association with any other Building Permits, Variances, Conditional or Interim Use Permits, or Subdivision, all related applications shall be submitted simultaneously with the application so as to represent the full intent of the application. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the application as required and communicated by the Zoning Administrator. An application will be considered complete on the date of the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, The City shall act on the application within the period prescribed unless said required period is extended or waived.

17.6.4 Referral to Planning Commission.
The matter along with all related information shall be referred to the Planning Commission which shall review the application(s) and hear the applicant or representative thereof at its first regular meeting following receipt of complete application(s). To insure preservation of health, safety, and general welfare of the public, the Planning Commission shall have authority to request additional information from the applicant concerning the application or to retain expert testimony with the consent and at the expense of the applicant concerning the application. The Planning Commission shall review the matter determining the effect of the proposed application on: the Comprehensive Municipal Plan; the character and development of the affected neighborhood(s) and Zoning District(s); conformance with the Performance Standards and other provisions of this Ordinance; compliance with other applicable law, regulations, and provisions which may affect the amendment.

A) Only applications for zoning amendment which meet one of the following conditions should be considered:

1) A mistake has been made in the original zoning which was inconsistent with the Comprehensive Municipal Plan adopted by the City which should now be corrected; or

2) Substantial changes have occurred within the City since the adoption of the Comprehensive Municipal Plan which changes should result in an amendment of both the zoning and the Comprehensive Municipal Plan; or

3) There shall exist a clear public need for a benefit to be derived from the proposed zoning which shall be greater than any benefit or convenience of the property owners.

4) Beyond a public need being evident, the application shall show that the public interest would be best served by rezoning the property in question and that the property in question is the best qualified to serve said public need; or

5) In the case of "down zoning" which would diminish the intensity of the current use to a less intensive use, the proposed zoning shall allow the property owners a reasonable use of their property under the terms of this ordinance as well as serve the public interest.

B) When reviewing a zoning amendment applications, impact on the following criteria shall be reviewed and measured by the Planning Commission and City Council:

1) Adjacent Uses; and

2) Air and Water Quality; and

3) Traffic Generations; and

4) Public Safety and Health; and

5) Area Aesthetics; and

6) Economic Impact on Then Entire Area; and

7) Consistency with the Comprehensive Municipal Plan.

17.6.5 Public Hearing.

In consideration of the application(s), a public hearing shall be held before the Planning Commission to receive public comment on the matter. Notice of the public hearing shall be published in the City's official legal publication not less than ten (10) nor more than thirty (30) days with said notice stating the date, time, place and a summary of the application. If the amendment might affect the zoning or use of specific property, a similar notice shall be mailed to all owners of real property located within three hundred fifty (350') feet of the affected property based upon a list and mailing labels secured from Ramsey County Property Records and Revenue by the applicant and within the same time frame.

17.6.6 Referral to City Council.

The Planning Commission shall make written findings of fact in accordance with Section 12.1.5 A). of the Comprehensive Municipal Plan and recommendation to approve or deny the application to the City Council which shall include such actions or conditions relating to the request as may be deemed necessary to carry out the intent and purpose of this Ordinance.

17.6.7 Action by City Council.

Upon receipt of the written recommendation of the Planning Commission and public comment, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be within the time prescribed by law unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. In considering the application, the City Council shall determine that the proposed

amendment: 1) will not be detrimental to public health, safety, and general welfare; 2) is in harmony with the general purpose and intent of the Comprehensive Municipal Plan; 3) is in compliance with this Ordinance. The City Council shall, in the form of a resolution, make a written finding a fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

17.6.8 Adoption of the Amendment and Incorporation of Amendments Into The Ordinance.
The Zoning Administrator shall promptly notify the applicant in writing of the decision of the City Council, said notice considered delivered upon deposit for delivery with the US mail. In the case of approvals and unless otherwise specified by the City Council, the Amendment shall be considered in effect on a date specified by the City Council, but not later than thirty (30) days subsequent to the City Council's decision.

Section 17.7 Appeals

17.7.1 All appeals from any order, requirement, or decision of the Zoning Administrator or Building Official shall be brought before the Planning Commission who shall act in the capacity of Board of Appeals in all matters related to this Ordinance.

17.7.2 All appeals shall be filed in writing with the Zoning Administrator accompanied by any substantiating information and list of experts who shall may testify on behalf of the appellant. Upon receipt, materials shall be forwarded to the Chairman of the Planning Commission who shall place the matter on the agenda of the next meeting or a special meeting, provided a notice of the special meeting is appropriately published in the City's legal publication. Notice of all hearings for appeals shall be mailed to all appellants.

17.7.3 Upon review of the appeal and supplemental documentation and testimony related thereto, the Planning Commission shall decide the matter subject to judicial review or appeal to the City Council.

17.7.4 In the event the appeal is granted, it shall be published in the City's legal publication and shall become effective the date of publication.

Section 17.8 Fees

17.8.1 Application Fees. The fees to be paid to the City for an application for amendment of this Ordinance, a Variance from this Ordinance, a Conditional or Interim Use Permit, or any construction, plumbing, electrical, mechanical or other related permit shall be made payable to the City in an amount established, and from time to time, amended by resolution of the City Council.

17.8.2 Supplemental Costs. In addition to application fees, the City shall require payment of supplemental costs related to an action or application including, but not limited to: attorney's fees, fees of outside experts; staff time; direct expenses exceptional to the effort and as identified by City staff. The applicant shall deposit funds with the City, to be held in escrow, for payment of these supplemental costs, as determined by the City Council in ordinances adopted from time to time setting forth fees and charges for City services. Any application fees shall be applied to the costs incurred by the City. All expenses and costs incurred by the City in connection with an application under this Ordinance shall be borne by the applicant, and paid prior to final action on the application. Any amounts remaining from a deposit posted by an applicant shall be refunded to the applicant within thirty (30) days after final action on the application.

17.8.3 Fees shall be payable at the time applications are first filed with the City and are not refundable unless the application is withdrawn prior to referral of the matter for consideration. There shall be no fee in the case of an application filed in the public interest by members of the Planning Commission or City Council.

Section 17.9 Violations and Penalties.
Any person, firm, corporation, or voluntary association which violates or refuses to comply with any of the provisions of this Ordinance shall be charged with a misdemeanor and, upon conviction thereof, subject to the maximum penalties provided for by law and costs for every offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 18 - PERFORMANCE STANDARDS

Section 18.1 General.
The performance standards established in this section are designed to encourage high quality development by providing assurance that neighboring land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause urban and rural blight. The Zoning Administrator, assisted by the Building Inspector, shall be responsible for enforcing these standards and may require the submission of information showing compliance or non-compliance with the standards.

Section 18.2 Requirements for Consideration

18.2.1 Construction Plan Review

A) Residential Construction

1) Prior to the start of construction or remodeling that will create a new building or structure or will change the outside dimensions of any building or structure located in a residential zoning district, six (6) copies of the following data must be furnished to the Zoning Administrator.

a) Existing Improvements. Copies of a site plan drawn to a scale not smaller than one inch equals fifty feet (1" = 50') for the lot upon which the structures will be built or remodeled. Each site plan shall identify the location(s) and size(s) of all existing structures, proposed structures or additions, driveways, sidewalks, parking spaces and Individual Sewage Treatment Systems (ISTS). The dimensions and area calculations of the lot and all building set-back lines shall also be shown.

b) Wetlands and Water Bodies. All wetlands and other water bodies on the property shall be identified and set-back lines to all structures shall be indicated on the site plan.

c) Trees and Landscape. If the proposed construction or remodeling will result in any loss of existing trees or vegetation, a tree inventory and, if necessary, reforestation plan as described in Section 27 shall be provided. A landscape plan shall also be provided indicating existing and proposed vegetation improvements.

d) Plans. Preliminary architectural plans including floor plans and exterior elevations for the proposed construction or remodeling.

e) Sediment and Erosion Control. Identification of all Best Management Practices (BMP) to be employed on the property to provide sediment and erosion control in accordance with Section 22 of this ordinance.

f) Additional Data. Any additional data requested by the Zoning Administrator or Plan Review Commission due to conditions peculiar to the property.

B) Commercial Construction

1) Prior to the start of construction or remodeling that will create a new building or structure or will change the outside dimensions of any building or structure located in a commercial or business zoning district, six (6) copies of the following data must be furnished to the Zoning Administrator.

a) Existing Improvements. Copies of a Registered Surveyors Report drawn to a scale not smaller than one inch equals fifty feet (1" = 50') for the lot upon which the structures will be built or remodeled. Each site plan shall identify the location(s) and size(s) of all existing structures, proposed structures or additions, driveways, sidewalks, parking spaces and Individual Sewage Treatment Systems (ISTS). The dimensions and area calculations of the lot and all building set-back lines shall also be shown.

b) Wetlands and Water Bodies. All wetlands and other water bodies on the property shall be identified and set-back lines to all structures shall be indicated on the site plan.

c) Topography. A topographical survey in two (2') foot increments and at a minimum scale of one inch equals twenty feet (1" = 20') for the proposed construction site which includes existing topographical and natural features, proposed changes to the topographical and natural features, existing structures and improvements and proposed structures and improvements.

d) Trees and Landscape. If the proposed construction or remodeling will result in any loss of existing trees or vegetation, a tree inventory and, if necessary, reforestation plan as described in Section 27 shall be provided. A landscape plan shall also be provided indicating existing and proposed vegetation improvements.

e) Fences and Screening. Details and specifications for all fencing, walls and screening devices to be installed as part of the project.

f) Storm Water Drainage Plans. Identification of all Best Management Practices (BMP) to be employed on the property to provide storm water drainage sufficient to drain and dispose of all surface water accumulation within the proposed development site, said BMP's to be in accordance with Section 22 of this ordinance. These plans to be reviewed by the City Engineer and the appropriate Watershed Management Organization (WMO).

g) Sediment And Erosion Control. Identification of all Best Management Practices (BMP) to be employed on the property to provide sediment and erosion control in accordance with Section 22 of this ordinance. These plans to be reviewed by the City Engineer and the appropriate Watershed Management Organization (WMO).

h) Traffic and Parking. Detailed plans showing all entrances and exits accompanied by reviews by Ramsey County if development will access onto a county road or MN DOT if development will access onto a state highway. Plans shall also include all interior driveway and road details, parking requirements and emergency access routes.

I) Lighting. Lighting plans shall include all proposed installation of exterior, parking lot, display and storage lot lighting.

j) Signage. Proposed placement, description and quantity of all sign types and associated fixtures.

k) Structure Plans. Preliminary architectural plans including floor plans, exterior elevations and description of exterior facades.

l) Deviations. Plans should be accompanied by a list of all Variances, Conditional or Interim Use Permits, and Zoning Amendments required for the development.

18.2.2 Cost of data review

A) All costs in excess of those already included in established permit fees incurred by the City in the review of the data supplied for commercial construction, such as City Engineer plan review costs, shall be paid by the person presenting the plans, prior to any approval. The final approval of these plans will not be voted on by the City Council until all costs have been paid.

B) Whenever the proposal may involve a potential for significant environmental impact, or if an Environmental Impact Statement or an Environmental Assessment Worksheet may be needed by state law or applicable regulation, the City will require the applicant to prepare or pay for the professional assistance needed in the preparation of these statements or worksheets.

18.2.3 Procedures for review

A) Residential Construction

1) No building permits will be issued for the proposed construction or remodeling until the data required has been reviewed and approved by the Plan Review Commission which shall be charged with completion of the review in a timely manner.

a) If approved by the Plan Review Commission, one (1) copy of the data shall be filed with the application for a building permit, one (1) copy shall be attached to the architectural plans retained by the City for its records and one (1) copy shall be attached to the architectural plans and made available for inspection at the construction site.

b) In the event the applicant and Plan Review Commission disagree on any portion of the proposed plans which would preclude issuance of a building permit, the matter may be submitted to the City Council. In this case, the City Council shall act as the Board of Appeals and may order approval of the building permit application as presented, may order approval of the building permit application with such amendments as it may deem appropriate or may order denial of the building permit application.

B) Commercial Construction

1) No building permits will be issued for the proposed construction or remodeling until the data in required has been reviewed by the Zoning Administrator and submitted for review by the Planning Commission at its next regular meeting. The Planning Commission with assistance as requested by the Plan Review Commission, City Engineer, Building Official or other such professionals as it may deem necessary shall review the submittal and forward recommendations to the City Council for approval of the building permit application, approval of the building permit application with such amendments as may be appropriate or denial of the building permit application.

a) If approved by the City Council, one (1) copy of the data shall be filed with the application for a building permit, one (1) copy shall be attached to the architectural plans retained by the City for its records and one (1) copy shall be attached to the architectural plans and made available for inspection at the construction site.

b) In the event the applicant and City Council disagree on any portion of the proposed plans, the matter may be resubmitted with amendments to the Planning Commission for reconsideration and the Planning Commission shall review the resubmittal and forward recommendations to the City Council for approval of the building permit application with amendments as resubmitted or denial of the building permit application.

Section 18.3 Exterior Storage

18.3.1 Residential Districts

A) In Residential Districts, all materials and equipment shall be stored within a building or fully screened (so as not to be visible) from adjoining properties or a street, except for the following; laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks, except inoperative automobiles and trucks may be parked once for a period of time not to exceed fourteen (14) days.

B) The use of commercial storage equipment and/or semi-trailer type containers or other similar portable storage units is not allowed in any residential district except when used in conjunction with an Interim Use Permit, issuance of which is not subject to a public hearing, issued for a period of not more than one-hundred twenty (120) days in conjunction with a properly issued Building Permit for the property. Whenever possible, such containers should be restricted to a location in the side or rear yard.

18.3.2 Business Districts

A) In business districts all materials, equipment and vehicles shall be stored in a building or fully screened (so as not to be visible) from adjoining properties or a street except for:

1) Temporary storage of construction and landscaping materials currently being used on the premises.

2) Open Storage Lots where screening but not a building shall be required.

3) Open Sales or Rental Lots where merchandise for retail sales or rental may be displayed in areas designated by the required Site Plan or a Conditional or Interim Use Permit.

B) The use of commercial storage equipment and/or semi-trailer type containers or other similar portable storage units is not allowed in any business district unless an Interim Use Permit for a period not to exceed one-hundred eighty (180) days is first secured in accordance with Section 17.5 ~~17.6~~ of this Ordinance. Whenever possible, such containers should be restricted to a location in the side or rear yard.

Section 18.4 Refuse

18.4.1 In All Districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Farms may be excluded from this requirement providing the waste material is that commonly associated and incidental to normal farm operations. The owner of vacant land shall be responsible for keeping such land free of refuse, and weeds.

A) In all non-residential districts, all commercial refuse containers shall be enclosed in a building or properly fenced or screened to prevent any refuse from spilling beyond the fenced or screened area and to prevent access by children or other unauthorized persons. Fences or screens shall also be subject to the provisions for same found elsewhere in this ordinance.

18.4.2 In All Districts, no person shall store, park or permit the parking or storage of any junked vehicle, machinery or equipment external to any structure, on any property within the city.

Section 18.5 Screening

18.5.1 Screening shall be required in all zones where:

A) any off-street parking area contains more than four parking spaces and is within thirty (30') feet of an adjoining residential use or zone; and

B) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15') feet of an adjoining residential use or zone.

18.5.2 Where any business or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a developed residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

18.5.3 In all districts all exterior storage shall be screened. The exceptions are:

A) retail merchandise being displayed in front of the structure;

B) materials and equipment being used for construction on the premises;

C) merchandise located on service station pump islands.

18.5.4 The screening in this section shall consist of a solid fence or wall not less than five (5') feet high, but shall not extend within fifteen (15') feet of any street, right-of-way or driveway. The screening shall be placed along property lines or in case of screening along a street, fifteen (15') feet from the street right-of-way with landscaping between the

screening and the pavement. A louvered fence shall be considered "solid" if it blocks direct vision. Planting of a type approved by the Council may also be used as a screening.

A) Screening shall also be subject to additional provisions of other sections of this Ordinance.

Section 18.6 Landscaping

18.6.1 In All Districts, all exposed ground areas surrounding or within a principal or accessory use including but not limited to street boulevards not devoted to drives, sidewalks, patios and the like shall be landscaped.

18.6.2 Landscaped yards shall be provided along all streets, both public and private. Landscaped yards shall not be used for parking of vehicles or equipment or for storage or display of household items, materials, supplies or merchandise advertised for sale. Landscaped yards shall be at least twenty (20') feet in depth along all streets measured from the right-of-way. Except for driveways, the yard shall extend along the entire frontage of the lot and, in the case of a corner lot, along both streets.

18.6.3 All property owners and their (sub-) contractors shall employ and maintain sediment and erosion control in accordance with Section 22 of this ordinance until landscaping is complete.

18.6.4 All landscaping shall be completed within one (1) growing season after completion of any development, grading and filling, construction, or other activity which shall result in exposed ground on the property.

Section 18.7 Maintenance

18.7.1 In All Districts, all structures, landscaping and fences shall be maintained so as not be unsightly or present harmful health and safety or nuisance conditions to the adjoining areas.

Section 18.8 Lighting and Glare

18.8.1 In All Districts, any lighting shall be arranged as to deflect light from all adjoining property, and from the public streets and highways. Direct or sky-reflected glare, whether from lighting or from high temperature processes such as welding, shall not be directed into any adjoining property.

18.8.2 Glare or Heat - Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.

18.8.3 Outdoor Lighting - All outdoor lighting shall be so designed and installed so that light will not be directed onto adjoining property or public streets and highways. Lighting units shall be properly shielded to give no upward component of light to create a sky-glow.

A) Outdoor lighting fixtures shall be mounted at the lowest possible level above ground, but in no case shall any pole or structure for mounting such fixtures exceed the maximum principal structure height restrictions.

B) Prior to installing or remodeling any outdoor lighting, a site plan showing type, location and configuration details and proposed area of direct illumination must be submitted to the Zoning Administrator for his approval.

C) After completion of any outdoor lighting system the property owner may be required to submit an affidavit, by a registered lighting engineer, that the completed project does not exceed the requirements of this section.

18.8.4 Lighting used to illuminate sales lots - Lighting used to illuminate sales lots for new or used cars shall be arranged and designed so as to comply with the following limitations:

A) Maximum maintained lighting level at any point within the boundaries of the lot, measured 36 inches above grade, shall not exceed one-hundred twenty (120) foot candles.

B) Maximum maintained vertical illumination, measured thirty (30') feet out from the property line with the meter directed toward the lot, shall be five (5) foot candles.

C) The maximum point brightness, measured with a brightness meter from a point thirty (30') feet out from the property line, shall be no greater than six-hundred (600) foot Lamberts.

18.8.5 Lighting for outdoor storage areas - Lighting for outdoor storage areas shall comply with the following limitations:

A) Maximum maintained lighting level at any point within the area, measured thirty-six (36") inches above grade, shall not exceed fifteen (15) foot-candles.

B) Maximum maintained vertical illumination, measured five (5') feet out from the property line with the meter directed toward the area in question, shall be two (2) foot-candles.

C) Maximum point brightness, measured with a brightness meter from a point five (5') feet out from the property line, shall be no greater than three-hundred (300) foot Lamberts.

18.8.6 Lighting for off street parking - Lighting for off street parking lots shall comply with the following limitations:

A) Maximum maintained lighting level at any point within the boundaries of the parking area, measured thirty six (36") inches above grade, shall not exceed two (2) foot-candles.

B) Limitations on the hours of lighting operation may be imposed by the City Council.

Section 18.9 Vibration

18.9.1 Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction.

Section 18.10 Off-Street Loading

18.10.1 In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space on the basis of adequate space for loading and unloading all vehicles used incidental to the operation of the use.

A) No loading berth of vehicles over two-tons capacity shall be closer than one-hundred (100') feet to any residence district unless completely enclosed by building walls not less than eight (8') feet in height.

B) Where noise from loading or unloading activity is audile in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m.

Section 18.11 Traffic Control

18.11.1 The traffic generated by any use shall be channeled and controlled in a manner that will avoid:

A) congestion on the public streets; and,

B) traffic hazards; and

C) additional truck traffic through residential areas.

18.11.2 Internal traffic shall be so regulated as to insure its safe and orderly flow.

18.11.3 Traffic into and out of business and industrial areas shall avoid residential areas and in all cases be forward-moving with no backing into streets.

18.11.4 All entrances from private property onto city streets shall be subject to review and approval of the City Engineer and all entrances from private property onto county roads or state highways shall be subject to review and approval by Ramsey County Public Works or the Minnesota Department of Transportation.

Section 18.12 (Deleted)

Section 18.13 Architecture

18.13.1 It is hereby affirmed as public policy that the appearance of this community is a proper matter for public concern and that all developed open spaces, and all buildings, signs, plantings, surfaces and structures which may be seen from the public ways are subject to the provisions of this Ordinance.

18.13.2 In All Districts, all principal buildings other than one-family dwellings must be designed or approved by a registered architect and certified in accordance with the appropriate Minnesota State statutes.

18.13.3 In All Business Districts, a building permit shall not be issued unless the proposed use is designed, sited, oriented and landscape-planned to produce a harmonious relationship of building and grounds with adjacent buildings and grounds and with the environment of the neighborhood.

18.13.4 In All Residential Districts, a building permit shall not be issued if the proposed building is so similar or dissimilar to the other homes in the area as to result in depreciation of property values in the neighborhood.

Section 18.14 Explosives

18.14.1 No activities involving the storage, utilization or manufacture of materials or products, such as TNT or dynamite, which could decompose by detonation shall be permitted except such as are licensed by the Council.

Section 18.15 Radiation and Electrical Emissions

18.15.1 No activities shall be permitted that emit dangerous radio-activity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

Section 18.16 Aircraft

18.16.1 Landing Area. Aircraft landing areas are hereby prohibited within the City of Gem Lake.

18.16.2 Operation. The landing and the taking off of aircraft within the City of Gem Lake is prohibited except for emergencies or by duly authorized law enforcement, military or medical transport aircraft.

Section 18.17 Other Nuisance Characteristics

18.17.1 No noise, odors, vibration, smoke, air pollution, dangerous wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property.

18.17.2 All wastes shall be properly contained, fenced or screened and disposed of in a manner that is not dangerous to public health and safety.

Section 18.18 Consistency with Plans and Policies

18.18.1 The proposed use shall preserve the intent and purpose of this Ordinance and shall be consistent with the goals, plans and policies of the City's Comprehensive Plan.

Section 18.19 Clustering and Density Transfer

18.19.1 This clustering and density transfer system is to provide a means by which parcels of land in the City of Gem Lake, having unusual building characteristics due to subsoil conditions, elevation of the water table, water area, and/or relative location or shape of the parcel may be more efficiently utilized. Density zoning also provides a means to preserve and protect natural resource areas such as wetlands, woodlands, steep slopes, as well as good agricultural land and scenic views. Basically, this approach allows a developer to cluster housing or business units in buildable areas in return for leaving the natural resource areas or agricultural land open from development.

18.19.2 The City Council, in determining the reasonableness of the proposed clustering, shall consider the following factors:

A) Location, amount and proposed use of open space;

B) Location, design and type of dwellings or business provided,

C) Physical characteristics of the site

D) Relationship of the proposed dwelling or business units to nearby uses.

18.19.3 The owner or owners of any tract of land in the City of Gem Lake may submit to the Planning Commission, for review and recommendation to the City Council, a plan for use and development of such a tract of land as a cluster area by making an application for a Conditional Use Permit authorizing completion of the project according to an approved plan. The plan for the proposed project shall conform to the requirements of the Use District within which the land is located except as hereinafter modified:

A) The tract of land for which a project is proposed and a Conditional Use Permit requested shall not be less than five (5) acres in size; and

B) The applicant shall state precisely what, in this opinion, are the unusual characteristics of this site for purposes of justifying the granting of a Conditional Use Permit for this project; and

C) The plan shall be submitted in the form of a preliminary plan and be in complete conformance with what would be submitted as described in the City of Gem Lake Subdivision Ordinance for a preliminary plan, and,

D) The number of dwelling or business units proposed for the entire subdivided area shall not exceed the total number permitted for the Use District within which the land is located, unless a bonus is given for unique uses of the area; and,

E) The average lot density in the plan shall not be greater than the maximum for the area and the lot area of any one (1) lot shall not be reduced more than one-half (½) by assigning additional dwelling or business units; and,

F) That land which is set aside as unbuildable and on which the plan is justified shall be clearly indicated on the plan. This land shall be dedicated as a "conservation easement" naming both the City and the Minnesota Land Trust or similar as holders of that title for that land. Provisions for the continual maintenance of that "easement" area so dedicated and accepted by the City shall be required from the property owner(s).

18.19.4 When calculating the number of dwelling or business units per acre the size of site shall be determined by the total land area within the perimeter of the privately owned property. This will include any area of newly proposed public or private roads of road right-of-ways.

18.19.5 A density bonus of up to ten (10%) percent of the maximum allowable dwellings on a defined parcel may be allowed by the City Council Section

18.20 Park Land Dedication Requirements

18.20.1 As a pre-requisite to plat or Planned Unit Development approval, all developers shall dedicate land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the City of Gem Lake's park fund as

provided by this section of this Ordinance. The form of the contribution, cash or land (or any combination), shall be as determined by the City Council in an amount equal to ten (10.0%) percent of the total acreage in the development or ten (10.0%) percent of the pre-development land value.

18.20.2 Subdivision of land which has been previously platted and officially recorded and which contains less than one (1) acre shall be exempt from dedication requirements.

18.20.3 Land to be dedicated for parks, playgrounds and public open spaces shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location. The City Council, at its discretion, may reject proffered land and mandate monetary contribution.

18.20.4 The Gem Lake Planning Commission shall review all park land dedication proposals including the location of land and the amount of land to be conveyed or dedicated within a proposed development or subdivision. Upon review, the Gem Lake Planning Commission shall recommend the land dedication and cash contribution requirements for proposed developments or subdivisions to the City Council. The exact amount of land or cash considerations to be dedicated shall be established by resolution of the City Council.

18.20.5 Land areas conveyed or dedicated to the City of Gem Lake, as a park or recreation area, shall not be used in calculating the density requirements of the Zoning Ordinance for the proposed development or subdivision, and shall be in addition to and not in lieu of open space requirements for Planned Unit Developments.

18.20.6 Where private open space for park and recreational purposes is provided for in a proposed development, subdivision or Planned Unit Development and such space is to be privately owned and maintained by the future residents of the subdivision or PUD , such areas may be used for credit at the discretion of the City Council against the requirement for dedication for park and recreation purposes, providing the City Council finds it is in the public interest to do so and that the following standards are met:

A) The yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open spaces, and

B) That the public ownership and maintenance of the open space is adequately provided for by written agreements, and

C) That the public open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the City Council, and

D) That the proposed private open space is reasonably adaptable for use for park and recreations purposes, taking into consideration such factors as size, shape, topography, hydrological conditions, geology, access and location of private open space lands, and

E) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan, and are approved by the City Council, and

F) That where such credit is granted, the amount of credit shall not exceed forty (40.0%) percent of the park dedication requirements for the development.

18.20.7 The City of Gem Lake shall maintain a separate fund into which all cash contributions received in lieu of conveyance or dedication of land for park and playground, public open space or trail purposes shall be deposited and shall make, from time to time, appropriations from such fund for acquisition of land for park and playground purposes, for developing existing park and playground sites, for public open space and trails, or for debt retirement in connection with land previously acquired for parks and playgrounds which benefit the residents of the City.

18.20.8 If a developer or subdivider is unwilling or unable to make a commitment to the City of Gem Lake as to the type of buildings that will be constructed on lots in the proposed plat, then the land and cash requirement will be a reasonable amount as determined by the City Council.

18.20.9 Wetlands, ponding areas and drainage ways accepted by the City of Gem Lake shall not be considered in the park land and/or cash contribution to the City.

SECTION 19 - SIGNS

Section 19.1 Purpose and Intent.

19.1.1 The purpose of Gem Lake sign regulation is to promote the creation of an attractive visual environment in the City. The regulations are intended to promote a healthy economy by allowing businesses and individuals to effectively inform, identify, direct and communicate with the public using rights of way in Gem Lake. This aim is balanced with an equal intent to foster public safety and maintain an attractive built environment in the City by encouraging the appropriate design, scale and placement of signs in the City. The regulations are intended to encourage the orderly placement of signs, to assure that the information displayed on any sign is clearly visible for its intended purpose, and to allow the fair and consistent enforcement of the sign regulations by the City of Gem Lake.

Section 19.2 Findings

19.2.1 The City Council concludes that it is necessary to regulate signs in the City in order to promote and preserve public health, safety and welfare. That conclusion is based upon the following findings:

19.2.1.1 Signs provide an important medium through which individuals and businesses may convey a variety of messages.

19.2.1.2 Signs can create hazards to motorists and pedestrians, particularly when inappropriately designed or placed signs interfere with necessary sight distances, divert the attention of drivers and pedestrians, or obscure directional guidance or traffic control devices.

19.2.1.3 A positive sense of place and community image is important to the health and welfare of individuals and businesses in Gem Lake. Community image and aesthetic is also a key component of property values in the City. Permanent and temporary signs have a direct impact on and relationship to the image and aesthetic of the community.

19.2.1.4 Uncontrolled and unlimited signs result in roadside clutter and obstruction of views for motorists and pedestrians, and diminish the ability of any sign to effectively convey its intended message.

19.2.1.5 Properly regulated signage can create an atmosphere of prosperity, stimulate positive commercial activity and consequently lead to increased employment, higher property values and a healthier tax base.

19.2.1.6 Citizens have different expectations for the aesthetic environment of a residential area compared with that of a commercial area. Signs should be smaller in scale and their use generally more restricted in residential areas than in commercial areas where the public expects to see a variety of signs.

Section 19.3 Permit Required

19.3.1 No sign shall be erected, altered, reconstructed, maintained or moved in the City without first securing a permit from the City. The speech content of the sign shall not be considered when approving or denying a sign permit; however, the content must be submitted to properly evaluate the signage area, design and placement. A proposed sign with a structure requiring a building permit or electrical permit must obtain those permits in addition to a sign permit.

19.3.1.1 Exemptions. The following signs shall not require a permit, but remain subject to the standards of these regulations concerning erection, maintenance and removal, and the standards of any other applicable law or ordinance.

A) A sign, of less than four (4) square feet in display area, indicating the address of a building.

B) A sign on a residential property, of less than four (4) square feet in display area, stating the name of the owner or occupant in addition to the address of the property.

C) Traffic control signs, related directional aids, and traffic control devices installed by a unit of government having authority over the adjacent right-of-way, or at the direction of such a government.

D) Signs not visible from a public or private right-of-way.

E) Newspaper boxes.

F) Flags, up to a combined total of 35 square feet, with no one flag larger than 15 square feet in size.

G) Official notices posted on a property at the direction of a court, public body, or public safety official.

H) A sandwich board, menu board, A-frame, T-frame or similar sign which does not exceed six (6) square feet in size, is not illuminated, is located within 15 feet of the primary building entrance of the owner or tenant placing the sign, and is only displayed during hours of business operation. No more than two signs may be placed by any single owner or tenant at any given time. Signs of this type must be placed in a location where they will not impede foot traffic

I) A temporary sign or signs, up to a total of ten (10) square feet of display space, erected by the owner or rental tenant of the property on which the sign is placed.

J) A temporary sign directing people to an event or occurrence located on the property of the person erecting the sign. Such signs are limited to six (6) feet or less of display space and must be installed so that they are less than four (4) feet in height. If placed on property not owned or rented by the person erecting the sign, the property owner must give express permission to erect a sign on the property. A maximum of five (5) such signs may be placed in the City for any given event or occurrence. Such signs may be erected up to two (2) days prior to the event or occurrence, and shall be removed within two (2) days following the event or occurrence. In no event shall such a sign remain in place for more than seven (7) days.

K) A change in the message content (words, logos, or similar graphics) of an existing permanent sign, without change in any other characteristics of the sign.

19.3.2 Operation of Minnesota Election Law on Regulations.

For the period beginning August 1 in a State general election year and ending ten (10) days following the general election, or thirteen (13) weeks preceding a special election until ten (10) days following the special election, these regulations shall have no effect upon the size or number of non-commercial signs within the City. Signs placed during this period shall be removed by the person responsible for erecting them within the 10 days following the election. Signs may be placed upon private property with permission of the property owner, but may not be placed within the public right-of-way or within a sight triangle. The City retains the right to remove and destroy any such signs so placed.

19.3.3 Permit Application. Application for a sign permit shall be made upon the City's application form, and shall contain the following information:

A) Name, signature, address and phone number of the property owner.

B) Name, signature, address and phone number of the applicant, if different from the property owner.

C) The address or property identification number of the property where the sign is proposed to be erected.

D) An inventory of existing signs on the site and combined display area.

E) A complete set of plans showing elevations, distances, setbacks from lot lines, location of buildings and other signs, size of the proposed sign and structure, and other details to fully and clearly represent the construction and placement of the sign.

F) Plans and specifications relating to the method of construction, attachment to buildings, and/or placement upon the ground.

G) A to-scale drawing or illustration showing proposed height, width, shape, layout, colors, lighting and other relevant details of the sign, from all perspectives in which the sign is intended to be viewed.

Applicants shall submit one application and supporting materials for each sign, unless submitting a Comprehensive Sign Plan as described in Section 19.3.7.

19.3.4 Fees

Sign permit fees and any impoundment fee shall be set by the City Council by ordinance, as amended from time to time. The required fee shall accompany any sign permit application

19.3.5 Review

The Zoning Administrator shall review applications for compliance with these regulations. A decision to approve or deny should be made within 30 days of receiving a complete application. Applicants shall be informed of the decision in writing. Decisions to deny a permit shall be accompanied by a statement of reasons for the denial.

19.3.6 Variance and Appeal

An appeal from a sign permit denial shall be taken in the manner of zoning appeals, using the procedure stated in Section 17.7 of the Zoning Ordinance. Requests for variance from these sign regulations shall be made and considered in the manner of requests for zoning variance, using the procedure stated in Section 17.4 of this Ordinance.

19.3.7 Comprehensive Sign Plan

An applicant seeking approval for signs in connection with new building construction, remodeling, or re-development may submit a comprehensive sign plan with the other required submittals in lieu of making individual applications for sign permits. All information required in this Ordinance is required to be represented in the supporting documentation supporting the comprehensive sign request. In acting upon the comprehensive sign plan, the Planning Commission and City Council may permit consideration of unique conditions, flexibility and creativity in the design and placement of signs, to the extent such leeway promotes the purposes and goals of any design standards in the underlying zoning district. If a comprehensive sign plan is approved, the Zoning Administrator may issue sign permits for individual signs in the plan without further review, upon payment of the applicable sign permit fee.

Section 19.4 Inspections and Enforcement.

All signs shall be subject to inspection by the Zoning Administrator, or other official designated by the Zoning Administrator. The Administrator or designee must be allowed entry upon the property on which the sign is located to ascertain compliance with the terms of these regulations and the technical specifications provided with the permit application. Such entrance shall be made during business hours unless an emergency exists.

19.4.1 Signs in Disrepair

The Zoning Administrator or designee may order the removal of any sign that is not maintained in accordance with the requirements of these regulations. Upon failure to comply with such order within the time specified, the City Council may declare the sign a public nuisance and direct that the nuisance be abated under the procedures set forth in Gem Lake Ordinance No. 86.

19.4.2 Impoundment of Signs on Public Property

The City may at any time, and without notice, remove and impound signs which have been erected on public property or within a public right-of-way or easement. The sign's owner may retrieve the sign from the City upon payment of a

$50 impoundment fee. If the same owner has a subsequent sign impounded within the same calendar year, the impoundment fee is doubled. The City shall not be held liable for any damage to an impounded sign. If a sign is not retrieved within thirty (30) days, the City may dispose of it.

19.4.3 Sign Without a Permit or in Violation of Regulations

The Zoning Administrator or designee may order the correction or removal of any sign which has been erected without a permit, or has been erected or altered such that the sign is in violation of these regulations.

A) The person responsible for the sign may apply for a sign permit "after the fact," paying double the applicable sign permit fee, if the only violation is lack of a permit.

B) If an order is not remedied or complied with in the time specified, the City Council may declare the sign a public nuisance and direct that the nuisance be abated under the procedures set forth in Gem Lake Ordinance No. 86.

C) In addition to the above, the City Council may give written notice to the person responsible for the sign that the Council will consider civil penalties for the violation. The written notice shall contain a summary of all facts the Council intends to consider, and state the date and time at which the Council will consider a penalty. If the person receiving the notice appears at that date and time, the Council must give the person reasonable time to present matters in defense or mitigation of the alleged offense. If, in the Council's discretion, the alleged violation is supported by the evidence presented to it, it may order the payment of a civil penalty using the following as guidelines:

1st offense:	$ 100.00
2nd offense:	$ 600.00
3rd offense:	$1,500.00

A person with outstanding unpaid civil penalties shall not be eligible to receive permits or licenses, of any kind, from the City of Gem Lake until the penalty is paid.

D) Violation of these regulations shall be a misdemeanor. Each day on which the condition giving rise to the violation exists shall constitute a separate offense. None of the other enforcement options described above shall preclude the City from issuing a citation and prosecuting any violation of these regulations as a misdemeanor.

Section 19.5 Applicable Standards.

19.5.1 Measurement Standards.

A) Sign Area and Dimensions.

1) For a wall sign which is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.

2) For a wall sign comprised of individual letters, figures or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape or a combination of regular geometric shapes which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form a single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different areas. Minor appendages to a particular regular shape, as determined by the Zoning Administrator, shall not be included in the total area of a sign.

Figures (for illustration): To be inserted later

3) For a freestanding sign, the sign area shall include the frame, if any, but shall not include a pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or part of a display device. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building or structural forms complimenting the landscaping in general.

4) When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. When the sign has more than two display surfaces, the area of the sign shall be the area of largest display surfaces that are visible from any single direction.

B) Sign Height.

1) The height of a freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground, to the highest point of the sign. A freestanding sign on a man-made base, including a graded earth mound, shall be measured from the grade of the nearest pavement or top of any pavement curb.

2) Clearances for freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or other embellishments.

C) Frontages and Frontage Lengths.

1) The length of any primary or secondary building frontage shall be the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Zoning Administrator to be clearly unrelated to the frontage presence of the building.

2) For buildings with two or more frontages, the length of the wall and allowable sign area shall be calculated separately for each such building frontage.

3) The building frontage for a section of any building (e.g. retail tenant spaces) shall be measured from the centerline of the party walls defining the building section.

19.5.2 Development Standards.

A) Wall Signs

Wall signs are permitted on buildings located in the Neighborhood General, Neighborhood Mixed-Use, and Neighborhood Center subzones of the Gateway District. Wall signs, other than those exempted from regulations as stated above, are not permitted in Residential zoning districts and the Neighborhood Edge subzone of the Gateway District.

1) The basic allowance for wall signs shall be limited to 2 square feet of sign area for each lineal foot of building or tenant frontage.

2) Each owner or tenant may have multiple wall signs as long as the total wall sign area does not exceed the allowances established for wall signs. If multiple signs are used on a building façade, the display method (i.e. individual letters, box and panel, etc.) shall be the same for the entire façade.

3) Wall signs shall not be greater than eighty (80%) of the length of the tenant space or the length of the building frontage.

4) Each building frontage or frontage section may be evaluated separately or in combination, but primary and secondary frontages will not be combined for purposes of determining allowable sign size.

5) In addition to wall signs otherwise permitted by these regulations, an additional sign may be permitted up to a maximum of 40% of the wall sign area allowed for the building for the purposes of identifying owners or tenants that occupy upper floors or do not have outside building frontage.

6) An arcade or gallery may have sign space on it relating to the activities of owners or tenants whose entrances are under the arcade or gallery. If the sign on the arcade or gallery is illuminated, 100% of the sign space is deducted from the total available area for wall signs. If the sign space on the arcade or gallery is not illuminated, 50% is deducted from the area available for wall signs.

7) Projecting signs are permitted in addition to any allowances for wall signs when the projecting signs are designed and placed for the purpose of identifying the owner or tenant for a pedestrian walking along the same side of the street as the sign, or under a continuous arcade or gallery. Projecting signs shall have a maximum area of eight (8) square feet. The bottom of the sign shall be a minimum of eight (8) feet above the sidewalk. The sign may project a maximum of six (6) feet from the wall of the building, or be centered under any arcade, awning or canopy. Projecting signs shall not be closer than fifteen (15) feet from any other projecting sign.

8) Wall signs shall not be installed on a roof surface or otherwise project above the top of a building façade.

B) Freestanding Signs

Freestanding signs are permitted in all zoning districts. Such signs may only be erected by an owner or a tenant of a building located on the property for which the sign is proposed.

1) Residential Zones and Neighborhood Edge subzone. Freestanding signs in residential zoning areas may be erected up to a cumulative maximum of ten (10) square feet in display area, and up to six (6) feet in height.

2) All Other Zones. Freestanding signs in the remaining zoning areas of the City may be erected up to fifty (50) square feet per owner or tenant entrance to a building. Permitted sign area may be aggregated into fewer and larger signs at the election of the property owner, provided that the size of any single sign does not exceed one hundred and fifty (150) square feet. Freestanding signs shall not exceed thirty-five (35) feet in height, and signs over fifteen (15) feet in height shall be no closer than seventy-five feet to any other sign. Instructional or directional signs of up to six (6) square feet in area may be erected to satisfy a clear instructional or directional purpose without counting against the total freestanding sign area allowed for the property.

3) Freestanding signs shall be set back a minimum of five feet from the right-of-way line.

4) No portion of a sign shall be in, or project over, a public right-of-way.

5) Signs may be integrated into the design of a permanent canopy, if one is otherwise allowed on the property, with the sign area on any side of the canopy not exceeding one (1) square foot per lineal foot of the side.

C) Window signs

Permanent window signs are permitted in the Neighborhood General, Neighborhood Mixed-Use and Neighborhood Center subzones of the Gateway District. Temporary window signs are permitted in all districts. Permanent window signs shall not exceed twenty-five percent (25%) of the area of the window on which it is installed; the total of all permanent and temporary window signs may not exceed fifty percent (50%) of the total window area of any building frontage.

D) Illumination; Electronic Message Center and Changeable Copy Signs

Illuminated signs (internal or external) and signs with changeable copy are not permitted in Residential zoning areas and the Neighborhood Edge subzone of the Gateway District. In districts where illuminated signs or

electronic signs are permitted, the use of lighting, electronic message center, or dynamic display as an element of a sign is a conditional use. Application for approval of lighting or electronic features shall be made in the manner of a conditional use permit, using the procedure stated at Section 17.5 of the Zoning Ordinance.

1) Illumination. Internally illuminated signs are permitted in the Neighborhood Mixed-Use and Neighborhood Center subzones only. Externally lit signs shall use lighting that is directed downward and away from adjacent properties and rights-of-way. Lights used for external illumination shall be shielded or screened from any roadway, and shall not be visible from the roadway or sidewalk.

2) Changeable Copy. Changeable copy by non-electronic means may be utilized on any permitted sign in areas where allowed. The changeable copy area shall not exceed forty percent (40%) of the total permitted area for any sign.

3) Electronic Message Center (EMC) or Dynamic Display signs. EMC or dynamic display signs are permitted if erected within fifty (50) feet of the right-of-way for Highway 61 or County Road E within the City of Gem Lake. Only one (1) such sign is permitted per property, regardless of the number of tenants. Motion is permitted for up to eight (8) seconds for any single set of changeable copy, but the changeable copy may not change or be repeated by flashing more than once every sixteen (16) seconds. EMCs and dynamic displays must have an automatic dimming capability that adjusts the brightness to the ambient light at all times of day or night.

4) Any changeable copy area (manual, EMC or dynamic display) may not exceed 40% of the total freestanding sign area permitted to the owner or tenant.

E) Features Prohibited on Signs

No sign permitted by these regulations, with or without a permit, shall have: moving, rotating or revolving parts; flashing, rotating or oscillating lights (except for EMCs and dynamic displays where permitted); neon lights; beacons or searchlights; attached materials such as pennants or streamers; exposed raceways, ballast boxes or transformers; or other clearly similar features.

F) Signs Prohibited if Not Expressly Permitted

Any type of sign or method of sign construction or display that these regulations do not expressly permit, or expressly exempt, is hereby prohibited within the City of Gem Lake.

19.5.3 Construction Standards. The construction, erection, safety and maintenance of all signs shall comply with the Minnesota State Building Code and Electrical Code and all of the following:

A) Signs shall be structurally sound and located so as to pose no reasonable threat to pedestrian or vehicular traffic.

B) All permanent freestanding signs over four feet in height shall have self-supporting structures erected on or permanently attached to concrete foundations. A freestanding sign shall not use guy wires for support.

C) Freestanding signs shall be designed for wind pressure of not less than thirty (30) pounds per square foot.

D) Signs should not obscure windows or other architectural features of the building with which they are associated.

E) Signs shall not be placed in locations that interfere with safe vehicular and pedestrian circulation or public safety signals and signs. Signs will not be placed in the sight triangles of intersections.

F) No sign shall be erected or maintained so as to obstruct and fire escape, required exit, egress window or door opening.

G) Signs shall be structurally designed in compliance with ANSI and ASCI standards. All signs using electricity shall be constructed according to the technical standards of a certified testing laboratory.

H) Signs using electricity must directly connect to wiring that is integrated into the building structure or buried underground; no cables or extension cords should run over the ground or up the side of a structure to power a sign.

19.5.4 Maintenance Standards. All signs shall be maintained in accordance with the following:

A) The property owner or tenant shall maintain the sign in a condition appropriate to the intended use.

B) Signs shall advertise or identify a legal business or other activity currently taking place, or which will take place in the near future, within the City of Gem Lake. Obsolete signs shall be removed by the property owner within a reasonable time, no longer than two months, after the sign becomes obsolete. A property owner or tenant may apply to the City Council for exemption if the sign removal will be unduly difficult to achieve (example: the sign is part of the building structure).

C) Signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for the upkeep of the sign. There shall be no accumulation of rubbish or debris, or uncontrolled vegetation, under or near any sign.

Section 19.6. Definitions. The definitions used in this section are now listed in Appendix A of The Consolidated Land Use Ordinance.

Section 19.7 Severability. Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid in any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part hereof, other than the part held to be invalid.

SECTION 20 - OFF STREET PARKING AREAS

Section 20.1 Purpose

The purpose of this section of the Zoning Ordinance is alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public by establishing minimum requirements for off street parking in accordance with the utilization of various parcels of land and/or structures.

Section 20.2 Site Plans

When applying for a building permit in all Districts for a new structure, the enlarging of a structure or new enlarged use of a parcel of land, the application shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking spaces in compliance with the following requirements.

Section 20.3 General Provisions.

20.3.1 Existing off-street parking spaces and loading spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirement set forth herein for a similar new use.

20.3.2 Should a building, structure or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established except that in doing so any off-street parking or loading which existed must be retain and should plans be effected for enlarging the floor area, seating capacity or other facilities which would affect the parking or loading requirements, the parking or loading spaces shall be enlarged accordingly.

20.3.3 Floor Area - The term "Floor Area" shall mean the sum of all floor areas in a building as calculated from the outside dimensions of the building. It shall not include areas used primarily for non-public purposes such as storage, incidental repair, office building management or maintenance, toilets, or rest rooms, utilities, or dressing, fitting or alteration rooms.

20.3.4 Parking Spaces - Each parking space shall be not less than nine (9') feet wide and twenty (20') feet in length exclusive of an adequately designed system of access drives.

20.3.5 Use of Parking Facilities - Off street parking facilities accessory to residential use shall be utilized solely for the parking or passenger automobiles and/or one truck not to exceed one and one-half (1 ½) ton capacity for each dwelling unit except by Conditional or Interim Use Permit. Required parking facilities accessory to residential structures shall not be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments except by Conditional or Interim Use Permit. Required parking facilities accessory to residential structures shall not be used for the storage or repair of commercial vehicles.

20.3.6 Required off-street parking space in the Residential Districts shall be on the same lot as the principal building.

20.3.7 Joint Parking Facilities - Off street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any "district" in which separate parking facilities for each separate building, structure or use would be required, provided that number of spaces provided shall equal to sum of the separate requirements of each use.

20.3.8 Use of Parking Area - Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.

Section 20.4 Design and Maintenance of Off-Street Parking Areas.

20.4.1 Parking Areas - shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22') feet in width and shall be so located as to cause the least interference with traffic movement.

20.4.2 Calculating Space - When calculating the number of off-street parking spaces results in a fraction, each fraction of one-half (½) or more shall constitute another space. One parking space shall equal three-hundred (300 sq ft) square feet or parking and moving area.

20.4.3 Signs - No signs shall be located in any parking area except as necessary for orderly operation of traffic movement.

20.4.4 Surfacing - All of the area intended to be utilized for parking space and driveways shall be surfaced with a material to control dust and drainage. Parking area for less than three (3) vehicle spaces shall be exempt. Plans for surfacing and drainage shall be subject to approval of the City Council.

20.4.5 Lighting - Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from the adjoining property, and shall comply with Section 18.8.

20.4.6 Curbing and Landscaping - All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than three (3') feet from the side property line or guard of normal bumper height no less than one (1') foot from the side property line. When said area is for six (6) spaces or more, a curb or fence not over six (6') feet in height shall be erected along the front yard set-back line with grass or planting occupying the space between the sidewalk and curb or fence.

20.4.7 Fencing and screening for Off-Street Parking - When a required off-street parking space is placed directly adjacent to a residence or residential district, a six (6) foot high fence shall be erected along the residential property line. Screen planting may also be required.

20.4.8 Maintenance of Off-Street Parking Spaces - It shall be the joint and several responsibility of the operator and owner of the principle use, uses and/or building to maintain in a neat and adequate manner the parking space, access ways, landscaping and required fences.

Section 20.5 Required Off-Street Parking - Shall be as follows:

20.5.1 Single Family Dwellings - At least one (1) parking space for each dwelling unit, plus one (1) additional parking space for each two (2) roomers accommodated. A garage will fulfill this requirement. However a building permit shall not be granted to convert a garage to living space unless other acceptable provisions are made to provide the required parking space.

20.5.2 Two-Family Dwelling - At least one (1) parking space per dwelling unit, but not more than two (2) per unit.

20.5.3 Boarding and Rooming Houses - At least two (2) parking spaces for each three (3) persons for which accommodations are provided for sleeping.

20.5.4 Multiple Dwelling - At least one (1) parking space per dwelling unit plus one (1) additional space for each four (4) two-bedroom units and one (1) additional space for each two (2) three bedroom units.

SECTION 21 - REGULATION OF GEM LAKE WATERS, WETLANDS AND SHORELANDS

Section 21.1 General Provisions.

21.1.1 Shoreland District

The land use regulations in this Section shall apply to any land in the City of Gem Lake located within a floodplain, within 1,000 feet of the ordinary high water mark of a public water or public waters wetland, including but not limited to the body of water known as Gem Lake and its attendant wetlands, or within 300 feet of a stream or river. The regulations of this Section shall apply in addition to the provisions of the zoning district applicable to the property, the Flood Hazard ordinance of the city (No. 114), and other ordinances of the City.

21.1.2 Wetland Conservation Act

The City of Gem Lake has delegated its authority under the Minnesota Wetland Conservation Act of 1991 and attendant rules to the Vadnais Lake Area Watershed Management Association (VLAWMO). All requests for permits, review or approval required by the Wetland Conservation Act must be submitted to VLAWMO as the acting Local Government Unit.

21.1.3 Applied in Concert with Other Law

These regulations and requirements shall be in addition to those imposed by Federal and State law, regional and local water management regulations, and city ordinances, all of which shall jointly apply. Under joint application, the most restrictive requirements shall apply. 21.2 Shoreland Use Controls.

Section 21.2 Policy

21.2.1 Policy

Intact, vegetated and stable shorelines and streambanks provide valuable functions to Gem Lake and other water resources in the City including prevention of erosion, reinforcement of soils through root structure, trapping of nutrients and sediments, and provision of fish and wildlife habitat. Gem Lake is a Natural Environment lake under the criteria established by the Department of Natural Resources.

21.2.2 Minimum Lot Size and Setback Requirements

All lots created and structures erected in a shoreland district following the enactment of this Section must meet the criteria established in the underlying zoning district. No variance shall be granted, or other approval given, which allows the creation of a lot in a shoreland district that is less than 80,000 square feet in area (measured above the ordinary high water mark of the water body), or less than 200 feet in width. No structure, other than water-oriented accessory structures managed by this Section, shall be placed within 150 feet of the ordinary high water mark of the water body. The maximum lot coverage by buildings and impervious surfaces is 25%.

21.2.3 Accessory Structures and Facilities

All accessory structures and facilities, except those that are water-oriented, must meet or exceed structure setback standards. If allowed by local government controls, each residential lot may have one water-oriented accessory structure or facility located closer to public waters than the structure setback if all of the following standards are met:

A) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

B) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

C) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, 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.

F) Any accessory structures or facilities not meeting the above criteria, or any additional accessory structures or facilities must meet or exceed structure setback standards.

21.2.4 Stairways, lifts, and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

A) Stairways and lifts must not exceed four feet in width.

B) Landings for stairways and lifts must not exceed 32 square feet in area.

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.

F) Facilities such as ramps, lifts, or mobility paths for persons with physical disabilities are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of (a) to (e) are complied with.

21.2.5. Decks. Except as provided in section 21.2.3, decks must meet the structure setback standards. Decks to be added to structures existing on the date the shoreland structure setbacks were established by ordinance may be allowed without a variance, if all of the following criteria and standards are met:

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;

B) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

C) the deck is constructed primarily of wood, and is not roofed or screened.

21.2.6 Driveways and parking areas. Driveways and parking areas must meet all applicable structure setbacks, and must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the water body. Access ramps and approach roads are not allowed in the structure setback area surrounding Gem Lake.

21.2.7 Shoreline alteration. Alterations of vegetation and topography in a shoreland district is controlled to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect wildlife habitat.

A) Removal or alteration of vegetation is limited to the amount necessary to construct an approved structure, and to maintain the health of the vegetation, provided that no such removal or alteration shall substantially reduce the screening of structures, vehicles and other facilities as viewed from the water. This provision shall not restrict the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards, or the removal of buckthorn and similar invasive species identified by the Minnesota Department of Natural Resources.

B) Any application for new construction in a shoreland district must include a Tree and Vegetation Preservation Plan which, in addition to the requirements of Section 27, includes an inventory of all vegetation affected by the construction and a plan for preservation, relocation, or replacement of the vegetation.

C) Use of fertilizer and pesticides in a shoreland district must be done in such a way as to minimize runoff into the water body.

D) No grading, filling, or other topographical alteration shall be allowed within 50 feet of the ordinary high water mark of the water body, with the exception that the Zoning Administrator may approve the installation of clean beach-type sand in this area, in accordance with DNR regulations, after review of an installation plan.

E) Any grading or filling anywhere else in a shoreland area involving movement of more than 50 cubic yards of material requires a grading and filling permit. If the grading or filling is to take place in a wetland, VLAWMO review and approval must be obtained before the City can issue a permit. In addition to any other requirements, grading and filling activity in shoreland areas must also meet the following criteria:

1) 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.

2) 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.

3) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

4) Altered areas must be stabilized to acceptable erosion control standards. The use of bioengineering is encouraged as an alternative to engineered stabilization techniques. Retaining walls are to be used only when there is no adequate stabilization alternative.

5) Fill or excavated material must not be placed in a manner that creates an unstable slope.

6) Any alterations below the ordinary high water level of the water body must be approved by the Department of Natural Resources.

21.2.8 Nonconforming uses.

In addition to the regulations of this ordinance applicable to nonconforming uses generally, in a Shoreland district the following shall apply:

A) An extension, enlargement or alteration of an existing lawful non-conforming structure or facility may be permitted on the side of the structure or facility facing away from the water body.

B) An improvement to an existing lawful non-conforming structure or facility may be allowed to extend parallel to the shoreline when the improvement is otherwise in compliance with the dimensional and setback requirements of this Ordinance.
C) Exterior decks attached to an existing lawful non-conforming structure which do not extend any roof or foundation may be permitted to extend parallel to the shoreline and shall be constructed to be visually inconspicuous when viewed from the water (under summer leaf-on conditions).

D) Reconstruction of an existing historic structure, any appurtenances thereto, and the grounds shall be allowed to preserve its historic character if the structure or site is recognized as a historic site on the National Register of Historic Places.

Section 21.3 Use of Gem Lake

21.3.1 No Motorized Use.

Gem Lake shall not be used by any motorized craft or traffic including, but not limited to, motorized boats, snowmobiles, all-terrain vehicles (ATVs) excluding equipment used for cleaning, plowing snow or other occasional maintenance uses.

21.3.2 No Wet Storage of Boats.

Boats shall not be moored in Gem Lake for more than forty eight (48) hours at any one time. Regular storage of boats shall be on the shore of and not in Gem Lake with same properly secured and stored out of view from neighboring properties and Gem Lake while not in use.

21.3.3 Docks.

A) Docks are seasonal and temporary in nature and, therefore, shall not be permanently affixed to the shore or lake bottom of Gem Lake.

B) Docks shall not be greater than four (4'0") feet in width, two (2'0") feet in height above the water and twenty (20'0") feet in length from the lake shore.

C) Docks shall not be covered with any roof structure, awnings or any other type of enclosure.
D) Only one (1) dock shall be allowed for each parcel of real property adjoining the waterline.

21.3.4 Swimming Rafts.

A) Swimming rafts are seasonal and temporary in nature and therefore shall not be permanently affixed to the lake bottom.

B) Swimming rafts shall not exceed one hundred (100 sq ft) square feet in total area and shall not be more than two (2'0) feet higher than the water surface.

C) Swimming rafts shall not be located more than fifty (50') feet from the lakeshore.

D) Swimming rafts shall not be covered with a roof structure, awning or any other type of enclosure.

E) Only one (1) raft shall be allowed for each parcel of real property adjoining the waterline.

F) Swimming rafts shall not be moored in Gem Lake for more than forty eight (48) hours at any one time. Regular storage of swimming rafts shall be on the shore, properly secured and stored out of view from the water and from neighboring properties.

21.3.5 Water Appropriation. No person shall appropriate water from Gem Lake without first obtaining a permit from VLAWMO.

SECTION 22 - SOIL EROSION CONTROL AND STORM WATER MANAGEMENT

Section 22.1 Erosion and Sediment Control.

22.1.1 Policy Statement.

It is the policy of the City of Gem Lake to require the preparation and implementation of erosion and sediment control plans to control runoff and erosion, to retain or control sediment on land during land disturbing activities, and to prevent the degradation of resources and the loss or damage of property due to erosion and sedimentation.

22.1.2 Regulation.

No person shall commence land disturbing activities, unless granted a variance, without first obtaining a permit from the City that incorporates and approves an erosion and sediment control plan for the activity, development or redevelopment. The proposed activity will not result in an increase in sediment off the site during construction and post-construction activities and be in conformance with the MPCA General Permit Construction for Activities, and as amended.

22.1.3 Criteria. Erosion and sediment control plans and the land disturbing activity shall comply with the following criteria:

A) Erosion and sediment control measures shall be consistent with BMPs, and shall be sufficient to retain sediment on-site.

B) Erosion and sediment control measures shall meet the standard for the General Permit Authorization to Discharge Stormwater Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MNR100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, August 1 2008, as amended; except where more specific requirements are provided in paragraphs 3(c) and 3(d) of this Section below.

C) The permittee or applicant must ensure final stabilization of the site in accordance with the NPDES General Construction Permit requirements. The site will be considered as having achieved final stabilization following submission of Notice of Termination by the permittee or applicant, and inspection and approval by the City.

D) All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion.

22.1.4 Exception. No permit or erosion control plan shall be required under this Section for the following land disturbing activities:

A) Minor land disturbing activities such as home gardens, repairs and maintenance work.

B) Construction, installation and maintenance of individual sewage treatment systems (ISTS) other than those on steep slopes, on riparian lots within a Shoreland District or in a bluff impact zone.

C) Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.

D) Emergency activity necessary to protect life or prevent substantial harm to persons or property.

E) Minor wetland impacts that have received a "certificate of exemption or no loss" determination by the LGU (VLAWMO or RWMWD) administering the Minnesota Wetland Conservation Act of 1991, as amended.

F) All maintenance, repair, resurfacing and reconditioning activities of existing road, bridge, and highway systems which do not involve land disturbing activities outside of the existing surfaced roadway. All land disturbing activities not required by this Section to obtain a permit or have an approved erosion and sediment control plan shall nevertheless be conducted in full compliance with this Section.

Section 22.2 Stormwater Management.

22.2.1 Policy Statement. It is the policy of the City to:

A) Manage new development and drainage alternations by requiring each development or land disturbing activity to manage its stormwater effectively, either on or off-site.

B) Promote and encourage a reduction in runoff rates, encourage infiltration and promote groundwater recharge.

C) Maximize groundwater recharge as a means of maintaining drinking water supplies, preserving base flows in streams, and limiting discharges of stormwater to downstream receiving waters.

D) Assure that property owners control the rate and volume of stormwater runoff originating from their property so that surface water and groundwater quantity and quality is protected or improved, soil erosion is minimized, and flooding potential is reduced.

E) Protect and improve natural resources within the watershed to prevent further degradation.

22.2.2 Regulation

A) Rate Control. The proposed activity will not increase the peak stormwater runoff rate from the site, under pre-development conditions, for anything less than a 24-hour precipitation event with a return frequency of 1- or 2-, 10- and 100-years. The applicant must comply with the requirements of the MPCA's General Permit for Construction Activities.

B) Volume Control. Stormwater runoff volume retention shall be achieved onsite in the amount equivalent to the runoff generated from one-half inch of runoff over the impervious surfaces of the development or as specified under Section 8.0. Volume control credits can be used to control up to one-half (0.5) inch of runoff as described under Section 22.2.5.

C) Water Quality - Stormwater management must comply with the requirements of the MPCA's General Permit for Construction Activities and guidelines set forth in total maximum daily load studies and sustainable lake management plans. No direct (untreated) discharges of stormwater to natural or improved waterbodies are allowed.

D) Waste Disposal to Waters - Stormwater management must not result in the discharge of any regulated substance, hazardous or biological waste, or petroleum product, whether treated or untreated, to best management practice devices that may have a deleterious effect upon water of the state (surface and groundwater), unless the discharge is in compliance with Federal, State and local regulations.

22.2.3 Criteria. Stormwater management plans shall comply with the following criteria:

A) A hydrograph method based on sound hydrologic theory will be used to analyze runoff for the design or analysis of flows and water levels.

B) Runoff rates for the proposed activities, development or redevelopment within the watershed shall:

1) Not exceed existing runoff rates for the 1 or 2-year, 10-year and 100-year critical duration storm events;

2) Not accelerate on or off-site water course erosion, downstream nuisance, flooding or damage as demonstrated by the applicant; and

3) Runoff rates may be restricted to less than the existing rates when necessary for the protection of public health, safety and general welfare.

C) Stormwater facilities must provide:

1. An identified overflow spillway and downstream route sufficiently stabilized to convey a 100-year critical storm event;

2. Pond outlets designed to prevent short circuiting of the flow from pond inputs to the outlet;

3. A minimum depth for ponds of three (3) feet and conform to the design specifications of the Stormwater Manual, 2005.

4. An outlet skimmer to prevent migration of floatables and oils for the 2-year event; and

5. Access for future maintenance that is free of plantings and impediments.

D) Regional ponds and practices can be used to provide for stormwater management based on the following criteria:

1. Regional ponds are required to be designed based on ultimate conditions for the contributing subwatershed.

2. Regional ponds are required to be constructed and operational prior to constructing imperviousness within the contributing drainage area.

E) Design of all Best Management Practices (BMPs) will be consistent with the Minnesota Stormwater Manual, 2005, and as amended and the MPCA General Permit for Construction Activities, 2008, and as amended.

F) When using infiltration for volume control, infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and infiltration rate, and shall be capable of infiltrating the required volume within 72 hours or as specified in the MPCA General Permit for Construction Activities.

G) In evaluating the infiltration capacity of a constructed BMP under post-development conditions, the infiltration rates in the Minnesota Stormwater Manual should be used. Select the design infiltration based on the least permeable soil horizon within the first five (5) feet below the bottom elevation of the proposed infiltration facility. Site-specific infiltration measurements completed by a licensed professional (as described in the Minnesota Stormwater Manual, November 2005, and as amended) may be used in place of the values in the Minnesota Stormwater Manual, and as approved by the City.

H) All stormwater retention practices designed to meet the volume control regulation must provide pretreatment of stormwater runoff prior to infiltrating into the groundwater system or discharging downstream. Pretreatment methods must comply with the Minnesota Stormwater Manual, 2005, and as amended, for the proposed practice. All highly recommended and recommended design criteria must be met, unless specifically waived by the Technical Commission of VLAWMO or the Ramsey-Washington Metro Watershed District (RWMWD), as appropriate.

I) To the maximum extent practicable, volume control shall be fully met onsite (Section 2, Subsection 2b). Site conditions may make infiltration undesirable or impossible. The applicant must make soil corrections and/or investigate other locations on the site for feasible infiltration locations. Infiltration practices are not allowed:

1. For runoff from fueling and vehicle maintenance areas;

2. Within hydrologic soil group D type soils;

3. Within some Wellhead Protection Areas (Review Wellhead Protection Plans for additional guidance);

4. Within 50 feet of a septic tank or drain field;

5. On areas with less than three (3) feet vertical separation from the bottom of the infiltration system to the elevation of seasonal high groundwater or top of bedrock.

If the applicant claims that infiltration is not feasible or allowed onsite, the applicant must provide supporting documentation and follow Section 2, Subsection 4.

22.2.4 Alternative Compliance Sequencing. For sites where infiltration practices are determined infeasible as described in Section 22.2.3(i), the following Alternative Compliance Sequencing steps shall be taken in the order shown:

A) Use of alternative volume control practices as described in the Minnesota Stormwater Manual, 2005, and as amended, sized according to Section 22.2.2(b).

B) Use of on-site filtration practices and biofiltration using an impermeable liner and under drain, sized to filter a volume of runoff according to Section 22.2.2(b).

C) Use of off-site volume control practices sized according to Section 22.2.2(b). Off-site volume control practices can be used to provide for stormwater management based on the following criteria:

1. Off-site practices shall be constructed within the same drainage area or sub-watershed as the project site.

2. Off-site practices are required to be constructed and operational prior to constructing imperviousness within the contributing drainage area.

D) Use of wet sediment basins sized per the standard described within the Minnesota Pollution Control Agency (MPCA) General Permit for Construction Activities, 2008, and as amended.

22.2.5 Volume Control Credits.

A) Volume control credits will be awarded as described in the Minnesota Stormwater Manual, 2005, and as amended.

B) Volume control credits must be determined based on the methods outlined within Chapter 11 of the Minnesota Stormwater Manual, 2005, and as amended, for the Adjusted Water Quality Volume.

1. The water quality volume (WQV) shall be calculated by multiplying one (1) inch of runoff over the proposed impervious surface.

2. Applied credits cannot exceed a WQV greater than 1/2 inch of runoff over the proposed impervious area.

3. All recommended and highly recommended conditions must be met, unless specifically waived by VLAWMO staff and the Technical Commission.

4. For Drainage to Stream, Wetland, or Shoreland Buffer Credits, the credits will apply to areas outside of the minimum buffer requirement as prescribed within these Policies.

5. Grass Channel Credits can be applied to the roadway portion of the proposed site when grass channels have been designed with water quality adaptations such as water quality berms.

22.2.6 Maintenance and Easement.

A) Stormwater management easements shall be provided by the applicant for (1) access for facility inspections and maintenance and (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including the overflow route.

B) Land used by stormwater management facilities shall be preserved by dedication and/or perpetual easement to the City, when required by the City. These easements shall cover those portions of the property which are adjacent to the facility and which lie below the 100-year flood elevation.

C) A maintenance agreement shall be recorded with the County as part of the City development approval process. Minimum requirements for the maintenance agreement include:

1. A list of the responsible party(s) (City and facility owner/manager);

2. Contact information;

3. A formalized maintenance schedule, with scheduled activities;

4. A "Failure to Perform" provision laying out remedial actions if the responsible party does not perform as expected;

5. Maintenance debris handling plans; and

6. Emergency response (environmental, spill, safety).

D) Maintenance is required for all stormwater practices constructed in compliance with these Policies. The City will conduct periodic inspection of stormwater practices. A minimum of 20% of all stormwater facilities shall be inspected annually by the City. The City shall provide to the VLAWMO annual inspection reports detailing inspection activities and proof of maintenance where required.

E) When land used by stormwater management facilities is public land or public right-of-way, easements under this section will not be required, and a written agreement between the City and applicant may be executed in lieu of the recorded maintenance agreement.

SECTION 23 - BROADCAST/TELECOMMUNICATIONS TOWER AND ANTENNAS

Section 23.1 Purpose and Intent

23.1.1 The purpose of this section is to establish predictable standards for siting and installing of wireless telephone, radio broadcast, television broadcast and communications antenna towers or supporting structures within the City of Gem Lake. It is the intent of this section to accommodate the communications needed of the residents and businesses while protecting the public health, safety and general welfare of the community.

23.1.2 Specifically, the City Council finds the regulations set forth in this section necessary to:

A) Facilitate the provisions for wireless telecommunication services to the residents and businesses of the City.

B) Restrict the location of towers and antennas to designated areas of the City and impose design standards to minimize adverse visual effects of towers and antennas.

C) Require evidence of structural integrity and impose setback requirements to avoid potential damage to adjacent properties from tower or antenna failure.

D) Require applicants for towers and antenna to prove their need and to apply for permits for their construction.

E) Maximize the use of existing and approved towers and buildings to accommodate new antennas and reduce the number of towers needed to serve the community.

Section 23.2 Zoning Districts for Construction

23.2.1 The following Zoning district preferences shall be followed when selecting potential commercial broadcast/ telecommunications tower sites in the City of Gem Lake:

A) Gateway District "G"

23.2.2 The following Zoning districts shall not be used for commercial broadcast/telecommunications tower/antenna sites in the City of Gem Lake:

A) Any "RE," "RX," "RO," or "RS" District

B) Any Overlay district

Section 23.3 Performance Standards

23.3.1 All stand-alone tower or antennas and/or supporting structures must be of an enclosed monopole design. No monopoles with exposed antennas and other appendages are allowed.

23.3.2 A proposal for a new tower shall not be approved unless the City Council finds that the Broadcast/ telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius of the proposed tower due to one of the following reasons:

A) The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at reasonable cost.

B) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

C) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

D) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

23.3.3 Any proposed commercial wireless telecommunications service tower shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100') feet in height or for at leaser one additional user if the tower is over sixty (60') feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

23.3.4 Structural design, mounting, and installation of any tower or antenna shall be in compliance with the manufacturer's specification and as may be necessary or as determined by the City Council. All such designs and installations shall be verified and approved by a qualified and licensed professional engineer employed by the applicant.

23.3.5 All towers and antennas and related structures shall be designed and built in compliance with all City of Gem Lake building codes and electrical code requirements, and as applicable shall require permits. Existing towers may continue in use but may not be structurally altered.

23.3.6 The height and style of the tower and antenna shall be the minimum necessary to function satisfactorily, as verified by a communications engineer or other appropriate professional. However, no towers erected for broadcast or Telecommunications service shall exceed 180 feet and no tower and accompanying antenna shall exceed two-hundred (200') feet.

23.3.7 All obsolete and unused towers and antennas shall be removed within six (6) months of cessation or operation at the site, unless an exemption is granted by the City Council. The City reserves the right to remove any unused tower or antenna at its expense then back charge the property owner to recover costs.

23.3.8 Damaged existing towers and antennas may be rebuilt to the same physical dimensions and at the same location. Repairs and rebuilding shall be complete within one (1) year after receiving the building permit from the City. However, if the tower is destroyed due to any reason or cause whatsoever, so that repairs would be forty (40%) percent or more of a new tower, then the tower may not be repaired or restored except in full compliance with this Ordinance.

23.3.9 No advertising message shall be affixed to any tower and or antenna structure.

23.3.10 No tower or antenna shall be illuminated by artificial means and must not display strobe lights, unless such lighting is required by the Federal Aviation Administration, or other federal or state authority for that particular tower. When incorporated into the approved design, the tower may support light fixtures used to illuminate parking lights, ball fields, or similar areas.

23.3.11 Towers and antennas must be designed to blend into the surrounding environment through use of color and camouflaging architectural treatment, except in instances where color is dictated by federal or state authorities such as the Federal Aviation Administration. Antenna support structures shall be painted light blue, gray, or silver or have a galvanized finish to reduce visual impact.

23.3.12 Towers located closer to a property line than the distance equal to the ~~tot ch~~ height of the tower shall be designed and engineered to collapse progressively within the distance between the tower and property line. The applicant for any tower shall submit written documentation explaining tower construction and possible failure and provide assurance that blowing or falling ice from tower/antenna can be contained on the subject property. At a minimum, the tower shall comply with the minimum setback requirement of the Zoning District in which it is located.

23.3.13 A tower shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impact of the tower shall be confined onto the property on which it is located, to the greatest extent possible.

23.3.14 The tower location shall provide the maximum amount of screening for off-site views of the tower and/or antenna and related structure. Existing on site vegetation shall be preserved to the maximum extent possible.

23.3.15 All utility buildings, structures, and equipment accessory to the tower or antenna must be architecturally designed to blend in with surrounding environment and must meet the minimum design requirements of the Zoning District in which they are located.

23.3.16 No change in the use or ownership of an approved tower or antenna may be made without the written consent of the City Council.

21.3.17 Co-location of antennas upon overhead power line poles or street light poles is encouraged provide the said antenna meets all applicable federal state spacing requirements and inference regulation.

Section 23.4 Proof of Non-Interference

23.4.1 Each application for construction of a commercial Broadcast or Wireless telecommunication facility shall include either a certified statement that the construction of the tower/antenna, including reception and transmission functions, will not interfere with the radio, television, or other service enjoyed by adjacent residential and non-residential properties. If interference is found after the facility has been built has been erected, the applicant has to solve any problems his equipment has caused, at his cost.

Section 23.5 Tower Setbacks

23.5.1 Where adjacent parcels are zoned for commercial or industrial uses, setbacks equivalent to those established for the principle structure shall be provided for any tower/antenna. Setbacks equal to the height of the tower shall be established on sites that are adjacent to parcels developed or able to be developed for residential use.

Section 23.6 Permit Applications and Plan Review

23.6.1 Conditional Use Permit. Applicants for a tower/antenna Conditional Use Permit must file a Conditional Use Permit application with the City of Gem Lake and pay any and all associated fees.

23.6.2 Planning Commission/City Council review.

All applications for a Broadcast/Telecommunications tower must first be sent to the Planning Commission which shall review the application and may recommend to the City Council approval or denial. The City Council will hold the necessary Public hearing(s) on this matter and will then approve or deny the request. The applicant is responsible for supplying a certified list of the property owners within three-hundred (350') feet of the proposed tower/antenna site and pay all costs for notifying all such parties of the public hearing(s) needed.

Section 23.7 Exceptions

23.7.1 The following towers and/or antennas supporting structures and antennas are not subject to the restrictions of Section 21 of this Ordinance:

A) Towers and/or antennas identified as "Accessory and Secondary Antennas" in this Ordinance are exempt. All Amateur Radio "Accessory and Secondary" antennas and/or towers must be installed in accordance with instructions furnished by the manufacturer of the tower/antenna.

B) Towers and antennas that are located entirely with a structure that complies with the height, bulk and density and area requirements of the City of Gem Lake Zoning Ordinance and are not visible from the exterior of the structure are also exempt.

C) Towers/antennas for radio/telecommunications equipment owned and operated by the City of Gem Lake are also exempt.

SECTION 24 – WIND ENERGY CONVERSION SYSTEMS

Section 24.1. Purpose. The purpose of this Ordinance is to establish standards and procedures by which the installation and operation of residential wind energy conversion systems (WECS) shall be governed within the city.

24.2. Zoning Allowance.

A Residential WECS may be installed as an accessory use in all zoning districts, provided that the system complies with all terms and conditions of this Ordinance.

24.3. License Required.

A Residential WECS with a blade diameter under 6 feet and installed so that the total extended height does not exceed 10 feet over the tallest structure on a property shall not require a City license. For all other WECS, a license must be obtained from the City of Gem Lake prior to installation of the system. The City Council shall designate a member of City staff as the officer responsible for accepting and reviewing applications for Residential WECS licenses. The City Council shall establish fees by separate resolution for review of an initial application and for renewal applications.

24.3.1. Initial Application.

Any person wishing to install a Residential WECS requiring a license shall complete an application on a form provided by the City, pay the required application fee, and submit the application fee, and attach the following additional materials:

A) A site plan, drawn to scale, depicting the location of all WECS components on the property; the locations of property boundaries; the location of all structures and above-ground utilities located on the property, and the location of any public rights-of-way or utility easements on the property. The plan shall also indicate the height of the tallest structure, tree or object lying within 30 feet from the base of the tower.

B) Documentation that a current insurance policy extends coverage to the proposed Residential WECS, whether under existing property insurance or a separate policy.

C) A copy of the WECS manufacturer's documentation stating rated generation capacity, standards certifications (such as Underwriters' Laboratories certification) for each WECS component, installation instructions, standard drawings or schematics for the equipment, warranties, manufacturer's warnings, and emergency procedures.

24.3.2. Renewal Application. A person with a licensed WECS previously installed upon their property shall submit a renewal application on a form provided by the City, pay the required application fee, and provide the following:

A) A revised site plan and elevations reflecting the current location and height of trees, structures and utilities on the property in which the tower is located; and

B) If any of the documents required by Section 24.3.1 (b) or (c) have been replaced by new documents or revised, current copies of those documents.

24.3.3. Review of Applications.

The officer designated by the City Council shall review the license applications and attached supporting material for compliance with the regulations set forth in this Ordinance. If the reviewing officer believes the proposed or existing WECS complies, the officer shall issue the license.

24.3.4. Term of license.

A Residential WECS license shall remain in effect for five (5) years following issuance, unless the City Council shall earlier revoke the license for failure to comply with the terms of this Ordinance.

24.3.5. Revocation.

If the City learns of a violation of this Ordinance, it shall provide a notice to the property owner of the alleged violation and the date and time of a hearing before the City Council to consider the violation. The City Council shall hold a hearing, at which it will receive evidence of the violation and take testimony from any interested parties, including the property owner. Following the hearing, if the Council determines that the WECS is in violation of the standards in this Ordinance, it may revoke the WECS license immediately, give the owner a reasonable period of time in which to correct the violation without revocation, or choose to take no action on the WECS license. If a WECS license is revoked, the WECS and tower must be dismantled and removed from the property within 90 days of revocation.

24.4. Code compliance.

WECS installation is not exempt from the State Building Code and similar safety codes, and all permits required for the construction and/or installation of WECS components must be obtained from the City's Building Official prior to commencing work to install the WECS.

24.4.1. Compliance with state building code. Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the state building code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

24.4.2. Compliance with National Electrical Code. WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the city.

24.5. Standards for Siting, Installation and Operation of WECS.

24.5.1. Height. The height of a WECS must comply with FAA regulation part 77 "Objects Affecting Navigable Air Space" and/or MNDOT Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation".

24.5.2. Setback. WECS towers shall be set back from the closest property line at least one foot for every one foot of the system's total extended height. No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback.

24.5.3. Rotor clearance. At installation, the bottom of the WECS blade diameter shall have a minimum of 5 feet of clearance over any structure (including above-ground utilities) or tree within a 200-foot radius of the WECS tower. The property owner is responsible for ensuring that trees and other vegetation do not encroach on the minimum rotor clearance after the system is installed.

24.5.4. Rotor safety. Each WECS shall be equipped with control equipment to prevent dangerous operation in high wind and to allow the turbine to be slowed or stopped in an emergency.

24.5.5. Tower access. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:

A) Tower climbing apparatus shall not be located within 12 feet of the ground.

B) A locked anti-climb device shall be installed on the tower.

C) Towers capable of being climbed shall be enclosed by a locked, protective fence at least six feet high.

24.5.6. Component certification. Each electrical component of the WECS must be certified by Underwriters Laboratories, Inc. The overall WECS system must either be certified or pending certification by the Small Wind

Certification Council as compliant with the American Wind Energy Association's Small Wind Turbine Performance and Safety Standard.

24.5.7. Lightning protection. Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the city.

24.5.8. Signs. Each WECS shall have one sign, not to exceed two square feet, posted at the base of the tower and said sign shall contain the following information.

A) High voltage warning, if a component of the WECS is "high voltage" under the National Electrical Code.

B) Manufacturer's name.

C) Emergency phone number.

D) Emergency shutdown procedures.

No other signage is permitted on the tower or turbine components of the WECS. A manufacturer's name or logo printed on a component is not considered "signage" for the purposes of this Ordinance.

24.5.9. Lighting. WECS shall not be illuminated from the ground, or have affixed or attached any lights, reflectors, flasher or any other illumination, except for those required by FAA regulations part 77 "Objects Affecting Navigable Air Space" and FAA Advisory circular 70/7460-1F, September 1978 "Obstruction Marking and Lighting".

24.5.10. Noise emission. Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.

24.5.11. Utility company interconnection. If the WECS is interconnected with a local electrical utility company, the connection shall adhere to the National Electrical Code as adopted by the city.

24.6. Test Towers.

A tower to support anemometers and other test equipment to determine the feasibility of installing a WECS on the property may be installed as an accessory use in all zoning districts. A license is not required to erect a test tower, but the City must be notified of the installation and provided with a site plan and elevations similar to that required in Section 24.3.1(a). The test tower must comply with all applicable siting, installation and operation requirements in Section 24.5, though a test tower may use guy wires for support. If required by the State Building Code, a building permit must be obtained before commencing work to erect the test tower. A test tower may stand on a property for a maximum of twenty-four months in any three-year period.

24.7. Inspection.

The city hereby reserves the right upon issuing any WECS license to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.

24.8. Abandonment.

If any WECS or tower is not used for six successive months, the City shall give notice to the property owner that the WECS must be put back in service within six months from the date of notice. If the WECS is not put back into service within that time, the WECS and tower shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

SECTION 25 - SUBDIVISION

Section 25.1 Purpose

25.1 In order to safeguard the best interests of the City of Gem Lake and to assist the subdivider in harmonizing his interests with those of the City at large, the following section is adopted so that the adherence to the same will bring results beneficial to both parties. It is the purpose of this section to make certain regulations and requirements for the platting of land within the City of Gem Lake, pursuant to the authority contained in Minnesota Statutes, which regulations the City Council deems necessary for the health, safety and general welfare of this community.

Section 25.2 Jurisdiction

25.2.1 The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the City of Gem Lake, MN.

Section 25.3 Interpretation

25.3.1 The interpretation and application of the provisions of this section shall be minimum requirements adopted for the protection of public health, safety and general welfare.

Section 25.4 Requirements

25.4.1 This section requires that all land division in the City of Gem Lake be accomplished thru subdivision of property as described in this section.

25.4.2 No subdivision of property in the City of Gem Lake shall be recorded in the Ramsey County Recorder's Office or have any validity unless it is:

A) part of a Platted Subdivision, or

B) part of a Minor Subdivision described by a plat approved by the City, or

C) a single lot, existing on the effective date of this section, described by metes and bounds, which description shall be accompanied by a registered lot survey, or

D) a parcel 20 acres or more in size with at least 500 feet or more of frontage.

25.4.3 No building permits shall be considered for issuance by the City of Gem Lake for constructing any building, structure or improvement on the land on any lot in the subdivision as defined herein, until all requirements of this section have been met.

Section 25.5 Park Land Dedication Requirements

25.5.1 As a pre-requisite to plat or Planned Unit Development approval, all developers shall dedicate land for parks, playgrounds, public open spaces or trails and/or shall make a cash contribution to the City of Gem Lake's park fund as provided by this section of this section. The form of the contribution, cash or land (or any combination), shall be as determined by the City Council in an amount equal to ten (10.0%) percent of the total acreage in the development or ten (10.0%) percent of the pre-development land value.

25.5.2 Subdivision of land which has been previously platted and officially recorded and which contains less than one (1) acre shall be exempt from dedication requirements.

25.5.3 Land to be dedicated for parks, playgrounds and public open spaces shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location. The City Council, at its discretion, may reject proffered land and mandate monetary contribution.

25.5.4 The Gem Lake Planning Commission shall review all park land dedication proposals including the location of land and the amount of land to be conveyed or dedicated within a proposed development or subdivision. Upon review, the Gem Lake Planning Commission shall recommend the land dedication and cash contribution

requirements for proposed developments or subdivisions to the City Council. The exact amount of land or cash considerations to be dedicated shall be established by resolution of the City Council.

25.5.5 Land areas conveyed or dedicated to the City of Gem Lake, as a park or recreation area, shall not be used in calculating the density requirements of the this ordinance for the proposed development or subdivision, and shall be in addition to and not in lieu of open space requirements for Planned Unit Developments.

25.5.6 Where private open space for park and recreational purposes is provided for in a proposed development, subdivision or Planned Unit Development and such space is to be privately owned and maintained by the future residents of the subdivision or PUD , such areas may be used for credit at the discretion of the City Council against the requirement for dedication for park and recreation purposes, providing the City Council finds it is in the public interest to do so and that the following standards are met:

A) The yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open spaces, and

B) That the public ownership and maintenance of the open space is adequately provided for by written agreements, and

C) That the public open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the City Council, and

D) That the proposed private open space is reasonably adaptable for use for park and recreations purposes, taking into consideration such factors as size, shape, topography, hydrological conditions, geology, access and location of private open space lands, and

E) That facilities proposed for the open space are in substantial accordance with the provisions of the recreational element of the comprehensive plan, and are approved by the City Council, and

F) That where such credit is granted, the amount of credit shall not exceed forty (40.0%) percent of the park dedication requirements for the development.

25.5.7 The City of Gem Lake shall maintain a separate fund into which all cash contributions received in lieu of conveyance or dedication of land for park and playground, public open space or trail purposes shall be deposited and shall make, from time to time, appropriations from such fund for acquisition of land for park and playground purposes, for developing existing park and playground sites, for public open space and trails, or for debt retirement in connection with land previously acquired for parks and playgrounds which benefit the residents of the City.

25.5.8 If a developer or subdivider is unwilling or unable to make a commitment to the City of Gem Lake as to the type of buildings that will be constructed on lots in the proposed plat, then the land and cash requirement will be a reasonable amount as determined by the City Council.

25.5.9 Wetlands, ponding areas and drainage ways accepted by the City of Gem Lake shall not be considered in the park land and/or cash contribution to the City.

Section 25.6 Minor Subdivisions

25.6.1 When a subdivision is requested, if either or both of the following conditions exist, the Zoning Administrator may bring the request and the completed Subdivision Application form to the attention of the City Council without going through the complete subdivision process outlined in this section:

A) The proposed subdivision will result in three (3) or fewer fully conforming lots in an area where conditions are well defined. Only once shall a subdivision of 3 lots or less be allowed in any one (1) parcel of property. All lots proposed shall have frontage on a street as required by this Ordinance.

B) In the case of a request to divide an existing lot, where the division is to permit the adding of a parcel of land to an abutting lot, or to create two (2) lots, and the newly created property line will not cause the other remaining portion of the lot or any structure to be in violation with this Ordinance.

25.6.2 The applicant will be required to submit a plat prepared by a registered land surveyor showing the original lot and the proposed subdivision. The newly created parcels also shall meet all requirements of this Ordinance. A preliminary site plan for the proposed subdivided area showing building sites, driveway access points, drainage plans and utility easements shall also be included.

25.6.3 The required filing fee for this Minor Subdivision shall be as established and, from time to time, amended by the City Council as part of the Gem Lake Fee Schedule.

25.6.4 Prior to approval of a Minor Subdivision the City Council reserves the right to require any or all sections of this Ordinance to be applied.

25.6.5 The Minor Subdivision created by these proceedings shall be recorded with the County Register of Deeds within sixty (60) days after the date of approval by the City Council. If not recorded within this time period, the approval of this subdivision by the City shall be considered void.

Section 25.7. Severability

25.7.1 It is the intention of the City Council that the several provisions of this section are severable and that if any court of competent jurisdiction shall adjudge any provision of this section or application thereof to be invalid, such judgment shall not affect any other provisions of this section not specifically included in said judgment.

Section 25.8. Conflict and Interaction of Ordinances

25.8.1 Whenever there is a conflict between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions, Codes or Ordinances of the City, the most restrictive standards shall apply.

Section 25.9 Rules and Definitions

25.9.1 The language set forth in the text of this section shall be interpreted in accordance with the following rules of construction.

A) The singular number includes the plural, and the plural the singular.

B) The present tense includes the past and future tenses and the future the present.

C) The word "shall" is mandatory while the word "may" is permissive.

D) The masculine gender includes the feminine and neuter.

E) Whenever a word or term defined herein appears in the text of this section, its meaning shall be construed as set forth in such definition thereof.

F) All measured distances expressed in feet shall be to the nearest tenth of a foot.

Section 25.10 Filing and Review Procedures of Plans

25.10.1 Sketch Plan.

In order to insure that all applicants are informed on the procedural requirements and minimum standards of this section and the requirements or limitations imposed by other City Codes, Ordinances or Plans, the applicant shall submit three (3) copies of a Sketch Plan to the Zoning Administrator. (see Section 25.12 for details of what is to be included in a Sketch Plan) The applicant also shall arrange a pre-application meeting with the Zoning Administrator, the Planning Commission and the City Engineer to review and discuss the proposed development.

25.10.2 Preliminary Plan

25.10.2.1 FILING - the subdivider shall submit to the Zoning Administrator the following:

A) A completed Subdivision Application form

B) Ten (10) copies of the Preliminary Plan and at least one reduced (8 ½ X 11 or 8 ½ X 14) Preliminary Plat.

C) The required fees. The base fee for a subdivision application shall be established by the city council from time to time and published with all other City fees and charges. This fee is non-refundable. In addition to the base fee, the subdivider shall deposit funds with the City for payment of expenses incurred through staff time and from all outside sources including, but not limited to, engineers, attorneys, and outside consultants employed specifically for review and processing the application. The deposit shall be based on the city clerk's estimate of staff and consultant time required, but in no case shall the deposit exceed one percent (1%) of the current-year market value of the land to be subdivided, as determined by the Ramsey County Assessor. Any amount over the base fee not expended by the city will be refunded within thirty (30) days of final action on the application (i.e. final plat approval or application denial). Expenses in excess of the filing fee and deposit that the City incurs shall be borne by the subdivider and paid prior to final approval.

D) Any applications for Variances from the provisions of this section or applications for Variances or Special Uses as provided for in the other Gem Lake Ordinances and the required fee(s) for such action.

E) A list of all property owners located within three hundred fifty (350) feet of the subject property, obtained from and certified by Ramsey County or the City of Gem Lake.

F) An executed Cost Sharing Agreement indicating the applicants understanding that he/she agrees to reimburse the City for all expenses incurred through staff time and from all outside sources including, but not limited to, engineers, attorneys, and outside consultants employed specifically for review and processing the application.

25.10.2.2 Action on Requests. The Zoning Administrator shall upon receipt of the Preliminary Plan:

A) Determine whether the Preliminary Plan includes the data required by this section. The plan shall be considered as being officially submitted when all the information required is supplied and all requirements of this section are complied with.

B) Send a copy of the Subdivision Application and one copy of the Preliminary Plan to each member of the Planning Commission and one copy to the City Engineer.

C) The Zoning Administrator also shall refer copies of the Preliminary Plan to the Park Advisory committee, Watershed Districts, County, State, or other public jurisdictions for their timely review and comment, where appropriate and when required.

D) The proposed plan shall be placed on the agenda of the first possible Planning Commission meeting.

E) The City Engineer shall in a timely manner submit his report to the Planning Commission. This report shall be on the feasibility of street location and construction and on any drainage or other problems that might be encountered. The absence of a report from the City Engineer shall in no way invalidate the approval or disapproval by the City of the Preliminary Plan.

F) The Planning Commission shall hold a public hearing on the proposed Preliminary Plan and shall have notice of such hearing published in the official newspaper at least ten (10) days prior to the hearing. The subdivider shall certify that all owners of property within 350 feet of the property being subdivided have been notified by mail of the Public Hearing.

G) Upon completion of the Public Hearing, the Planning Commission shall prepare and submit its report, five (5) copies of the Preliminary Plan, its recommendation for approval or disapproval, and recommendations for conditions associated with approval to the City Council in a timely manner that allows the City Council to take action within the time limits established by law. If the report of the Planning Commission has not been received so as to provide for compliance with time limits established by law, the City Council may act without such a report.

H) The City Council shall, within the time limits established by law, approve with or without conditions or disapprove the Application for Subdivision Preliminary Plat with said action being formally recorded in the minutes of a properly convened meeting. Further, any disapproval of the Application for Subdivision Preliminary Plat shall be noticed in writing to the applicant.

I) Any modification or waiver of time limits established by law shall only be made in writing to the City by the applicant except for extensions by the City provided for by law.

25.10.3 Final Plat. Within six (6) months following approval of the Preliminary Plan by the City Council, unless the subdivider has requested an extension of that time from the City Council, the following shall be submitted to the Zoning Administrator:

25.10.3.1 Filing

A) Eight (8) copies of the Final Plat, including one reproducible copy are required. This Final Plat shall incorporate all changes to and conditions associated with the Preliminary Plan required by the City Council. Otherwise, it shall conform to the Preliminary Plan. The Final Plat may constitute only that portion of the Preliminary Plan that the subdivider proposes to record and develop at this time. If the Final Plat is not submitted within six (6) months, the approval of the Preliminary Plan shall be considered void.

B) An up-to-date certified abstract of title or registered property record report and such other evidence as the City Council may require showing title or control of the property in the subdivision by the applicant.

25.10.3.2 Action On Requests - the Zoning Administrator shall upon receipt of the Final Plat:

A) Acknowledge receipt of the Final Plat to the applicant

B) Send three (3) copies of the Final Plat to the Planning Commission

C) The report of the Planning Commission shall be submitted to the City Council in a timely manner that allows the City Council to take action within the time limits established by law after filing of the Final Plat. The report shall state whether the proposed improvements conform to the engineering standards and specifications established in this section. It shall also state whether the Final Plat conforms to the Preliminary Plan as approved by the City Council pursuant to Section 11.2.2 h).

D) The City Council shall act on the Final Plat within the time limits established by law. It shall not approve a Final Plat unless it:

1) Conforms to the Preliminary Plan with all changes and conditions associated with the Preliminary Plan approval by the City.

2) Meets the design and engineering standards set forth in this section,

3) Conforms to the plans of the City, as approved by the Planning Commission and City Council.

4) All fees required to be paid to the City in connection with this Plat have been paid.

E) If the Final Plat is approved by the City Council, the subdivider shall record it with the County Register of Deeds within sixty (60) days after the date of approval. If not recorded within this time period, the approval of the Final Plat shall be considered void.

F) The subdivider shall immediately upon completion of recording, furnish to the City Clerk two (2) prints of the Final Plat showing evidence of recording.

25.10.4 Data Requirements for Plans and Plats

25.10.4.1 Sketch Plan. Sketch Plans shall contain, at a minimum, the following information:

A) Plat Boundary

B) North arrow

C) Scale

D) Street layout on and adjacent to plat

E) Designation of land use and current proposed zoning

F) Significant topographical or physical features

G) Preliminary lot locations, numbers and layout

25.10.4.2 Preliminary Plan. The subdivider shall prepare and submit a Preliminary Plan, together with any necessary supplementary information. The Preliminary Plan shall contain the information set forth in the sections that follow.

25.10.4.2.1 General Requirements

A) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions in Ramsey County.

B) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section line comprising a legal description of the property.

C) Names and addresses of all persons having property interest, the developer, designer and surveyor together with the surveyor's registration number.

D) Graphic scale of plat, not less than one (1) inch to one hundred (100) feet.

E) Date and north arrow.

25.10.4.2.2 Existing Conditions

A) Boundary lines and total acreage of proposed plat, clearly indicated.

B) Existing zoning classifications for land within and abutting the subdivision.

C) Location, widths and names of all existing or previously platted streets or other public ways, showing type, width and condition of improvements, if any; railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the plat and to a distance of three-hundred and fifty (350) feet beyond the tract.

D) Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract, Such data as grades, invert elevations and locations of catch basins, manholes and hydrants also shall be shown.

E) Boundary lines of adjoining unsubdivided and subdivided land, within three hundred fifty (350) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.

F) Topographical data, including contours at vertical intervals of not more than two (2) feet. Water courses, wetlands, rock out-crops, power transmission poles and lines and other significant features shall also be shown.

G) In plats where public water and sewer are not available, the subdivider shall file a report prepared by a registered civil engineer on the feasibility of individual on-site sewer and waste systems on each lot, and shall include soils boring analysis and percolation tests to verify conclusions.

25.10.4.2.3 Proposed Design Features

A) Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections, and proposed names of streets in conformance with City and County street identification policies. The name of any street heretofore used in the City of Gem Lake or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.

B) Locations and size of proposed sewer lines and water mains.

C) Locations, dimensions and purposes of all easements.

D) Layout, numbers, lot areas and preliminary dimensions of lots and blocks.

E) Minimum front and side street building setback lines.

F) When lots are located on a curve, the width of the lot at the building setback line.

G) Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.

H) Water mains shall be provided to serve the subdivision by extension of an existing community system whenever feasible. Service connections shall be stubbed into the property line and all necessary fire hydrants also shall be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the City of Gem Lake. In areas where public water supply is not available, individual wells shall be provided on each lot, properly placed in relation to individual sewage treatment facilities on the same and adjoining lots. Well plans must comply with the Minnesota State Well Code as may be amended, and shall be submitted for the approval of the City Engineer.

I) Sewage Disposal, Public. Sanitary sewer mains and service connections shall be installed in accordance with the standards and ordinances of the State of MN, Ramsey County and the City of Gem Lake.

J) Sewage Disposal, Private. All on-site septic systems shall be installed in accordance with the standards and ordinances of the State of MN, Ramsey County and the City of Gem Lake.

25.10.4.2.4 Supplementary Information

A) Proposed restrictive covenants

B) An accurate soil survey of the subdivision prepared by a qualified person.

C) Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards and congestion of population.

D) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions shall be shown, such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.

E) Provisions for surface water disposal, ponding, drainage and flood control.

F) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.

G) Where structures are to be placed on large or excessively deep lots that are subject to potential re-platting, the preliminary plat shall indicate a logical way in which the lots could possibly be re-subdivided in the future.

H) Proof that a plan for soil erosion and sediment control, both during construction and after development, has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system along with any such requirements as may be required of the applicant by watershed districts or other such public agencies established to regulate sediment and erosion control.

I) A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and location of trees and other vegetation that are to be planted, and which indicates compliance with all attendant local ordinances.

J) When the City of Gem Lake agrees to install improvements in a development, the developer shall furnish the City a Financial Statement satisfactory to the City. When then City has not undertaken to install improvements, the City may, at the City's option, require the developer to furnish a Financial Statement satisfactory to the City.

K) Such other information as may be required.

25.10.5 Final Plat.

The owner or subdivider shall submit a Final Plat together with any necessary supplementary information. The Final Plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes, Ramsey County regulations and the Final Plat shall contain the following information:

25.10.5.1 General Requirements

A) Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.

B) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions that must mathematically close. The allowable error closure of any portion of a final plat shall be one (1) foot in seventy-five hundred (7500) feet.

C) The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments.

D) Locations of lots, streets, public highways, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

E) Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block.

F) The exact locations, widths, and names of all streets to be dedicated.

G) Location and width of all easements to be dedicated.

H) Name, address and registration number of the surveyor making the plat.

I) Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.

J) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are served over, under and along strips marked "utility easements."

K) Statement dedicating all streets and other public areas not previously dedicated as follows: Streets and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

25.10.5.2 Certification Requirements

A) Certification by a registered surveyor in the form required by Section 505.03, Minnesota Statutes, as amended.

B) Execution by all owners of any interest in the land or any lenders of a mortgage thereon of the certificate required by Section 505.03, Minnesota Statutes, as amended, and where certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.

C) Certifications showing that all taxes currently due on the property to be subdivided have been paid in full.

D) An approval and review block to be filled in with the signature of the Mayor and City Clerk. The form of this approval and review block is as follows:

Approved by the City of Gem Lake, Ramsey County, Minnesota

This ___Day of _____, 20

Signed: _____

Mayor

Attest:_____

City Clerk

Section 25.11 Design Standards

25.11.1 Blocks

25.11.1.1 Block Length.

In general, intersecting streets, determining block lengths, shall be provided at such intervals so as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed one thousand eight hundred (1800) feet nor be less than four hundred (400)

feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than twelve hundred (1200) feet, pedestrian ways and/or easements through the block may be required near the center of the block.

25.11.1.2 Block Width. The width of the block shall normally be sufficient to allow for two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

25.11.2 Lots

25.11.2.1 Area.

The minimum lot area, width and depth shall not be less than that established by this Ordinance in the appropriate Section in effect at the time of adoption of the Final Plat.

25.11.2.2 Corner lots.

Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in this Ordinance.

25.11.2.3 Side lot lines.

Other than for good reason, side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

25.11.2.4 Frontage.

Every lot must have minimum frontage on a City approved existing or platted street or road other than an alley, as required in this Ordinance.

25.11.2.5 Setback lines.

Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required in this Ordinance.

25.11.2.6 Water courses.

Lots abutting a water course, wetland, ponding area or stream shall have additional depth and width, and other restrictions as required in this Ordinance.

25.11.2.7 Features.

In the subdividing of land, due regard shall be shown for natural features, such as tree growth, water courses, historic spots or similar conditions that if preserved will add attractiveness and stability to the proposed development.

25.11.2.8 Lot remnants.

All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than being allowed to remain as unusable parcels.

25.11.2.9 Political boundaries.

No singular plat shall extend over a political boundary or school district line without documented notification to affected units of government.

25.11.2.10 Frontage on two streets.

Double frontage, or lots with frontage on two (2) roughly parallel streets, shall be avoided except where lots back on an arterial street or highways, or where topographic or other conditions render subdividing otherwise

unreasonable. Such double-frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.

25.11.2.11 Turn around egress.

When proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turn around egress on each lot.

25.11.3 Streets

25.11.3.1 Streets, Continuous.

Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangements of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety and in appropriate relation to proposed uses of the area to be served.

25.11.3.2 Local streets, authorized private ways and Dead-end streets.

Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs will be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall include a terminal turn- around with a turn-around radius of not less than sixty (60) feet.

25.11.3.3 Alleys.

Alleys are not permitted in subdivisions in the City of Gem Lake.

25.11.3.4 Street plans for Future Subdivisions.

Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided/subdivided portion shall accompany the plat.

25.11.3.5 Temporary Cul-de-sac.

In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turn around facility shall be provided at the closed end.

25.11.3.6 Street Intersections.

Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an offset of less than one hundred twenty five (125) feet shall be avoided.

25.11.3.7 Sidewalks.

The Planning Commission, when it deems appropriate and necessary, may require that sidewalks be provided on one or both sides of the paved surface, and shall prescribe the minimum width of such sidewalks. In all cases where sidewalks are specified, they shall provide handicapped access.

25.11.3.8 Half streets.

Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it will be practical to require dedication of the other half when the adjoining property is subdivided.

25.11.3.9 Private Streets.

Private streets existing as of the date of this Ordinance are permitted. Future private streets are permitted, but only when approved by the City. The City may accept private streets as public streets, but only when such streets have been upgraded to the standards set by this Ordinance.

25.11.3.10 Street Grades.

The grades of all streets shall not be less than 0.3 percent and should not exceed the following:

A) Collector Street Six (6%) percent

B) Minor Street Eight (8%) percent

25.11.3.11 Curb Radius.

The minimum curb radii for thoroughfares, collector streets, local streets, and alleys shall be as follows:

A) All Streets Ten (10') feet

25.11.3.12 Reserve Strips.

Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

25.11.3.13 Street Right-of-Way Width.

For all public streets hereafter dedicated and accepted, the minimum right-of-way widths of streets shall be as shown in the City of Gem Lake Comprehensive Municipal Plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

A) Principal Arterial Highway (As required by MNDOT)

B) Intermediate Arterial Highway 100 feet

C) Minor Arterial Highway 80 feet

D) Collector Street 70 feet

E) Minor Street 60 feet

F) Authorized Private Way 40 feet

G) Private Driveway 33 feet

H) Pedestrian Way 10 feet

25.11.4 Easements

25.11.4.1 Width and Location.

Necessary easements of appropriate width for utilities (including extension of main water and sewer lines) shall be provided (and shown on the plat), preferably along lot lines or as necessary across lots.

25.11.4.2 Continuous Utility Easement Locations.

Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council.

25.11.4 .3 Guy Wires.

Additional easements for pole guys should be provided, where appropriate, at the outside of turns. Where possible, lot lines shall be arranged to bisect the existing angle so that pole guys will fall along-side lot lines.

25.11.5 Erosion and Sediment Control

25.11.5.1 The development of this subdivision shall conform to the natural limitation presented by topography and soil so as to create the least potential for soil erosion.

25.11.5.2 Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to and maintained throughout development when necessary to control erosion.

25.11.5.3 Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one (1) period of time.

25.11.5.4 When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

25.11.5.5 Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. Topsoil shall be restored or provided to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.

25.11.5.6 Natural vegetation shall be protected wherever practical.

25.11.5.7 Run-off water shall be diverted to a sediment basin before being allowed to enter the natural drainage system.

25.11.5.8 The erosion and sediment control plan shall be subject to review and approval of the applicable Watershed District and the City Engineer. The City may request a report from the Ramsey Soil and Water Conservation District regarding soil erosion control measures. The City may require a soil erosion cash deposit to guarantee erosion control measures are taken.

25.11.6 Storm Drainage

25.11.6.1 All subdivision designs shall incorporate adequate provisions for storm water run-off subject to review and approval of the applicable Watershed District and the City Engineer.

25.11.6.2 The grade and drainage requirements for each plat shall be approved by the applicable Watershed District and the City Engineer at the expense of the applicant for the subdivision. Every plat presented for final signatures shall be accompanied by certifications by the City Engineer that the grade and drainage requirements have been met. In an area not having municipal storm sewer trunks, the applicant shall be responsible for providing a storm water disposal plan that will operate without damage to properties outside the platted areas.

25.11.6.3 No plat shall be approved by the City Council before the storm water disposal plan is approved by both the City Engineer and the Watershed District.

25.11.6.4 The use of dry wells for the purpose of storm water disposal is prohibited in the City of Gem Lake.

25.11.7 Protected Areas

25.11.7.1 Where land proposed for subdivision is found to be environmentally sensitive by the City, due to the existence of wetlands, drainage ways, water courses, floodable areas or steep slopes, the design of said subdivisions shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.

25.11.7.2 Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign or dedication of these sensitive areas in the form of outlots.

25.11.7.3 Measures of protection shall include design solutions that allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction of slopes over eighteen (18) percent or result in significant alteration in the natural drainage system such that adverse impact cannot be continued within the plat boundary.

Section 25.12 Required Basic Improvements

25.12.1 General Provisions

25.12.1.1 Before a Final Plat is returned to the subdivider by the City, the subdivider of the land covered by said plat shall pay all fees required and execute and submit to the City Council a developer's agreement that shall be binding on his or their heirs or personal representatives. This agreement shall declare that the subdivider will start no private construction on the lands within said plat, nor will the subdivider file or cause to be filed any application for building permits for such construction until all improvements required by this Ordinance have been made or arranged for in the manner and conforming to the requirements set forth on the Final Plat.

25.12.1.2 Prior to the delivery of the approved Final Plat, the subdivider shall deposit with the City Treasurer an amount equal to a minimum of one hundred twenty five (125) percent of the City Engineer's estimated cost of the required improvements within the plat, either in a cash escrow fund, performance and indemnity bond, or letter of credit. The surety involved in said financial guarantees shall be approved by the City. The cash escrow, letter of credit or performance and indemnity bond shall be conditioned upon:

A) The making and installing of all of the improvements required by the terms and conditions set forth by the City within one (1) year.

B) Satisfactory completion of the work the subdivider has agreed to in the developer's agreement referred to in Section 14.1.1.

C) The payment by the subdivider to the City of all expenses incurred by the City in connection with this subdivision proposal, shall include not be limited to: expenses for engineering, fiscal, legal, construction and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement that shall provide that in the event the required improvements are not completed in one year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the City and applied by the City to the cost of completing the required improvements. If the funds available within the said cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the City shall be assessed against the subdivision. Any balance remaining in the cash escrow fund after such improvements have been made and all expenses therefore have been paid, shall be returned to the subdivider. In instances where a letter of credit is used in lieu of a cash escrow or performance and indemnity bond, the said letter of credit shall be in a form satisfactory to the City, and the terms thereof shall substantially comply with all requirements as set forth in Minnesota Statutes as amended, which statutes relate to Surety Bonds.

25.12.1.3 The City of Gem Lake shall where appropriate, require of a subdivider submission of a Warranty/Maintenance Bond in the amount equal to the original cost of the improvements, which shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of the said improvements.

25.12.1.4 Reproducible "as built drawings" as required by the City Engineer, shall be furnished to the City by the subdivider giving details on all required improvements. Such "as built drawings" shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

25.12.1.5 All the required improvements to be installed under the provisions of this Ordinance shall be approved by and subject to the inspection of the City Engineer. All of the City's expenses incurred as the result of the required improvements shall be paid either directly, indirectly or by reimbursement to the City by the subdivider.

25.12.2 Monuments for Final Plat

25.12.2.1 Official monuments, as designated and adopted by the Ramsey County Surveyors Office and approved by the Ramsey County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the Final Plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat is to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point or the boundary perimeter to be so monumented.

25.12.2.2 Pipes or steel rods shall be placed at each lot and at each intersection of street center lines. All United States, State, County or other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in the precise position they were and shall be recorded on the plat. All lot and block dimensions shall be recorded on the plat and all necessary angles pertaining to the lots and blocks shall be shown, as an aid to future surveys. No ditto marks will be permitted when indicating dimensions.

25.12.2.3 To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monument shall be required. Proof of the second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition for the Certification of Occupancy.

25.12.3 Street Improvements

25.12.3.1 The full width of the right-of-way shall be graded, in accordance with the provisions for construction as outlined in the section of this Ordinance, titled Design Standards.

25.12.3.2 All street shall be improved in accordance with the City of Gem Lake standards and specifications for street construction or as required by the City Council.

25.12.3.3 All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portions of the right-of-way outside the area surfaced shall be sodded or riprapped by the developer if deemed necessary by the City.

25.12.3.4 Where required, curb and gutter shall be constructed in accordance with the standards and specifications for street construction as set forth and approved by the City Council.

25.12.4 Trees and Boulevard Sodding

25.12.4.1 Where street trees do not exist, trees having a trunk diameter of not less than two (2) inches, measured twelve (12)inches above the ground, shall be planted on both sides of all streets in the subdivision in locations approved by the Planning Commission, but no more than sixty (60) feet apart. Trees of equal standard shall be planted in the required front yards at an average minimum density of one (1) tree per forty (40) feet of right-of-way.

25.12.4.2 Tree species shall be as approved by the Planning Commission and must survive one full growing season or be replaced at the subdivider's expense.

25.12.4.3Boulevards shall be sodded as required by the Planning Commission in conformance with generally accepted standards and specifications.

25.12.5 Street Signs, Lighting and Driveways

25.12.5.1 Street signs, of suitable design approved by the City Council, shall be installed at each street intersection.

25.12.5.2 Driveway approaches and sidewalks of standard design or pedestrian pathways, as may be required by the City Council, shall be installed.

25.12.5.3 Street lighting fixtures, as may be required and approved by the City Council, shall be installed.

25.12.6 Sanitary Sewer and Water Distribution Improvements

25.12.6.1 Sanitary sewers and water facilities shall be installed in accordance with standards and specifications as required by the City Council and subject to the approval of the City Engineer.

25.12.6.2Where City sewer and water facilities are not available for extension into the proposed subdivision, the Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

25.12.7 Public Utilities

25.12.7.1 All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, Cable TV and other services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground, unless the City Council specifically shall find, after study and recommendation of the Planning Commission that:

A) The placing of utilities underground would not be compatible with the development planned;

B) Topographical, soil or any other conditions make underground installation unreasonable or impractical.

25.12.7.2 Where telephone, Cable TV, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services.

25.12.7.3 All drainage and other underground utility installations that cross privately owned property shall be protected by easements.

25.12.7.4 All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Planning Commission may recommend, and the City Council require, that the type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the residential development.

25.12.7.5 The subdivider is responsible for complying with the requirements of this section, and shall submit to the Zoning Administrator a written record from the utilities showing that the necessary arrangements with the utility involved for installation of said facilities have been made.

25.12.8 Election of City to Install Improvements

25.12.8.1 In accordance with the policy of the City of Gem Lake, it is the subdivider's responsibility to install all required improvements except that the City reserves the right to elect to install all or any part of the improvements required under the provisions of this Ordinance in lieu of requiring the subdivider to install such improvements.

25.12.9 Railroad Crossings

25.12.9.1 No street dedications will be accepted that require a crossing of a railroad right-of-way unless sufficient land, as determined by the City Council, is dedicated to insure a safe view.

Section 25.13 Variances from This Section

25.13.1 The City Council may grant a variance in any particular case where the applicant can show that by reason of exceptional topography or other physical conditions the strict compliance to this section could cause an exceptional and undue hardship on the enjoyment of substantial property right. Such relief may be granted provided there is no detriment to the public welfare and no impairment of intended purpose of this section.

25.13.2 An application for any such Variance shall be made on an official application form available from the Zoning Administrator and shall be submitted at the same time as the Preliminary Plan is filed for consideration. Such application shall be accompanied by the required fee(s). Such application shall state fully all facts relied upon by the applicant and shall be supplemented with maps, plans or additional data that will aid the City in the analysis of the proposed project.

25.13.3 Upon receiving such application, the Zoning Administrator shall refer the application, along with all related information, to the Planning Commission for consideration at a duly convened public hearing, a report and recommendation to be sent to the City Council.

25.13.4 The applicant or a representative of the applicant shall appear before the Planning Commission at its next regular meeting in order to answer questions concerning the proposed Variance.

25.13.5 The Planning Commission shall have the authority to request additional information from the applicant concerning the Variance or to retain expert testimony with the consent and at the expense of the applicant concerning said Variance, where said information is declared necessary to insure preservation or health, safety and general welfare.

25.13.6 The Planning Commission shall make a finding of fact and recommend to the City Council in writing such actions or conditions relating to the request as it may deem necessary to carry out the intent and the purpose of this section and shall do so in a timely manner that allows the City Council to take action within the time limits established by law.

25.13.7 If the report of the Planning Commission has not been received so as to provide for compliance with time limits established by law, the City Council may act without such a report.

25.13.8 Upon receiving the report and recommendation of the Planning Commission, the City Council shall place the matter on the agenda for the next regular meeting. The Council shall within the time limits established by law make a written finding of fact and impose any conditions it considers necessary to protect the public health, safety and welfare. A Variance to this Ordinance shall require a four/fifths (4/5ths) vote of the full City Council. The Zoning Administrator shall promptly notify the applicant of the Council's decision in writing.

Section 25.14 Violations and Penalty

25.14.1 Sale of Lots from Unrecorded Plats

25.14.1.1 It shall be unlawful to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plan, plat or replat of any subdivision or area located with the jurisdiction of this Ordinance unless said plan, plat or replat shall have first been recorded in the Office of the Recorder of Ramsey County.

25.14.2 Misrepresentation as To Construction, Supervision or Inspection of Improvements

25.14.2.1 It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the City of Gem Lake to represent that any improvements upon any of the streets, or avenues of said addition or subdivision or any sewer or water system in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

25.14.3 Penalty

25.14.3.1 Any person who violates any of the provisions of this Code shall, upon conviction thereof, be fined not more than the maximum penalty for a misdemeanor prescribed under State Law. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 26 - LANDSCAPING

Section 26.1 Purpose.

The purpose of this Section is to clearly express the City of Gem Lake's intent for all properties in the City to be landscaped and to have the landscaping maintained with care. Properties shall be landscaped to improve the environmental performance of all properties in the City as well as to meet the aesthetic needs of the general public.

26.1.1 Landscaping Goals.

All landscaping must be designed to protect, preserve, and promote the aesthetic appeal and overall value of the property. The quantity and quality of the landscape design should be compatible with the described use for each parcel in a zoning area and the intended use of the property. The preservation of desirable vegetation is a goal which should be addressed prior to any new construction, land filling, land changes or expansion of existing use areas.

26.1.2 Landscape standards.

The landscape standards set forth in the Ordinance will promote harmonious development in the City, increase the desirability of residences, encourage investment or occupation in the City, optimize use and value of land and improvements, increase the stability and value of property, and add to the conditions affecting the peace, health and welfare of the City.

Landscaping standards are essential to ensure compatible relationships between land uses within a community. All uses allowed as either permitted or conditional uses within the City's various zoning areas shall conform to the following general provisions and performance standards.

26.1.3 Landscaping Maintenance.

It is also important that all landscaped areas shall be properly maintained. Minimum maintenance standards for all landscaped areas are described in Section 18 of this Ordinance.

Section 26.2 Definitions the definitions used in this section are now listed in Appendix A of The Consolidated Land Use Ordinance.

Section 26.3 Landscaping Requirements for New Construction in Residential Districts

25.3.1 Where to install landscaping.

All front yards, boulevards and side yards of a residential structure in any zoning area in the City shall have sod or landscaping with mulch cover properly installed. This installation shall occur within sixty (60) days after the home is constructed upon the lot, but no later than two hundred forty (240) days after first grading, excavating, or otherwise disturbing the land in furtherance of construction. If home construction is completed after the end of growing season, such landscaping shall be installed within sixty (60) days of the start of the next growing season. In rear yards, grass or mulch cover is still required, but the requirement may be met by seeding or other measures reasonably expected to provide a grassy area in lieu of installing sod. Silt fences and other methods to prevent soil erosion, as described in the Zoning Ordinance, shall be installed and maintained on any remaining portions of the lot that are not sodded or properly landscaped until a stable ground cover is established.

All areas disturbed by grading which surround the principal building and accessory buildings which are not driveways, sidewalks or patios shall be landscaped with grass, shrubs, trees or other ornamental landscape materials.

26.3.2 Trees to be planted.

Three (3) new trees per acre shall be installed concurrently with sodding and seeding of the required yards. At least one (1) overstory tree and either one (1) ornamental tree or coniferous/evergreen tree is required for each lot. Each

acre may have two (2) overstory trees as long as they are not of identical species. Existing significant trees that are retained on each lot may be used as a credit in lieu of planting new trees, but each acre must have at least two (2) trees.

26.3.3 Landscaping required after land filling or reclamation.

If land filling or land reclamation is done in a residential area, the requirements of 16.15 ~~4.1~~ for landscaping following construction shall be followed, using the date of permit expiration in place of the date of construction completion.

Section 26.4 Landscaping Requirements for New Construction in Non-Residential Districts

26.4.1 Where landscaping is necessary.

For all non-residential districts, at least twenty five percent (25%) of the land area shall be landscaped with grass, approved ground cover, shrubbery and trees. All front yards, boulevards and side yards around a structure in all non-residential districts in the City shall have sod or landscaping with mulch cover properly installed. This installation shall occur within sixty (60) days after the structure is constructed upon the lot, but no later than two hundred forty (240) days after first grading, excavating, or otherwise disturbing the land in furtherance of construction. If construction is completed after the end of growing season, such landscaping shall be installed within sixty (60) days of the start of the next growing season. All areas around the structure must be finished, but seeding of large areas around the structures is allowed in lieu of sod placement. Silt fences and other methods to prevent soil erosion shall be installed and maintained on the remaining portions of the lot that are not sodded or properly landscaped until a stable ground cover is established.

26.4.2 Parking Area Landscaping.

Any parking areas in a non-residential zone that contain one hundred (100) parking stalls or less shall include at least one unpaved landscaped island along the driving aisles that serve as primary circulation to the site. In addition, at least one landscaped island shall be provided for every two hundred and twenty five (225) feet of contiguous parking stalls.

All parking areas containing over one hundred (100) parking stalls shall include unpaved landscaped islands for every two hundred and twenty-five (225) feet of contiguous parking stalls. The islands shall be distributed evenly throughout the planned parking area space and be positioned in a way to promote effective traffic flow through the parking area.

All landscaped islands in parking areas shall contain a minimum of one hundred and eighty (180) square feet of area and shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and/or shrubbery in addition to then minimum landscape requirements of this Ordinance. Interior parking landscape area trees shall be provided at the rate of one (1) tree for each fifteen (15) surface parking spaces provided or a fraction thereof. Parking area landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the Planning Commission.

26.4.3 Landscaping required in land filling or reclamation.

If land filling or land reclamation is done in a non-residential area, the requirements of 16.15.1 for landscaping following construction shall be followed, using the date of permit expiration in place of the date of construction completion.

26.4.4 Minimum Standards in non-residential districts.

In order to achieve landscaping which is appropriate in scale with the size of the building and site, these minimum standards shall apply to all non-residential districts:

A. One (1) tree for every one thousand (1,000) square feet of total building floor area, or one (1) tree for every fifty (50) feet of site perimeter, whichever is greater. A minimum of thirty percent (30%) of the trees required shall be coniferous.

B. One (1) ornamental tree may be substituted for every 0.6 overstory deciduous shade tree. In no case shall ornamental trees exceed fifty percent (50%) of the required number of trees.

C. One (1) large shrub for every three hundred (300) square feet of building or for every thirty (30) feet of site perimeter, whichever is greater.

26.4.5 Credit for Existing Trees.

The total number of new overstory trees required on a property may be reduced by the retention of existing overstory trees, provided that the following conditions are satisfied:

A. The trees fulfill the minimum requirements of section 27 of this Ordinance as to size and species. The City Forester shall recommend to the Planning Commission the amount of credit for such existing trees based upon their location and distribution in the lot.

B. Proper precautions to protect trees during building development shall be indicated on site grading plans submitted for plan review. The landscape performance security shall include provisions to ensure that these precautions are followed.

26.4.6 Irrigation System Required.

As a non-residential area is developed, an underground irrigation system shall be required in all landscaped areas.

Section 26.5 General Requirements for All Districts

26.5.1 Trees and Shrubs.

The following nursery stock sizes shall be required at the time of planting. All measurements shall conform to the standards set forth in the current edition of the USA Standards for Nursery Stock. Larger plants may be used or specified at any time.

Overstory Trees	2-1/2 inches in diameter
Ornamental Trees	1-1/2 inch in diameter
Evergreen Trees	6 feet tall
Large Shrubs	36 inches tall
Medium Shrubs	24 inches tall
Small Shrubs	12 inches tall
Evergreen Shrubs	24 inches in diameter
Upright Evergreen Shrubs	36 inches tall

Trunk diameter shall be measured six (6) inches above the ground level for four (4) inch or less caliper trees and measured twelve (12) inches above the ground for four (4) inch caliper or larger trees.

26.5.2 Topsoil and Planting Soil.

When topsoil or planting soil is required for landscaping, the soil shall have a pH range of 5.00 to 8.00, unless otherwise specified. All soil shall be free of sticks, stones and other debris.

26.5.3 Planting Schedule.

All landscaping plans shall contain a planting schedule which identified all plants proposed to be installed, along with existing plants. Plants shall be identified by a planting schedule which includes:

A. Quantity to be installed

B. Common name

C. Botanical name

D. Plant size

E. Root type (B & B, container, bare root)

26.5.4 Location of Plants.

No plants, except flowers, ground cover or vines, shall be placed within two (2) feet of any building, driveway or parking area unless specifically noted and approved on the landscape plan.

26.5.5 Installation of Trees.

The property owner shall be responsible for keeping new trees in a plumb position. When staking or guying is required, it shall occur so as not to create any hazards or unsightly obstacles. All wires shall be encased in hose to prevent tree damage.

Section 26.6 Native Landscapes

26.6.1 Native Landscape Alternative.

A native landscape alternative to the requirements of this Ordinance is allowed in all zoning districts. Landscape plans, or portions thereof, approved as "native" are exempt from the other requirements of this Ordinance. An applicant proposing a "native landscape" shall submit a landscape plan depicting the current state of the natural area, its location on the property, and where any restoration of native area will be done. The plan must describe all features which make the planned restoration or retention of the area "native" as opposed to simply undisturbed. The plan shall also show fire breaks between the planting area and any structure.

26.6.2 Approval.

A "native landscape" plan for restoration shall be approved if the proposed "native" area is composed of at least 80% native grasses and forbs, native plants, or a combination thereof. A plan proposing to preserve or leave undisturbed an area of the property may be approved as "native" landscaping if the specified area is composed of at least 50% native grasses and forbs, native plants, or a combination thereof.

26.6.3 Maintenance of Native Landscaping.

Once approved, native grass areas shall be maintained in a neat and orderly manner without any noxious weeds, and mowed at least once per year.

Section 26.7 Landscaping of Existing Uses

Existing uses shall comply with the landscaping requirements listed in Sections 26.5 and 26.6 ~~4 through 6~~ of this Ordinance at the time any alterations are made on the buildings and premises.

Section 26.8 Screening Requirements in Non-Residential Districts

26.8.1 Parking Area Screening.

Any off street parking area containing more than six (6) parking spaces, any part of which is within thirty (30) feet of an adjoining residence or residential area or across the street from any residence or residential area, and any driveway to a parking area containing at least six (6) spaces within fifteen (15) feet of an adjoining residential zone shall be completely screened to a height of at least three and one-half (3-1/2) feet above the parking grade. Such screening shall be accomplished through the use of earth berming, plant materials, or a combination of both, but not walls or fencing.

26.8.2 Trash areas and Accessory Structures.

In all non-residential districts, all trash and trash handling equipment shall be stored within the principal structure, within an attached structure accessible from within the principal structure, or totally screened from eye level view from public streets and adjacent residential or non-residential zoned properties. If accessory structures are proposed,

they shall be constructed of the same building materials as the principal structure and be readily served through swinging doors. Design shall be approved by the Fire Department.

26.8.3 Mechanical utilities screening.

The ground level view of all mechanical utilities including roof top equipment shall be completely screened from contiguous properties and adjacent street, or designed to be compatible with the architectural treatment of the principal structure.

26.8.4 Loading and service area screening.

The external loading and service areas accessory to buildings shall be completely screened from the ground level view from contiguous residential or non-residential properties and adjacent streets, except at access points.

Section 26.9 Additional Screening Requirements

26.9.1 Residential districts.

In all residential districts, all waste material, debris, refuse, garbage, fuel or materials not currently in use for construction shall be stored indoors or totally screened from the eye level view from public streets and adjacent properties.

26.9.2 All zoning districts.

In all zoning districts, mechanical equipment, utility meters, storage, service area and similar features shall be completely screened from the eye level view from adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal structure.

Section 26.10 Screening Methods

26.10.1 Screening Wall or Fence.

A fence or wall may be used for screening when plant materials are provided along the outside of the fence or wall.

26.10.2 Earth Berms.

An earth berm shall be allowed for screening, when used in combination with plant material. A minimum of twenty five percent (25%) of the required screening must be provided by the plant material.

Final slopes on berms steeper than 3:1 will not be permitted without special approval or treatment such as terracing or retaining walls.

Earth berms used to screen parking lots and other open areas shall be of sufficient height to achieve screening but not to have slopes exceeding 3:1. A minimum of a two (2) foot berm is required.

26.10.3 Planting Screens.

All required screening or buffering shall be located on the lot occupied by the use, building, facility or structures to be screened. No screening or buffering shall be located on any public right-of-way or within eight (8) feet of the traveled portion of any street or highway.

A planting screen shall consist of healthy, fully hardy plant materials and shall be designed to provide a minimum year round opaqueness of eight percent (80%) at the time of maturity. The plant material shall be of sufficient height to achieve the required screening.

Composition of plant material for screening shall be composed of these minimum standards:

A. Not less than thirty-three percent (33%) coniferous

B. Not less than twenty-five percent (25%) deciduous

C. Not more than thirty-five percent (35%) shrubs

D. Not more than forty-five percent (45%) of one species

Planting screens shall be maintained in a neat and healthy condition. Plants which have died shall be promptly replaced.

Section 26.11 Landscaping Plans

26.11.1 Content of Plans.

A landscaping plan for any construction or land disturbance site shall be indicated either on the site plan and building plan, or on a separate to-scale plan drawing. The landscape plan shall address the matters raised by Sections 26.5 and 26.6, as well as visually depicting conformance with the performance standards of this Ordinance. Where streetscape plans or other landscape guidance from the Zoning Ordinance are applicable to the proposal, the landscape plan shall incorporate and visually depict compliance with those standards. When a landscaping plan is required by this Ordinance, the applicant shall submit a number of copies equal to the number of copies of site plans required for the permit or authorization (e.g. CUP, building permit) sought.

26.11.2 Submission - residential districts.

If the construction is proposed as part of a subdivision, planned unit development, or other application requiring Planning Commission review, the landscape plan shall be submitted with the applicant's other materials for the permit or other entitlement. In other cases, the City's building official shall ensure that such a plan exists before issuing a building permit.

26.11.3 Submission - non-residential districts.

In non-residential districts, a detailed landscaping site plan shall be submitted to the Planning Commission by the subdivider, developer, builder or property owner as part of the application for zoning entitlement or other permit. This plan must be approved at the same time as the site plan and building plan and the landscaping plan must be approved before any building, demolition, grading or filling permit is issued and construction is started. In cases where Planning Commission review is not required to issue a building permit, such as additions to or remodeling of existing structures, the City's building official shall ensure that such a plan exists before issuing a building permit.

26.11.4 Land filling or reclamation.

Each request for a land filling or land reclamation permit in all zoning districts shall also include a landscaping plan. This plan shall be approved by the Planning Commission before a filling permit is issued and filling is started.

Section 26.12 Performance Surety for Landscaping in Non-Residential Districts

26.12.1 Requirements.

All landscape plans for construction in a non-residential district shall be accompanied by an owner supplied performance security which shall provide the City with cash, corporate surety bond, approved letter of credit or other surety satisfactory to the City to guarantee the proper installation and vigorous growth of all landscape elements and screening required.

26.12.2 Time period surety to remain in effect.

Said surety shall remain in effect for two (2) full growing seasons. The first year the amount of the surety shall be equal to one hundred ten percent (110%) of the estimated costs of plant material, installation and tree preservation. The second year the surety shall be reduced to equal twenty-five percent (25%) of the estimated costs of plant material, installation and tree preservation.

26.12.3 Requirements for lots with irrigation systems.

Lots or sites provided with an irrigation system covering one hundred percent (100%) of the area improved with landscaping need only provide surety for one (1) full growing season.

Section 26.13 Maintenance of Landscaping In All Districts

26.13.1 Responsibility for replacing dead materials.

The property owner shall be responsible for replacement of any dead trees, shrubs, ground covers and sodding shown on a landscaping plan. If any of these plant materials are not maintained or replaced, said plant materials will be replaced by the City and the cost thereof will be taken from any posted surety or, if a surety does not cover all costs, assessed to the property. In residential districts the City's replacement costs will be assessed to the property.

26.13.2 Responsibility for maintenance.

The property owner shall be responsible for maintaining the landscaping on every lot and parcel in the City in good condition. Every occupied and unoccupied lot and parcel shall be maintained to limit the growth of weeds or poisonous or harmful vegetation. Weeds shall include all weeds, grass, brush, wildings, second growth, rank vegetation or other vegetation that is not growing in its proper place, having a greater height of ten (10) inches or spread more than ten (10) inches. Grass must be mowed and shall not be allowed to grow more than ten (10) inches. Moving shall occur only between the hours of 8:30 a.m. and 8:30 p.m. Every property owner shall keep all yard spaces around a residence or non-residential in a manner such that the appearance will not detract from the neighborhood

Vegetation blocking visibility on corners or along the edge of roads or street and unreasonably impeding the view of motor vehicles traveling along public roadways is expressly forbidden and vegetation that grows to cause this problem must be trimmed or removed.

Section 26.14 Penalty

26.14.1 Any person violating or refusing to comply with the provisions of this section shall be guilty of a misdemeanor. Upon conviction thereof, may be punished in accordance with the statutory penalties assigned to misdemeanor offenses, as those may be changed from time to time. The costs of prosecution may also be added.

Section 26.15 Severability

26.15.1 It is the intention of the City Council that several provisions of this Section are severable. If any Court of competent jurisdiction shall adjudge any provisions of this Section or application thereof to be invalid, such judgment shall not affect any other provisions of this Section not specifically included in such judgment.

SECTION 27 – TREE PRESERVATION

Section 27.1 Purpose

27.1.1 The purpose of this Section is to preserve and protect the unique natural environment of the City of Gem Lake and provide for minimal tree loss and mitigation of tree removal in wooded areas of the City. It also provides for protection of natural barriers provided by trees or shrubs along the borders of our city, along major roads and between differing land uses.

27.1.2 Tree cover and natural barriers are beneficial in terms of aesthetics, screening, cooling, wildlife habitat protection, watershed control, air quality enhancements, erosion control and preservation and enhancement of property values. Land alteration that causes destruction of trees or shrubs diminishes and impairs the public health, safety and general welfare. The intention of this Section is to provide regulations relating to the cutting and removal of trees in areas where the natural vegetation or topography are to be altered.

Section 27.2. Severability

27.2.1 It is the intention of the City Council that the several provisions of this Section are severable and that if any court of competent jurisdiction shall adjudge any provisions of this Section or application thereof to be invalid, such judgment shall not affect any other provisions or this Section not specifically included in such judgment.

Section 27.3 Interaction Between This Section and Other Sections

27.3.1 In the event of conflicting requirements imposed by this Section or by other Ordinances of the City of Gem Lake, the more restrictive provisions shall apply.

Section 27.4 Wording of This Section

27.4.1 Words used in the present tense include the past and future tense; the singular includes the plural; and the plural includes the singular. The word "shall" is mandatory and the "may" is permissive. The masculine gender includes the feminine.

Section 27.5 Definitions. The definitions used in this section are now listed in Appendix A of The Consolidated Land Use Ordinance.

Section 27.6 Protection Standards.

27.6.1 No land alteration shall occur until the City finds that the planned land alteration complies with the following:

27.6.1.1 Maximum Possible Preservation.

All land alteration shall be conducted so that the maximum amount of woodland and natural screening and barriers are preserved by the clustering of structures wherever possible, or by the use of other appropriate methods. Measures shall be taken to protect and preserve all trees and shrubs in the preservation area as described.

27.6.1.1 Protection of Root Zones.

Grading, contouring, paving and any excavation or trenching shall not detrimentally affect the aeration or permeability of the root zone in the preservation area.

Section 27.7 Data Submission.

A) The applicant shall submit data to the City, at the time of a preliminary plat submission or whenever land alteration (as described in this Ordinance) is planned, that outlines the conformance to this Ordinance. This submission shall include:

1. The name and address of the person preparing the plan and applying for a permit to do this alteration, and

2. The name and address of the person who owns the land that is to be altered, and

3. The estimated period of time within which this land alteration will be conducted, and

4. A topographical map of the land on which the proposed land alteration is to occur having a scale of one inch equals 100 feet and showing the ground elevation contours at two foot intervals. The map shall also show:

a. The land as it exists prior to the proposed land alteration including, a minimum one-hundred (100') feet of the abutting properties; and

b. The proposed ground elevation contours at 2 foot intervals on the land when the proposed land alteration is complete, and

c. A re-grading, drainage and planting plan, if appropriate.

B) A statement relating to the proposed use of the land including the type of building or structure situated thereon or to be constructed, and

C) A tree inventory, certified by a registered land surveyor, landscape architect or forester depicting the size, species, condition and location of each significant tree by species, diameter and condition, and

D) Identification of significant trees that will be lost due to the proposed land alteration and those which will be preserved, and

E) Identification of all significant trees within 30 feet of the grading limit, and

F) Identification of all natural barriers of trees or shrubs.

Section 27.8 Removal Thresholds

27.8.1 Although the applicant must retain the maximum amount of woodland possible, the City recognizes that a certain amount of significant trees and tree cover removal is an inevitable consequence of the urban development process.

27.8.2 Therefore, in the following Zoning areas or Zoning Districts listed in Column I, a percentage of the woodland may be removed without any obligation for reforestation, but only up to and including the threshold percentage of Woodland listed in Column II. If the land alteration results in woodland removal that exceeds the percentage listed in Column II, then the applicant shall be responsible to replace the trees in accordance with Section 27.9 of this Ordinance.

27.8.3 Natural borders may not be removed or altered without the written permission of the City.

27.8.4 Intensive vegetation clearance within the shore land area and on steep slopes is prohibited.

27.8.5 Table of Zoning District and Tree Removal Threshold

Tree removal in excess of the thresholds shown requires Planning Commission and City Council approval and reforestation.	
Column I Zoning Area or District	Column II Removal Threshold
Single Family Estate – RE – Residential	25%
Single Family Executive – RX – Residential	25%
Single Family (1 Acre) – RO – Residential	25%
Single Family – RS – Residential	25%
Gateway – G - Commercial	25%
Open Space/Recreational Overlay – OS/R	10%

Shore Land – All Districts	10%
Natural Barrier – All Districts	0%

Section 27.9 Reforestation

27.9.1 Tree Removal Beyond the Removal Threshold.

27.9.1.1 If the land alteration results in tree removal beyond the tree removal threshold in Section 27.8 of this Ordinance, or as defined in Section 27.6 of this Ordinance, or a natural barrier is to be altered or removed, the applicant shall be required to submit a reforestation plan. The reforestation plan must be submitted and approved by the City Forester prior to final plat approval, if a subdivision is being done, or before the work of land alteration is begun. The reforestation plan shall include:

A) Location of proposed reforestation, and

1. Species and size of proposed plantings, and

B) Quantity of proposed plantings.

27.9.2 Reforestation Plan

27.9.2.1 The reforestation plan shall comply with the following criteria:

A) Tree replacement will be predicated on the total number of diameter inches of significant trees removed beyond the threshold limits.

B) Actual replacement quantities shall be adjusted based on the type of trees removed in accordance with the following guidelines:

1. Class A - Conifer or Softwood- predominantly Poplar, Box Elder, Cottonwood, Aspen and Conifers: 75 %

2. Class B - Mixed Hardwoods - predominantly species other than Oak including, but not limited to, Cherry, Birch, Walnut, Elm, Ironwood, Maple, Basswood, Ash: 100 %

3. Class C - Hardwood - Predominantly mature Oaks: 125%

27.9.3 Where trees are to be located.

27.9.3.1 Trees to be provided as part of a reforestation plan shall be located adjacent to the development or proposed structures in areas such as yard setbacks, on outlots or common areas, at the project entrance area, in buffer zones between different land uses or roads, or at other locations as directed by the City. Reforestation shall occur in such a way as to replace trees removed with desirable trees of the same or similar species and/or densities. These trees must be planted based on the frequency and density as determined by the City Forester.

27.9.4 Sizes and type of replacement trees.

27.9.4.1 Replacement trees must be no less than the following sizes:

A) Deciduous trees

1. No less than two and one-half (2½") inches in diameter on steep slopes, or

2. No less than three (3") inches on all other grades.

B) Coniferous trees

1. No less than six (6') feet high on steep slopes, or

2. No less than seven (7') feet high on all other grades.

Section 27.10 Construction Damage to Significant Trees in or Near the Preservation Area.

27.10.1 Significant trees which are within thirty (30) feet of the proposed grading limit shall be surveyed by the applicant. Any significant tree that the applicant commits to preserve that is subsequently damaged, during or as the result of construction, shall be replaced by the applicant on a one for one diameter inch basis.

Section 27.11 Agreement to Replace Trees

27.11.1 The developer or applicant, prior to the approval of, or issuance of a permit for any land alteration in connection with which trees are required to be replaced by the provisions in this Ordinance, shall enter into such written agreements or arrangements with the City of Gem Lake in such form and substance as shall be approved by the City, whereby the applicant shall undertake to comply with the provisions and conditions imposed by this Ordinance and in connection with any such approval or issuance of a permit and shall further provide that the applicant shall indemnify the City against any loss, cost or expense, including an amount as and for reasonable attorneys' fees incurred in enforcing the terms of such agreement or agreements; and

27.11.2 Provide security for the performance of its obligations pursuant to such agreement or agreements. The security may consist of a bond, letter of credit, cash, or escrow deposit, all in such form and substance as shall be approved by the City.

A) The amount of this security shall be $ 1,000 or 150% of the estimated cost to furnish and plant the replacement trees (estimated cost) whichever is greater. The estimated cost shall be at least as much as the reasonable amount charged by nurseries for furnishing and planting of replacement trees. The estimated cost shall be subject to approval by the City, and in the event the estimated cost is not approved, the City shall have the right, in its sole discretion, to determine the escrow amount.

Section 27.12 Collector and Arterial Roads and Trunk and Lateral Utility Construction

27.12.1 When This Section Applies.

This section shall only apply to collector and arterial road and trunk and lateral utility construction projects. All interior roads and utility services will be required to adhere to applicable zoning district thresholds.

27.12.2 Road and Utility Construction.

Significant trees shall not be destroyed or removed within the right-of-way unless such destruction or removal is absolutely necessary because of engineering, safety, sight distances, or maintenance requirements and acceptable alternate means of construction or alternate routes are not possible. Such reasons must be submitted for review by the City.

27.12.3 Reforestation.

If the road or utility construction destroys or removes fifty (50%) percent or less of the significant trees or tree cover in the right-of-way, then the person or entity conducting the construction shall not be responsible for reforestation. If, however, more than fifty (50%) percent of the significant trees or tree cover within the easement or right-of-way are destroyed or removed, the person conducting the construction shall be responsible for the following:

A) Filing a landscape bond pursuant to Section 27.11; and

B) Replacement of trees that exceed the fifty (50%) percent threshold shall be in accordance with Section 27.9 of this Ordinance. The replacement trees shall be planted on the adjoining setback areas, assuming the adjoining landowners consent. Otherwise, the replacement trees shall be planted at locations as determined by the City.

Section 27.13 Exceptions to This Ordinance

27.13.1 The requirements of this Ordinance shall not apply to the removal of trees which are dead, diseased, seriously damaged by storm, or other acts of nature.

Section 27.14 Tree Replacement

27.14.1 Replacement trees shall be planted not later than 12 months after the date the land alteration has commenced. If the applicant is prevented from performing within this time limit, because of unforeseen circumstances beyond the applicant's control, the City Forester may extend the time for performance. The applicant shall inform the City Forester when all replacement trees have been planted, at which time the City Forester shall inspect the site.

27.14.2 Replacement trees shall consist of "certified nursery stock" as defined by Minnesota Statues Section 18.46 or other trees ("wilding trees") so long as the wilding trees comply with the following standards. A wilding tree measured in diameter inches shall not exceed the maximum height as shown below:

TABLE 27.14.3

Diameter Of Tree In Inches	**Maximum Height Of Trees In Feet**
Two (2.0") Inches	Eighteen (18') Feet
Two and One-Half (2.5") Inches	Eighteen (18') Feet
Three (3") Inches	Twenty (20') Feet
Three and One-Half (3.5") Inches	Twenty (20') Feet
Four (4") Inches	Twenty-Four (24') Feet
Five (5") Inches	Twenty-Eight (28') Feet

27.14.4 The lowest branch of a wilding tree shall be at a height above the surface of the ground not more than one-half of the total height of the tree. (Example, a 16 foot tree must have a branch within 8 feet of the surface of the surrounding ground.)

27.14.5 Trees planted in place of missing, dead or un-healthy replacement trees shall consist of only "certified nursery stock" as defined by Minnesota Statues, Section 18.46.

Section 27.15 Release and Retention of Performance Security

27.15.1 Release of Performance Security

27.15.1.1 The performance security shall remain in effect for not less than one (1) year after the date that the last replacement tree has been planted. The City may release the performance security at that time unless the City Forester, upon inspection, finds that any of the replacement trees have died or are unhealthy, or if there was any encroachment upon the protective fencing surrounding any tree to be saved.

28.15.1.2 If the applicant supplies proof of a nursery guarantee which is approved by the City Forester, then the performance security posted by the applicant shall be released upon planting of the last guaranteed tree. The nursery guarantee shall remove liability from the applicant and responsibility will be placed upon the nursery or current land owner.

27.15.2 Retention of All or Portion of Performance Security. The City may retain the portion of the performance security equal to the cost of removing dead or unhealthy trees and replanting replacement trees.

Section 27.16 Penalty

27.16.1 Any person violating or refusing to comply with the provisions of this section shall be guilty of a misdemeanor, and prosecuted and upon conviction thereof, shall be punished by a fine established in the City of Gem

Lake fee schedule, as amended, or by imprisonment not to exceed ninety (90) days, or both. The costs of prosecution may also be added.

SECTION 28 – ENVIRONMENTAL REVIEW

Section 28.1 State Law Adopted

28.1.1 The City of Gem Lake hereby adopts the provisions of Minnesota Statutes, § 116D.04 and 116D.045, and Minnesota Rules Chapter 4410, as those laws and rules may be amended or altered from time to time, and makes those provisions a part of this section as if fully set out herein.

Section 28.2 Application.

Section 28.2.1 The provisions of this section shall apply to all land use applications submitted to the City, including but not limited to zoning amendments, planned unit development applications, subdivision applications, shoreland and wetland permits, variances, conditional use permits, and nonconforming use permits. The intent of this ordinance is to standardize the City's process for determining when to require review by Environmental Assessment Worksheet ("EAW") or Environmental Impact Statement ("EIS").

Section 28.3 Determination of Need for Environmental Review.

28.3.1 The City Planner shall be the person responsible for the administration of this section, and the rules adopted by reference by this section.

28.3.2 The City Planner shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minn. R. 4410.4300 and/or an EIS is mandatory under Minn. R. 4410.4400. The planner shall also determine those proposed actions for which a discretionary EAW may be required under Minn. R. 4410.1000, Subp. 3, and shall notify the Planning Commission and the City Council of these proposed actions.

28.3.3 If the City Planner identifies a proposal as potentially requiring a discretionary EAW, or if the City receives a petition for EAW determination from the Environmental Quality Board, the decision to require an EAW must be made by the City Council. The planner's notice or EQB petition shall be referred to the Planning Commission, which shall make a recommendation to the City Council. The City Council's decision on whether or not to require an EAW shall take place no later than 30 days from receipt of the planner's notice or petition from the EQB. Notice of the council's decision shall be sent to the proposer within five (5) days of the decision. Copies of this notice shall also be sent to the EQB and petitioners' representative if the determination was triggered by a citizen petition.

28.3.4 If the City Planner identifies a proposal as requiring mandatory environmental review, the planner may require that review process to begin immediately.

Section 28.4 Procedures on Determination that EAW is Required.

28.4.1 If an EAW is required, the proposer of the project shall submit an "Application for Environmental Review" along with the completed data portions of the EAW. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants' fees, incurred in preparation and review of the EAW. The proposer shall make a deposit of five thousand dollars ($5,000.00) with the City Treasurer to be held in escrow for the payment of these costs. Any unexpended funds remaining after final consideration of the EAW by the City Council shall be returned to the proposer within thirty (30) days of the Council's decision.

28.4.2 The City Planner shall promptly review the application for completeness and accuracy. If the city planner determines that the submittal is incomplete, the submittal shall be returned to the proposer for completion of the missing data. If the city planner determines that the submittal is complete, the proposer shall be notified of the acceptance of the submittal within five days. The City shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution.

28.4.3 Upon completion of the EAW for distribution by the city planner, the City Clerk shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least seven hundred and fifty (750) feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning

Commission meeting during which the EAW will be considered. Failure of a property owner to receive notice shall not invalidate any such proceedings on the EAW or the underlying land use proposal.

28.4.4 The City Clerk shall also send the notices, copies and other material required by Minn. R. 4410.1500 within five (5) days of the planner's approval of the EAW.

28.4.5 The City Clerk shall receive and collect all written comments on an EAW submitted during the 30-day EAW review and comment period. The planning commission and city council may take public comment on the EAW during the 30-day period, provided that notice of the comment time is published and mailed to the proposer at least ten (10) days prior to the date the commission or council plans to take public comment.

28.4.6 When reviewing an EAW or EIS, city staff and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The City Council may require these design alterations to be made as a condition for approving the land use proposal when it finds that the design alterations are necessary to lessen the environmental impact of the action.

28.4.7 The Planning Commission shall review the EAW and all public commentary after the close of the comment period, and make a recommendation to the City Council regarding the need for an EIS. The City Council shall meet no less than 3 days and no more than 30 days after the close of the comment period to decide whether an EIS is needed for the land use proposal. Both the Planning Commission and the City Council shall use the standards and procedures set forth in Minn. R. 4410.1700 to guide their recommendations and decisions.

Section 28.5 Procedure when an EIS is required.

28.5.1 The City shall apply and follow the guidance of Minn. Stat. § 116D.045 and Minn. R. 4410.2000 – 4410.3000 in the preparation and review of a required EIS.

Section 28.6 Prohibition on Approvals During Environmental Review.

28.6.1 No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied in adequate detail and until the environmental review process has been completed as provided in this article, and pursuant to any written agreements entered into by the applicant for the permit or permits and the City Council.

Section 28.7 Severability.

28.7.1 It is the intention of the City Council that the several provisions of this section are separate and that it any court of competent jurisdiction shall adjudge any provision of this Ordinance or application thereof to be invalid, such judgment shall not affect other provisions of this section not specifically included in such judgment.

SECTION 29 – STORM SEWER USE

Section 29.1 Purpose and Intent.

The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the City of Gem Lake through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this section are:

A. To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.

B. To prohibit illicit connections and discharges to the MS4.

C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this section.

Section 29.2 Applicability

This section shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Gem Lake.

Section 29.3 Responsibility for Administration

The City of Gem Lake shall administer, implement, and enforce the provisions of this section. Any powers granted or duties imposed upon the City of Gem Lake may be delegated in writing by the Gem Lake City Administrator of the City of Gem Lake to persons or entities acting in the beneficial interest of or in the employ of the City of Gem Lake.

Section 29.4 Compatibility with Other Regulations

This section is not intended to modify or repeal any other section, ordinance, rule, regulation, or other provision of law. The requirements of this section are in addition to the requirements of any other section, ordinance, rule, regulation, or other provision of law, and where any provision of this section imposes restrictions different from those imposed by any other section, ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 29.5 Severability

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 29.6 Ultimate Responsibility

The standards set forth herein and promulgated pursuant to this section are minimum standards; therefore this section does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Section 29.7 Discharge Prohibitions

29.7.1 Prohibition of Illegal Discharges

29.7.1.1 No person shall directly or indirectly discharge, cause, or allow others under its control to directly or indirectly discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

29.7.1.2 The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

a. The following discharges are exempt from discharge prohibitions established by this section: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water

sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool discharges, and street wash water.

b. Discharges or flow from firefighting, and other discharges specified in writing by the City of Gem Lake as being necessary to protect public health and safety.

c. Discharges associated with dye testing; however this activity requires a verbal notification to the City of Gem Lake prior to the time of the test.

d. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

29.7.2 Prohibition of Illicit Connections

29.7.2.1 The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

29.7.2.2 This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

29.7.2.3 A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

29.7.2.4 Improper connections in violation of this section must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Gem Lake.

29.7.2.5 Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City of Gem Lake requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City of Gem Lake.

Section 29.8 Watercourse Protection

Every person owning property through which a watercourse passes and/or contains a stormwater inlet or catch basin, or such person's lessee, shall keep and maintain that part of the watercourse and/or stormwater inlet or catch basin within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 29.9 Industrial or Construction Activity Discharge

Submission of Notice of Coverage/Authorization to the City of Gem Lake

29.9.1 Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Gem Lake prior to the allowing of discharges to the MS4.

29.9.2 The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with industrial or construction activity shall submit a copy of the coverage notification or notification of permit authorization to the City of Gem Lake.

29.9.3 The copy of the coverage notification or notification of permit authorization may be delivered to the City of Gem Lake either in person or by mailing it to:

City of Gem Lake
4200 Otter Lake Road
Gem Lake, MN 55110

29.9.4 A person commits an offense if the person operates a facility that is discharging storm water associated with industrial or construction activity without having submitted a copy of the coverage notification or notification of permit authorization to do so to the City of Gem Lake.

Section 29.10. Compliance Monitoring

29.10.1 Right of Entry: Inspection and Sampling

The City of Gem Lake shall be permitted to enter and inspect facilities subject to regulation under this section as often as may be necessary to determine compliance with this ordinance.

29.10.1.1 If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the City of Gem Lake.

29.10.1.2 Facility operators shall allow the City of Gem Lake ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

29.10.1.3The City of Gem Lake shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City of Gem Lake to conduct monitoring and/or sampling of the facility's storm water discharge.

29.10.1.4 The City of Gem Lake has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger. Sampling and monitoring activities and equipment, including installation, maintenance, and removal shall be at the discharger's own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

29.10.1.5 Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Gem Lake and shall not be replaced. The costs of clearing such access shall be borne by the operator.

29.10.1.6 Unreasonable delays in allowing the City of Gem Lake access to a permitted facility is a violation of a storm water discharge permit and of this section. A person who is the operator of a facility with an NPDES permit to discharge storm water associated with industrial or construction activity commits an offense if the person denies the City of Gem Lake reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

29.10.2 Search Warrants

If the City of Gem Lake has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and

welfare of the community, then the City of Gem Lake may seek issuance of a search warrant from any court of competent jurisdiction.

Section 29.11 Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of structural and non-structural Best Management Practices. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Management Plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

Section 29.12 Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, at their own expense. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Gem Lake in person or by phone or email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Gem Lake within two (2) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Failure to provide notification of a release as provided above is a violation of this section.

Section 29.13. Violations, Enforcement, and Penalties

29.13.1 Violations

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this section. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the City of Gem Lake is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The City of Gem Lake is authorized to seek costs of the abatement as outlined in Section 20.

29.13.2 Warning Notice

When the City of Gem Lake finds that any person has violated, or continues to violate, any provision of this section, or any order issued hereunder, the City of Gem Lake may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the City

of Gem Lake to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

29.13.3 Notice of Violation

Whenever the City of Gem Lake finds that a person has violated a prohibition or failed to meet a requirement of this Section, the City of Gem Lake may order compliance by written notice of violation to the responsible person. Such notice may require without limitation, at their own expense:

a. The performance of monitoring, analyses, and reporting;

b. The elimination of illicit connections or discharges;

c. That violating discharges, practices, or operations shall cease and desist;

d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and

e. Payment of a fine to cover administrative and remediation costs; and

f. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Section 29.14 Costs

In addition to the other penalties provided herein, the City of Gem Lake may recover engineering fees, court costs, court reporter's fees, attorney fees, and other expenses of litigation or enforcement by an appropriate action against the person or entity found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

Section 29.15 Suspension of MS4 Access

29.15.1 Emergency Cease and Desist Orders

When the City of Gem Lake finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City of Gem Lake may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

a. Immediately comply with all ordinance requirements; and

b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

29.15.2 Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the City of Gem Lake may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The City of Gem Lake may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the City of Gem Lake that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and

the measures taken to prevent any future occurrence, to the City of Gem Lake within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

29.15.3 Suspension Due to Illicit Discharges in Emergency Situations.

The City of Gem Lake may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City of Gem Lake may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

29.15.4 Suspension Due to the Detection of Illicit Discharge.

Any person discharging to the MS4 in violation of this section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Gem Lake will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Gem Lake for a reconsideration and hearing.

29.15.5 A person commits an offense if the person reinstates MS4 access to premise terminated pursuant to this Section, without the prior approval of the City of Gem Lake.

Section 29.16 Civil Penalties

In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City of Gem Lake shall deem appropriate, after the City of Gem Lake has taken one or more of the actions described above, the City of Gem Lake may impose a penalty not to exceed $ 1,000.00 (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.

Section 29.17 Criminal Penalties

Any person violating any of the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000.00 or by imprisonment for not to exceed ninety (90) days or both.

Section 29.18 Appeal of Notice of Violation

Any person receiving a Notice of Violation may appeal the determination of the City of Gem Lake. The notice of appeal must be received within thirty (30) days from the date of the Notice of Violation, except in the instance where a Cease and Desist Order is issued as described in Section 13, then the notice of appeal must be received within ten (10) days from the date of the Cease and Desist Order. Hearing on the appeal before the appropriate authority or his/her designee shall take place within thirty (30) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

Section 29.19 Enforcement Measures after Appeal

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within ten (10) days of the decision of the municipal authority upholding the decision of the City of Gem Lake, then representatives of the City of Gem Lake shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Section 29.20 Cost of Abatement of the Violation

Within forty-five (45) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of

the assessment within thirty (30) days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Gem Lake by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of eight (8) percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

Section 29.21 Violations Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Section 29.22 Remedies Not Exclusive

The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. The City of Gem Lake may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 29.23 Effective Date

This section shall take effect and be in force from and after its passage and publication.

SECTION 30 - ADOPTION AND ENACTMENT

Section 30.1 The Ordinance changes contained herein will take effect immediately upon adoption by the City Council and publication of a summary of this document, but not later than thirty (30) days from the date below.

Section 30.2 The Legend of this Ordinance shall be updated to reflect the date and changes made.

Section 30.3 This Ordinance, previously identified as Ordinance No. 43K shall now be known as Ordinance No. 131, City of Gem Lake Consolidated Land Use Ordinance, which replaces and supersedes all previous versions of same.

Section 30.4 This City of Gem Lake Consolidated Land Use Ordinance was unanimously adopted with amendments defined in Ordinance No. 131, Appendix A, by the City Council of the City of Gem Lake on the 21st day of November in the year 2017 and ordered for summary publication in the City's official newspaper.

CITY OF GEM LAKE

Robert Uzpen
Updated:

ATTEST:

Updated: