

Zoning Ordinance

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<u>Reference Number</u>	<u>Ordinance Number</u>	<u>Date Adopted</u>	
1	1996-2	September 3, 1996	
2	1997-03	January 7, 1997	
3	1997-05	February 4, 1997	
4	1997-07	May 6, 1997	
5	1998-01	February 3, 1998	
6	1998-02	March 3, 1998	
7	1998-03	July 7, 1998	
8	1998-05	September 1, 1998	
9	1998-10	December 1, 1998	
10	1998-11	December 1, 1998	
11	2000-01	August 1, 2000	
12	2000-02	September 5, 2000	
13	2000-03	September 5, 2000	
14	2001-02	December 4, 2001	
15	2002-01	January 3, 2002	
16	2004-01	April 6, 2004	
17	2005-02	November 1, 2005	
18	2006-01	January 10, 2006	
19	2007-01	June 5, 2007	
20	2007-03	December 4, 2007	
21	2007-04	December 4, 2007	
22	2009-02	December 1, 2009	
23	2010-01	August 3, 2010	Sign Regulations
24	2011-02	April 5, 2011	Fees
25	2011-04	July 17, 2011	Variances
26	2011-05	December 6, 2011	Fees

1201. SHORT TITLE, PURPOSE AND SCOPE

1201.01	Short Title
1201.02	Purpose
1201.03	Intent
1201.04	Relation to Comprehensive Municipal Plan
1201.05	Standard Requirements
1201.06	Conditional Uses
1201.07	Monuments
1201.08	Uses Not Provided Within Zoning Districts
1201.09	Separability
1201.10	Schedules of Administrative Fees, Charges and Expenses
1201.11	Authority
1201.12	Comprehensive Revision

SECTION 1201.01 SHORT TITLE:

This Ordinance shall be known and may be cited as "The Sunfish Lake Zoning Ordinance."

SECTION 1201.02 PURPOSE:

This is an Ordinance for the purpose of promoting and protecting the public health, safety and general welfare, by regulating the location, size of buildings and other structures; the percentage of lot which may be occupied; the size of yards and other open spaces; the density and distribution of population; the uses of buildings and structures; and the use of land.

SECTION 1201.03 INTENT:

To protect the public, such provisions are intended to provide for adequate light and air, safety from fire and other danger; prevent undue concentration of population; provide ample parking facilities; regulate the location and operation of land uses; preserve property values by providing for orderly and compatible development of the various land uses; encourage energy conservation and the use of renewable energy resources; provide for administration of this Ordinance; provide for amendments hereto; and provide for official recording of this Ordinance and all amendments hereto.

SECTION 1201.04 RELATION TO COMPREHENSIVE MUNICIPAL PLAN:

It is the policy of the City of Sunfish Lake that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council of the City. The Council recognizes the City Comprehensive Plan as the policy to regulate land use and development in accordance with the policies and purpose herein set forth.

SECTION 1201.05 STANDARD REQUIREMENTS:

- A. **More Restrictive Provisions to Govern:** Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
- B. **Interpretation:** 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 and general welfare.
- C. **Conformity With This Ordinance:** No building or structure shall be erected, converted, enlarged, constructed, reconstructed, moved or altered, and no building, structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance and without a building permit being issued when required by this Ordinance.
- D. **Building Occupancy:** Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- E. **Non-Reduction of Yards or Lots:** No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- F. **Regulation Application:** In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided, that where the regulations of this Ordinance are more restrictive, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall be controlling.

SECTION 1201.06 CONDITIONAL USES:

Any established use or building legally existing prior to the establishment of this Ordinance and which is herein classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use, or any other subsequently approved conditional use, shall however, require a new conditional use permit be processed according to this Ordinance.

SECTION 1201.07 MONUMENTS:

For the purpose of this Ordinance, all international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be responsibility of the applicant to insure that these markers are maintained in good condition during and following construction and development. All section, 1/4 section and 1/16 section corners shall be duly described and tied.

SECTION 1201.08 USES NOT PROVIDED WITHIN ZONING DISTRICTS:

Whenever in any zoning district a use is neither specifically allowed nor denied, the use shall be considered prohibited. In such cases, the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

SECTION 1201.09 SEPARABILITY:

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

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

20, 24, 25 SECTION 1201.10 SCHEDULES OF ADMINISTRATIVE FEES, CHARGES AND EXPENSES:

The Council does hereby establish a schedule of fees, charges and expenses and a collection procedure for zoning applications, building permits, variances, conditional uses, appeals, site plan approvals and other matters as set forth in this Section. The schedule of fees may be altered or amended only by the Council. The following fees and escrow amounts apply to the matters as so identified:

CITY OF <i>Sunfish Lake</i> MINNESOTA			
FEE SCHEDULE			
ITEM	BASE FEE¹	ESCROW¹	TOTAL²
Subdivision Minor	150	550	700
Major	300	2,700	3,000
Conditional Use Permit / Interim Use Permit / Major Variance / Appeals	200	up to 600	up to 800
Other	200	up to 600	up to 800
Rezoning or Text Amendment	200	600	800
Site Plan Review Minor	n/a	400	400
Major	250	up to 1,200	up to 1,450
Administrative Permit / Minor Variance	n/a	200	200
Site Inspections-Required at Pre-Construction and Post-Construction ³	75 (per inspection)	n/a	150
Water Extraction Permit	300	200	500
Burning Permit	45	n/a	45
Building Permit / Pool Permit, and related Building Permit Fees	See City Code, Section 1004.01		
Grading Permit	See Uniform Building Code Table A-33-B (1997 UBC) for grading fee breakdown by cubic yards. Property owner will also be responsible for all review costs.		
Demolition Permit	See City Code, Section 1004.01		
Septic System Permit	Inspector - 350 (including plan review, inspection, and soil verification) Dakota County - 40 City - 25	n/a	415
Septic System Additional Inspections, Re-inspections, Special Inspections and Special Analysis	55 per hour with one hour minimum	n/a	55 per hour with a one hour minimum
Heating/Air Conditioning Permit (Replacement/New Construction)	See City Code, Section 1004.01		

Mechanical Permit (Replacement/New Construction)	See City Code, Section 1004.01
Zoning Ordinance	\$35 per copy
Subdivision Ordinance	\$15 per copy
Comprehensive Plan	\$35 per copy

¹ The applicant is required to pay a base fee and escrow deposit to be charged against the time and expenses necessary to process the request. The base fee will be applied to the project costs if the project proceeds completely through the review process, however, is non-refundable if a project is abandoned midway through the process. If the review and consideration of the request exceeds the cost covered by the escrow deposit as a consequence of lack of information, site or design problems, or questions raised by the staff, Planning Commission, or City Council, all processing of the request will be halted until an estimation of completion is determined and a new escrow deposit made.

Following the City's decision on the request, **the City Treasurer will refund any portion of the escrow deposit remaining or bill the applicant for the balance due. Permit and site inspection fees are separate from and in addition to the base fee and escrow required to process a planning/zoning request.**

² All fees must be paid at the time of application and any additional fees required as stipulated in ¹ above shall be paid before issuance of a certificate of occupancy permit. If payment is not received from the applicant, the **property owner is liable for the unpaid fee balance either by direct payment or a special assessment against the property.**

³ Depending on the issues of a project, additional site inspections may be required by individual City consultants and will be billed on a time and materials basis.

If work, construction, or improvements have begun prior to the landowner receiving a required land use approval (such as a re-zoning, conditional use permit, interim use permit, variance or site plan approval), then in addition to the fees set forth above, the landowner or applicant must pay an additional fee of \$250.00; this additional fee is for the purpose of defraying the City's administrative and documentation costs in (a) verifying the condition of the property prior to the work (b) verifying and documenting the work that was performed prior to obtaining the requisite approval and (c) analyzing whether the work already performed complies with the City Code standards and the conditions that may be imposed as part of the approval process. Further, the landowner or applicant shall reimburse the City for all legal, planning, forestry and engineering costs incurred by the City relating to the tasks of verifying, documenting and analyzing the prior work.

SECTION 1201.11 AUTHORITY:

This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.363.

SECTION 1201.12 COMPREHENSIVE REVISION:

The Council intends this Ordinance to be a comprehensive revision to Chapter XII of the City Code and all other ordinances inconsistent with this Ordinance, as amended. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Ordinance is not affected by its enactment.

1202. RULES AND DEFINITIONS

- 1202.01 Rules of Language
- 1202.02 Definitions

SECTION 1202.01 RULES OF WORD CONSTRUCTION:

For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes an owner or representative of the owner, firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The present tense includes the future tense, the singular includes the plural and the plural includes the singular.
- C. The word "shall" is mandatory; the word "may" is permissive.
- D. The singular number includes the plural, and the plural the singular.
- E. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- F. When calculating parking stall requirements, any fraction of a number shall constitute an additional parking space.
- G. For terminology not defined in this Ordinance, the most current State Uniform Building Code or Webster's dictionary shall be used to define such terms.

SECTION 1202.02 DEFINITIONS:

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

- A. **Abutting:** Making direct contact with or immediately bordering.

Accessory Building, Structure, or Use: A subordinate building, structure, or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary, appropriate and incidental to the conduct of the primary use of such building or main use.

Addition: A physical enlargement of an existing structure.

Adjacent: In close proximity to or neighboring, not necessarily abutting.

Aircraft: Any contrivance now known or hereafter invented, used or designed for navigation of or manned flight in the air, including without limitation, airplanes, helicopters, and ultra lights.

3

Aircraft Related:

1. Aircraft Noise Zone: Aircraft noise zone shall mean the zone identified under Section 1245.02.C and incorporated herein.
2. dBA: dBA shall mean a unit of sound pressure level weighted by use of the A metering characteristics and weighting as specified in the American National Standards Institute Specification for Sound Level Meters (ANSI S1.4-1983), which is hereby incorporated by reference. dBA is also referred to as an A-weighted decibel.
3. Leq: Leq shall mean the equivalent continuous sound level which over the period of one hour has the same A-weighted sound energy as the time varying sound.
4. Ldn: Ldn shall mean the day-night average level, or one 24-hour equivalent continuous sound level (time average A-weighted sound level) from midnight to midnight, obtained after the addition of 10 dBA to sound levels measured from 10 p.m. to 7 a.m.
5. Noise reduction Level: Noise reduction level shall mean the difference between the exterior and interior sound level, expressed in dBA, which is achieved by the intervening structure.
6. Recognized Acoustical Specialist: A recognized acoustical specialist shall mean a person qualified by education and experience to conduct sound analysis of buildings and approved for such purpose by the City's building inspector. The approved individual shall have at least three years of experience in the field of sound control; a degree from a recognized institute of higher learning in the acoustics or closely related discipline; and demonstrated expertise in the process of sound analysis of buildings.
7. Sound: Sound shall mean energy that is transmitted by pressure waves in the air or in other materials and is the objective cause of the sensation of hearing. Sound is commonly referred to as noise if it is unwanted.
8. Sound Attenuation: Sound attenuation shall mean the reduction of sound level which occurs between a source and a receiver.
9. Sound Leak: Sound leak shall mean an opening in a structure through which sound can pass. Sound leaks are often extremely small holes or cracks. Generally, an air leak is a sound leak.

10. Sound Level: Sound level means the level sound pressure measured with a sound level meter and one of its weighting (frequency) networks. When A-weighting is used, the sound level is expressed as dBA.
11. Sound Transmission Class (STC): Sound Transmission Class shall mean a single number rating for describing the degree of sound transmission loss specified for a wall, window, partition or other building element. The higher the STC, the more attenuation the building element will afford.

Animals:

1. Domestic Animals: For purposes of this Chapter, domestic animal shall be defined as house pets such as dogs, cats, traditional and typical animal pets, and birds (not including pigeons, chickens, geese, turkeys or other domestic fowl) which can be contained within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. Animals normally classified as wild which have been domesticated are not included as a domestic animal.
2. Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals traditional and commonly accepted as farm animals in the State of Minnesota.

² **Antenna, Personal Wireless Service.** A device consisting of a metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.

² **Antenna, Public Utility Microwave.** A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the supporting structure thereof.

² **Antenna, Radio and Television, Broadcast Transmitting.** A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.

² **Antenna, Radio and Television Receiving.** A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.

2 **Antenna, Satellite Dish.** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and support structure thereof.

2 **Antenna, Short-Wave Radio Transmitting and Receiving.** A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the supporting structure thereof.

2 **Antenna Support Structure.** Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Applicant: The owner, their agent or person having legal control, ownership and/or interest in land which the provisions of this Ordinance are being considered for or reviewed.

B. **Boundary Lines:** Any line indicating the bounds or limits of any tract or parcel of land; also a line separating the various use districts as shown on the City's Zoning Map.

Buffer: The use of land, topography (difference in elevation), space, fences or landscape plantings to screen or partially screen a use or property from the vision of another use or property.

Buildable Area: The space remaining on a lot after the minimum setback and open space requirements of this Ordinance have been met.

Building: Any structure built for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind, and includes any structure.

11 **Buildable Area:** The space remaining on a lot after the minimum setback and open space requirements of this Ordinance have been met. (See Figure 1202.02-1)

13 **Building Height, Existing Grade:** The height of a building measured from the average ground level prior to construction at any point on the perimeter at the building line to the top of the cornice of a flat or mansard roof and to the highest gable on a pitched or hipped roof.

Building Height, Finished Grade: The height of a building measured at the building line from the finished ground level after construction to the top of the cornice of a flat or mansard roof and to the highest gable on a pitched or hipped roof.

Building Line: A line parallel to the street right-of-way or ordinary high water level at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way or ordinary high water level.

Building Setback: The minimum horizontal distance between the building and the lot line.

C. **Channel:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

Church: A building, together with its accessory buildings and use; where persons regularly assemble for religious purposes and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

City Building Official: The person designated by the City Council to be the City Building Official for the City of Sunfish Lake.

City Council: The governing body for the City of Sunfish Lake.

City Engineer: The person designated by the City Council to be the City Engineer for the City of Sunfish Lake.

City Planner: The person designated by the City Council to be the City Planner for the City of Sunfish Lake.

Clear Cutting: The removal of an entire stand of trees and/or vegetation.

Common Open Space: Any privately owned open space including private parks, nature areas, playgrounds, trails, and recreational buildings and structures which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

Comprehensive Plan: A comprehensive long range plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional Use: Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning district, which for the respective conduct or performance in such designated districts may require reasonable, but special, unusual or extraordinary limitations peculiar to the use for the protection, promotion and preservation of the general public welfare, health, and safety, and the integrity of the City Comprehensive Plan.

Conditional Use Permit: A permit issued by the City Council in accordance with procedures specified in this Ordinance, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.

Curb Level: The elevation of the established curb in front of a building measured at the center of such front. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Ordinance.

- D. **Deposition:** Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, floodplains or wetlands.

Diversion: A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

Dog Kennel: Any place where three (3) dogs or more over three (3) months of age are kept for the use of the owner, or are boarded, bred and/or offered for sale.

Draining: The removal of surface water or groundwater from land.

Dredging: To enlarge or clean-out a waterbody, watercourse, or wetland.

Dwelling: A building or portion thereof, designated exclusively for residential occupancy, but not including hotels, motels, boarding houses, tents, cabins, or motor homes/travel trailers.

Dwelling Unit: A residential building or portion thereof intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, motor homes or travel trailers.

Dwelling Unit Occupancy: Occupancy of a dwelling unit for the purpose of enforcing provisions of this Ordinance shall be limited by restrictions as included in the definition of family in this Section.

- E. **Earth Berm:** (House Construction) An earth covering on the above grade portions of the building walls.

Earth Sheltered Building: A building so constructed that fifty (50) percent or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of the livable space in residential units and of usable space in non-residential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or sub-structure for above grade construction. A partially covered building shall not be considered earth sheltered.

Easement: A grant by an owner of land for a specific use by persons other than the owner.

Erosion: The wearing away of land surface by the action of natural elements.

2

Essential Services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground or overhead telephone, gas, electrical, communication, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Transmission/reception support structures and antennas shall not be considered an essential service.

Essential Service Structures: Structures and buildings necessary for the operation of essential services, including but not limited to: telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks, lift stations.

Exterior Storage: The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

F. **Family:** An individual or two (2) or more persons related by blood, marriage, adoption or a group of not more than three (3) persons who need not be related by blood or marriage living together in a dwelling unit and sharing common cooking facilities.

Farm Building: Any building used for storing agricultural equipment or farm produce, housing livestock or poultry, not including poultry processing or egg production plants not normally associated with farming operations. The term "farm buildings" shall not include dwellings.

Fence Related:

1. "Fence" shall mean a partition, wall, hedge, row(s) of continuous plantings, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

- a. "Man Made Fence" shall mean a partition or wall constructed of wood, metal, masonry, brick, stone, concrete, and the like.
 - b. "Natural Hedge or Planting" shall mean a divider or barrier comprised of vegetation materials.
2. "Fence height" shall mean the distance from the adjacent finished grade to the highest projection of a fence structure, not including support posts, provided that the support posts are no more than four (4) inches above the fence structure.

Filling: The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland.

Floor Area, Gross: The sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as, activities to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

Floor Area Ratio (F.A.R.): The floor area of a building or buildings on any lot divided by the area of such lot, or in the case of planned developments by the net site area. The floor area ratio requirements as set forth under each zoning district shall determine the maximum floor area allowable for a building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

Frontage: That boundary of a lot which abuts an existing or dedicated public street, watercourse or similar barrier.

- G. **Garage, Private (Residential):** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family resident upon the premises, and in which no business service or industry is carried on.

Grade (Adjacent Ground Elevation): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Grading: Changing the natural or existing topography of land.

H. **Home Occupation:** Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

Hydric Soils: Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. (Reference: Federal Manual for Identifying and Delineating Jurisdictional Wetlands, January 1989)

I. **Impervious Surface:** An artificial or natural surface through which water, air, or roots cannot penetrate.

Interim Use: A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it.

Interim Use Permit: A permit issued by the City Council in accordance with procedures specified in this Ordinance.

²² **Invasive Species:** Invasive species shall include all plants listed in the Minnesota Department of Agriculture's "Noxious Plants of Minnesota" publication, as amended.

J. **Junk Yard:** An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled; including but not limited to, scrap iron and other materials, paper, rags, rubber, tires, lumber, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

L. **Landscaping:** Plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.

Land Reclamation: The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

Landing Area: Any area of land, water, or both, which is used or made available for the landing of and taking off of aircraft whether for public, private or personal purposes.

Lot: A parcel or portion of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required.

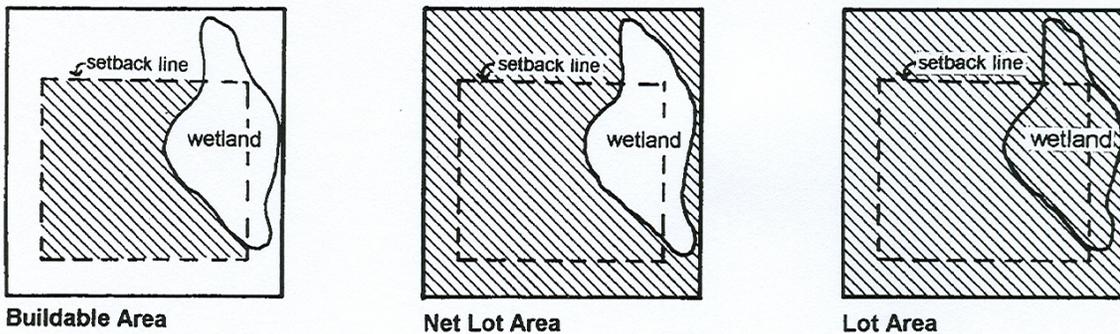
Lot (of Record): Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an auditor's outlot or a registered land survey, or a parcel of land not so platted, subdivided or registered but for which a deed, auditor's

subdivision or registered land survey has been recorded in the Office of the Register of Deeds or Registrar of Titles for Dakota County, Minnesota, prior to the effective date of this Ordinance.

11 **Lot Area:** The total land area of a horizontal plane within the lot lines. (See Figure 1202-1)

11 **Lot Area, Net:** The area of a lot not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, and land in excess or twelve (12) percent slope. (See Figure 1202.02-1)

Figure 1202.02-1



Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

Lot Coverage: The area of a lot occupied by the principal building or buildings and all accessory buildings.

Lot Depth: The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage: An interior lot having frontage on two (2) streets.

Lot, Front: The front of a lot shall be considered to be that boundary abutting a public right-of-way or private access road having the least width.

Lot Improvement: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Lot, Interior: A lot, other than a corner lot, including through or double frontage lots.

Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

Lot Line, Rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot, Reversed Frontage: A lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may be a corner lot or an interior lot.

Lot, Substandard: A lot or parcel of land for which a deed has been recorded in the Office of the Dakota County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

Lot, Through: A lot fronting on two parallel streets.

Lot, Width: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way.

- M. **Metes and Bounds Description:** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

Minerals: Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

Mining: All or any part of the process involved in the extraction of sand, gravel, aggregate, or minerals by removing the overburden and extracting directly from the sand, gravel, aggregate, or mineral deposits thereby exposed.

- N. **Non-Conforming Structure, Use, or Lot, Illegal:** A lot, building, structure, premises, or use illegally established when it was initiated, created, or constructed, which did not conform with the applicable conditions or provisions of the City Code for the district in which the structure or use is located.

Non-Conforming Structure, Use, or Lot, Legal: A lot, building, structure, premises, or use lawfully established when it was initiated, created, or constructed, which does not now conform with the applicable conditions or

provisions of this Ordinance for the district in which the structure or use is located.

Noxious Matter or Material: Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well-being of individuals.

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

Occupancy: The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Open Space: Any open area not covered by structures, including but not limited to the following uses: required or established yard areas, parking areas, sidewalks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, groundwater recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

Open Storage: Storage of material outside of a building.

Outlot: A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, and upon which no structure is to be located and for which no building permit shall be issued.

Owner: An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

- P. **Parcel:** An individual lot or tract of land.

Parking Space (Off-Street): An area of such shape and dimensions as provided by this Ordinance, enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one (1) motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Performance Standard: Criterion established for setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage and to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in uses of land or buildings.

Permitted Use: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Person: Any individual or legal entity.

Planning Commission: The Sunfish Lake Planning Commission.

25 **Practical Difficulties:** a situation in connection with the request for a variance from compliance with the requirements of this ordinance, where a property owner proposes to use the subject property in a reasonable manner not permitted by the ordinance in which the plight of the property owner is due to circumstances unique to the property not created by the property owner and the variance, if granted, is in harmony with the general purposes and intent of the zoning ordinance, is consistent with the comprehensive plan and will not alter the essential character of the locality. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems. Economic considerations alone do not constitute practical difficulties.

9 **Principal Building:** A building in which is conducted the principal use of the lot on which it is located.

9 **Principal Structure or Use:** The main or primary use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

Protective Covenants: Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of property value and economic integrity of any given area.

Public Uses: Uses owned or operated by municipal, school districts, county, state, or other governmental units.

Public Utility: Any person, firm, corporation, municipal department or board fully authorized and furnishing under municipal regulation to the public electricity, gas, steam, communication services, cable television, telegraph services, transportation, water or the like.

Publication: Notice placed in the official City newspaper stating time, location and date of meeting and description of the topic.

R. **Recreation, Field or Building:** An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semi-public use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena,

baseball park, stadium, or gymnasium is a recreation field or building for the purpose of this Ordinance.

Recreational Vehicle: Includes manufactured homes less than thirty (30) feet in overall length, including those with telescope or fold down, chassis, mounter campers, house cars, motor homes, tent trailers, slip-in-campers (those mounted in a pickup truck or similar vehicle), converted buses, and converted vans used primarily for recreational purposes. Cars utilized for racing shall not be included in this definition.

Roof Line: Is defined as the top of the coping; or, when the building has a pitched roof, at the intersection of the outside wall with the roof.

- S. **Satellite Dish:** Shall mean a combination of (1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

Satellite Dish Height: Shall mean the height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.

- ² **Secondary Use:** A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

Semi-Public Use: Uses owned by private or private non-profit organizations which are open to some, but not all, of the public.

Septic Sewer System: A septic sewer disposal system consists of: septic tank, absorption field of standard trenches or a dry well, house sewer and outlet sewer. In the septic tank, bacterial action breaks down sewage. Standard trenches or a dry well handles final disposal of liquid from the septic tank. The house sewer brings wastes to the tank and the outlet sewer carries sewage liquids (effluent) to the absorption field.

Setback: The minimum horizontal distance between a structure and the property line nearest thereto; within Shoreland Districts it shall also mean the minimum horizontal distance between a structure or a sewage treatment system and the ordinary high water level. For purposes of earth shelter buildings only, above grade portions shall be used in determining setback requirements. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided herein after.

Shoreland Related:

1. Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
 - a. Part of all of the feature is located in a shoreland area.
 - b. The slope rises at least 25 feet above the ordinary high water level of the waterbody.
 - c. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater.
 - d. The slope must drain toward the waterbody.
2. Bluff Impact Zone: A bluff and land located within twenty (20) feet from the top of a bluff.
3. Commissioner: The Commissioner of the Department of Natural Resources.
4. Deck: A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above ground.
5. Deck, Detached, Low Profile: A horizontal, unenclosed detached platform with or without attached railings, seats, trellises, or other features not exceeding two hundred (200) square feet in size.
6. Intensive Vegetation Clearing: The complete removal of trees or shrubs in a contiguous patch, strip, row or block.
7. Ordinary High Water Level: The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.
8. Public Waters: Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 14 and 15. However, no lake, pond, or flowage of

less than 10 acres in size in municipalities need be regulated for the purposes of parts 6120.2500 to 6120.3900. A body of water created by a private user where there was no previous shoreland may, at the discretion of the local government, be exempted from parts 6120.2500 to 6120.2900.

9. Public Waters - Recreational Development (RD): Medium sized lakes of varying depths and shapes with a variety of landform, soil, and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreational-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.
10. Sensitive Resource Management: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
11. Sewer System: Pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
12. Shore Impact Zone: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
13. Shoreland: Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
14. Significant Historic Site: Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
15. Steep Slope: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county

soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

16. Toe of the Bluff: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determine to be the lower end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.
17. Top of the Bluff: The point on a bluff where there is, as virtually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50 foot segment, measured on the ground, with an average slope exceeding 18 percent.

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Sign Related:

1. Abandoned Sign: A sign located on a property which is vacant and/or unoccupied for a period of ninety (90) days; or a sign which is damaged, in disrepair, or vandalized and not repaired within ninety (90) days.
2. Address Sign: A sign which indicates the address, number and/or the name of occupants of the premises.
3. Billboard: Any structure or portion thereof on which lettered, figured, or pictorial matter is displayed that has an area of one hundred (100) square feet or more.
4. Directional Sign: A sign which is erected for the purpose of guiding vehicles and pedestrian traffic in finding locations on the property where the sign is located.
5. Dynamic Display: Any characteristic of a Sign that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the Sign or its components, whether the apparent movement or change is in the display, the Sign structure itself, or any other component of the Sign. This includes a display that incorporates a technology or method allowing the Sign face to change the image without having to physically or mechanically replace the Sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display or structural element and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method of technology that allows the Sign face to present a series of images or displays.

6. Illuminated Sign: A sign which is illuminated by an artificial light source.
7. Monument Sign: A freestanding sign that is attached to the ground by means of a freestanding support structure, solid from grade to the top of the sign structure and is typically encased or supported by masonry materials.
8. Off-premises Sign: A commercial speech sign which directs the attention of the public to a business that is not on the same premises where such business sign is located.
9. Portable Sign: A sign so designed as to be movable from one location to another and which is not permanently attached to the ground or any structure, including those on wheels.
10. Projecting Sign: A sign in which all or any part of it extends perpendicular to and projects from a building face, wall or structure and which its primary purpose is other than the support of the sign.
11. Pylon Sign: A sign erected on a post or posts, or freestanding shafts, walls or piers which is solidly affixed to the ground and not attached to a building.
12. Real Estate Sign: A sign for the purpose of promoting or selling real estate.
13. Roof Sign: A sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.
14. Sign: Any letter, word, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed which is displayed outdoors for informational or communicative purposes.
15. Sign Area: That area within the marginal lines of the sign surface which bears the announcement, name, advertisement or other message, or, in the case of letters, figures, or symbols attached directly to any part of a building or wall, that area which is included in the smallest rectangle which can be made to circumscribe all letters, the figures, or symbols displayed thereon. The maximum Sign Area for a free standing sign refers to a single surface.
16. Temporary Sign: A sign which is erected or displayed for a limited period of time, is not illuminated and not of a permanent nature, including banners, inflatable devices or sandwich boards.

17. **Wall Sign:** A sign affixed to the exterior wall, awning or canopy of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of said wall, not to project more than twelve (12) inches from the surface to which it is attached.
18. **Window Sign:** A sign that is affixed to and not painted on the interior or exterior of a window or glass door or inside a building within three (3) feet back from the building's window or glass door with its message intended to be visible to and readable by the public.

Site Plan: A map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, easements, utilities, landscaping, and walkways, as related to a proposed development.

Slope: Means the degree of deviation of a surface from the horizontal, usually, expressed in percent of degrees.

Solar Energy System: Any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert and store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation and other energy using processes.

Spot Zoning: A zoning situation where a property or group of properties is unjustifiably zoned differently from adjacent properties, and is not sufficiently unique from such adjacent properties to justify a different zoning classification, nor is such action in compliance with the Comprehensive Plan.

Street: A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through-way, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Street Width: The shortest distance between the lines delineating the right-of-way of a street.

Structural Alteration: Any change, other than incidental repairs, which would prolong, or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Structure: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures including but not limited to buildings, gazebos, decks, retaining walls, walls, fences, and swimming pools.

² **Structure, Public:** An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented, and operated by a federal, state, or local government agency.

Surveyor: A land surveyor registered under Minnesota State laws.

Swimming Pool: A structure designed to be used for swimming which has a capacity of three thousand (3,000) gallons or more or which has a depth of over thirty-six (36) inches.

T. **Travel Trailer:** Any vehicle or structure designed and used for human living quarters which meets all of the following qualifications:

1. Is not used as the permanent residence of the owner or occupant.
2. Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities.
3. Is towed or otherwise transported by its own or by other motive power, on the public streets or highways incidental to such recreational or vacation activity.

The term "travel trailer" shall not include manufactured home. The term "travel trailer" shall include, but not be limited to, campers, camper tents, house trailers, camping trailers, travel trailers, tent trailers and any other self-propelled vehicle constructed to provide living accommodations. (See also the definition of "Recreation Vehicle".)

Tree, Significant: Any tree measuring six (6) inches or more measured at a point five (5) feet above the ground, and which is not diseased, dead, or dying.

U. **Use:** The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance. Uses are classified as principal or accessory and as permitted conditional, and prohibited.

V. ²⁵ **Variance:** A variance is a relaxation of the requirements of this Ordinance where a property owner proposes to use the subject property in a reasonable manner not permitted by the Ordinance, such deviation will be in harmony with the general purposes and intent of the Ordinance, consistent with the comprehensive plan, and will not alter the essential character of the locality and where, owing to physical conditions unique to the individual property under consideration and not the result of the actions of the applicant, compliance with the ordinance would result in practical difficulties.

W. **Waterbody:** Means a body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

Watercourse: A channel or depression through which water flows, such as rivers, streams, creeks, and may flow year-round or intermittently.

Watershed: The area drained by the natural and artificial drainage system, bounded peripherally by a ridge or stretch of high land dividing drainage areas.

Wetlands Related:

1. Act, Wetland: When not used in reference to a specific state or federal act, means the Wetland Conservation Act of 1991, Laws 1991, chapter 354, as amended by Laws 1993, chapter 175.
2. Activity, Wetland: Draining or filling a wetland wholly or partially.
3. Aquaculture: To cultivate plants and animals in water for harvest, including hydroponics and raising fish in fish farms.
4. Best Management Practices: State-approved and published practices associated with draining, filling, or replacing wetlands that are capable of preventing and minimizing degradation of surface water and groundwater.
5. Board: The board of water and soil resources under Minnesota Statutes, section 103B.101.
6. City: The City of Sunfish Lake.
7. Commissioner: The Commissioner of the Department of Natural Resources.
8. Creation: Construction of wetlands in an area that was not wetlands in the past.
9. Day: Working days when used in a time period of 15 days or less and calendar days when used in a time period greater than 15 days. The day of the event shall not be used in counting any period of time.
10. Department: The Department of Natural Resources.
11. Ditch: An open channel to conduct the flow of water, as defined in Minnesota Statutes, section 103E.005, subdivision 8.

12. Drain or Wetland Drainage, Wetland: Any method for removing or diverting waters from wetlands. The methods shall include, but are not limited to, excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.
13. Drainage System: A system of ditch or tile, or both, to drain property, including laterals, improvements, and improvements of outlets.
14. Excavation: The displacement or removal of the sediment or other materials by any method.
15. Fill, Wetland: Any solid material added to or redeposited in a wetland that would alter its cross-section or hydrological characteristics, obstruct flow patterns, change the wetland boundary, or convert the wetland to a non-wetland. It does not include posts and pilings for linear projects such as bridges, elevated walkways, or power line structures, or structures traditionally built on pilings such as docks and boathouses. It does include posts that result in bringing the wetland into a non-aquatic use or significantly altering the wetland's functions and values. It does not include slash or woody vegetation, if the slash or woody vegetation originated from vegetation growing in the wetland and does not impair the flow or circulation of water or the reach of the wetland.
16. Floodplain Wetland: A wetland located in the floodplain of a watercourse, with no well defined inlets or outlets, including tile systems, ditches, or natural watercourses. This may include the floodplain itself when it exhibits wetland characteristics.
17. Flow-Through Wetland: A wetland with both a well defined outlet and one or more well defined inlets, including tile systems, ditches or natural watercourses.
18. Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
19. Hydrophytic Vegetation: Macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
20. Impact, Wetland: A loss in the quantity, quality, or biological diversity of a wetland caused by draining or filling.
21. Impacted Wetland: A wetland that has been drained or filled, partially or wholly, and is subject to replacement.

22. Infrastructure: Storm water and sanitary sewer piping, outfalls, inlets, street sub-base, roads, and ditches, culverts, bridges and any other work defined specifically by a local government unit as constituting a capital improvement.
23. Isolated Wetland: A wetland without well defined inlets or outlets, including tile systems, ditches, or natural watercourses.
24. Landowner, Wetland: A person or entity having the rights necessary to drain or fill a wetland, or to establish and maintain a replacement or banked wetland. Typically, the landowner is a fee title owner or a holder of an easement, license, lease, or rental agreement providing the necessary rights. The right must not be limited by a lien or other encumbrance that could override the obligations assumed with the replacement or banking of a wetland.
25. Non-Degraded Wetland: A wetland that has not been partially drained or filled by human activities.
26. Peace Officer: The meaning given it in Minnesota Statutes, Section 626.84.
27. Project: An action or series of actions necessary to accomplish an ultimate purpose and that will cause a physical manipulation of the environment, directly or indirectly. Draining or filling of wetlands may be a component of a project.
28. Project-Specific: The applicant for the replacement plan approval will construct the replacement as part of the project, rather than obtain the replacement from a wetland bank.
29. Public Transportation Project: A project conducted by a public agency involving transportation facilities open to the public.
30. Public Value of Wetlands: The public benefit and use of wetlands for water quality, floodwater retention, public recreation, commercial uses, and other public uses.
31. Public Waters Wetlands: All types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), that were inventoried by the department as public waters under Minnesota Statutes, section 103G.201.
32. Replacement Wetland: A wetland restored or created to replace public values lost at an impacted wetland.

33. Restoration: Reestablishment of an area that was historically wetlands but currently provides no or minimal wetland functions due to manmade alteration such as filling or drainage.
34. Right-of-Way Acreage: The meaning given it in Minnesota Statutes, Section 103E.285, Subdivision 6.
35. Reserved.
36. Riverine Wetland: A wetland contained within the banks of a channel that may contain moving water or that forms a connecting link between two bodies of standing water.
37. Silviculture: The scientific management of forest trees.
38. Soil and Water Conservation District: A legal subdivision of state government under Minnesota Statutes, Chapter 103C.
39. Soil Conservation Service: A legal subdivision of state government under Minnesota Statutes, chapter 103C.
40. Tributary Wetland: A wetland with a well defined outlet, including tile systems, ditches, or natural watercourses, but without a well defined inlet.
41. Utility: A sanitary sewer, storm sewer, potable water distribution and transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications.
42. Watershed: The 81 major watershed units delineated by the map "State of Minnesota Watershed Boundaries - 1979" as produced by the Minnesota Department of Natural Resources, Office of Planning and Research, Water Policy Planning Program, with funding from the Legislative Commission on Minnesota Resources.
43. Watershed Management Organization: A watershed district wholly within the metropolitan area or a joint powers entity established wholly or partly within the metropolitan area by special law or by agreement that performs some or all of the functions of a watershed district for a watershed and that has the characteristics and the authority specified under Minnesota Statutes, section 103B.211. Lake improvement or conservation districts are not watershed management organizations.
44. Wetlands: A wetland, the wetland, or wetland area.
 - A. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is

covered by shallow water. For purposes of this sub-part, wetlands must:

- (1) Have a predominance of hydric soils;
- (2) Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances, support a prevalence of hydrophytic vegetation.

B. A distinct hydrologic feature with characteristics of item A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland".

C. Wetlands does not include public waters wetlands and public waters that are designated on the public waters inventory maps prepared under Minnesota Statutes, section 103G.201.

Y. **Yard:** An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, Depth of: The mean horizontal distance between the line of a building and the lot line.

Yard, Front: The front yard of a lot shall be considered to be the area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. The front of the lot shall be that portion adjacent to a frontage road or if a private drive from a private road or public street is the means of access, it shall be that part of the lot through which access is obtained from such road.

Yard, Rear: A space extending between the rear line of the principal building and the rear line of the lot and extending the full width of the lot.

Yard, Required; That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

Yard, Side: A yard between the principal building and the side line of the lot extending from the front to the rear building lines.

Z. **Zoning Amendment:** A change authorized by the City Council either in the allowed use within a district or in the boundaries of the district.

Zoning District: An area or areas of the City (as delineated on the Zoning Map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Ordinance.

Zoning District Overlay: A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

Zoning District Underlying (Base): All zoning districts except overlay zoning districts.

Zoning Map: The map or maps incorporated into this Ordinance as part thereof, designating the zoning districts.

1203. ADMINISTRATION – AMENDMENTS (TEXT AND MAP)

- 1203.01 Amendments to Zoning Ordinance
- 1203.02 Procedure
- 1203.03 Amendments – Initiation

SECTION 1203.01 AMENDMENTS TO ZONING ORDINANCE:

The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties with interest and citizens shall have an opportunity to be heard. At least ten (10) days' notice of the time and place of such hearing shall be published in the official newspaper of general circulation in the City. Any action taken pursuant to this Section shall be in compliance and accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, and the Federal Emergency Management Agency.

SECTION 1203.02 PROCEDURE: Pursuant to Minnesota Statutes 15.99, as may be amended, an application for an amendment shall be approved or denied within sixty (60) days from the date of 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 or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

- ^{9 18}A. Requests for rezoning (text or map) shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as provided by City Council resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced scale (11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for amendment shall be placed on the agenda of the first possible Planning Commission meeting occurring thirty (30) days after the date of submission of the application. The request shall be considered officially submitted when all the informational requirements are complied with.
- B. Proof of Ownership or Authorization: The applicant shall supply proof of title of the property for which the rezoning is requested, consisting of an abstract of title or registered property abstract currently certified together with any 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 rezoning.

- ⁸C. Upon receipt of said 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 hearing and written notice of said hearing shall be mailed at least ten (10) days prior to all owners of land within one thousand (1,000) feet of the property in question (public right-of-way shall not be included in the one thousand (1,000) foot measurement). The City Planner shall have the right to provide additional property owners notification beyond the one thousand (1,000) foot distance if it is judged that the request will have 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 was sent shall be attested and made a part of the records of the proceeding.
- D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.
- E. The City Planner shall instruct the appropriate staff persons to prepare technical reports, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- F. The Planning Commission shall consider possible adverse effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:
1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
 2. The proposed use's conformity with present and future land uses of the area.
 3. The proposed use's conformity with all performance standards contained herein.
 4. The proposed use's effect on the area in which it is proposed.
 5. The proposed use's impact upon property value in the area in which it is proposed.
 6. Traffic generation by the proposed use in relation to capabilities of streets serving the property.

7. The proposed use's impact upon existing public services and facilities including parks, schools, streets, and utilities, and the City's service capacity.
- G. The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant, said information to be declared necessary to evaluate the request and/or to 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 denial of the request.
- H. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- I. The Planning Commission shall recommend approval or denial of the request.
- ⁹J. The City Council shall not act upon an amendment until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request within a period of time sufficient to allow a decision to be made within the time requirements of Section 1203.02 (Procedures), the City Council may proceed with its consideration and action on the request.
- K. Upon receiving the report and recommendation 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 in and made part of the permanent written record of the City Council meeting.
- L. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed advisable.
- M. If, upon receiving said reports and recommendations of 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 final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a singular request.
- ¹⁴N. Approval of a proposed amendment shall require passage by a majority vote of all members of the City Council.

- O. The amendment shall not become effective until such time as the City Council approves the ordinance reflecting said amendment and after said ordinance is published in the official newspaper.
- P. Whenever an application for an amendment has been considered and denied by the City Council, a similar application and proposal for the amendment affecting the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial except as follows:
 - 1. Applications 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 of five (4 of 5) that the circumstances surrounding a previous application have changed significantly.

SECTION 1203.03 AMENDMENTS - INITIATION:

The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate or having documented interest therein, within the City may initiate a request to amend the district and map boundaries or text of this Ordinance, so as to affect the said real estate.

1204. ADMINISTRATION – CONDITIONAL USE PERMITS

1204.01	Purpose
1204.02	Procedure
1204.03	Application
1204.04	Information Requirement
1204.05	Amended Conditional Use Permits
1204.06	Lapse of Permit
1204.07	Performance Security
1204.08	Initiation

SECTION 1204.01 PURPOSE:

The purpose of a conditional use permit is to provide the City of Sunfish Lake with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

SECTION 1204.02 PROCEDURE: Pursuant to Minnesota Statutes 15.99, as may be amended, an application for a conditional use permit shall be approved or denied within sixty (60) days from the date of 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 or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

- ^{10 18}A. Request for conditional use permits, as provided within this Ordinance shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced scale (11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for conditional use permit shall be placed on the agenda of the first possible Planning Commission meeting occurring after thirty (30) days after the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with.
- B. Proof of Ownership or Authorization: The applicant shall supply proof of title and the legal description of the property for which the conditional use permit is requested, consisting of an abstract of title or registered property abstract currently certified together with any 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 conditional use permit.

- ⁸ C. Upon receipt of said 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 make recommendations to the City Council. Notice of said hearing shall consist of a legal property description and description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within one thousand (1,000) feet of the boundary of the property in question (public right-of-way shall not be included in the one thousand (1,000) foot measurement). The City Planner shall have the right to provide additional property owners notification beyond the one thousand (1,000) foot distance if it is judged that the request will have impact upon additional properties. 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 was sent shall be attested and made a part of the records of the proceeding.
- D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.
- E. The City Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and the City Council.
- F. The Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:
1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
 2. The proposed use's compatibility with present and future uses of the area.
 3. The proposed use's conformity with all performance standards contained herein.
 4. The proposed use's effect on the area in which it is proposed.
 5. The proposed use's impact upon property values in the area in which it is developed.

6. Traffic generated by the proposed use is in relation to capabilities of streets serving the property.
 7. The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.
- G. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information is to be declared necessary to evaluate the request and/or to 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 denial of the request.
 - H. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
 - I. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Ordinance.
 - ⁹J. The City Council shall not consider a conditional use permit application until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request within a period of time sufficient to allow a decision to be made within the time requirements of Section 1204.02 (Procedures), the City Council may proceed with its consideration and action on the request.
 - K. 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 in and made part of the permanent written record of the City Council meeting.
 - L. Upon receiving the report and recommendation of the Planning Commission, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.
 - M. If, upon receiving said reports and recommendations of 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 final action, refer the matter back to the Planning Commission for further consideration. The City Council shall provide the Planning Commission with a

written statement detailing the specific reasons for referral. This procedure shall be followed only one time on a specific request.

- N. Approval of a request shall require passage by three of five (3 of 5) votes of the entire City Council.
- O. Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial, except as follows:
 - 1. The City Council determines that an application is different from that applied for within a one (1) year period.
 - 2. If the City Council determines by a vote of not less than three of five (3 of 5) that the circumstances surrounding a previous application have changed significantly.
- P. If a request for a conditional use permit receives approval of the City Council, the applicant shall record such with the County Recorder within thirty (30) days of the City Council approval date. The applicant, immediately upon recording such or as soon as is reasonably possible, shall 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.

SECTION 1204.03 APPLICATION:

The conditional use permit and the stipulations, limitations and conditions therein shall be applied to the property in question.

SECTION 1204.04 INFORMATION REQUIREMENT:

The information required for all conditional use permit applications generally consists of the following items, and shall be submitted when requested by the City:

- A. Site Development Plan:
 - 1. Location of all buildings on lots including both existing and proposed structures.
 - 2. Location of all adjacent buildings located within three hundred fifty (350) feet of the exterior boundaries of the property in question.
 - 3. Vehicular circulation.

4. Architectural elevations (type and materials used on all exterior surfaces).
5. Location and type of all proposed exterior lights.
6. Curb cuts, driveways, number of parking spaces.
7. Soil tests and classification.
8. Location and dimensions of septic systems and drain field.
9. Location of existing or proposed wells.
10. Fire protection measures.
11. If property is in excess of five (5) acres, a resubdivision plan.

B. Dimension Plan:

1. Lot dimensions and area.
2. Dimensions of proposed and existing structures.
3. "Typical" floor plan and "typical" room plan.
4. Existing setbacks of all buildings located on property in question.
5. Proposed setbacks.
6. Existing and proposed easements.

C. Grading and drainage plans, pursuant to Section 1204.04, which include but are not limited to:

1. Existing contours, minimum two (2) feet vertical separation.
2. Proposed grading elevations.
3. Drainage configuration, including drainage and utility easements.
4. Spot elevations.
5. Proposed road profile.
6. Erosion control measures, including provisions for on-site sedimentation control.

D. Landscape Plan:

1. Location of all existing trees, type, diameter, and which trees will be removed.
2. Location, type and size of all proposed plantings.
3. Location and material used for all screening devices.
4. Method of soil stabilization (i.e., seeding or sodding).

SECTION 1204.05 AMENDED CONDITIONAL USE PERMITS:

An amended conditional use permit may be applied for and administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include re-applications for permits that have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this Ordinance.

SECTION 1204.06 LAPSE OF APPROVAL:

- A. Unless the City Council specifically approves a different time when action is officially taken on the request, the conditional use permit shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the conditional use. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.
- B. An application to extend the approval of a conditional use permit shall be submitted to the City Planner not less than thirty (30) days before the expiration of said approval. Such an application shall state the facts of the request, showing a good faith attempt to utilize the permit, and it shall state the additional time being requested to begin the proposed construction. The application shall be heard and decided by the City Council prior to the lapse of approval of the original request.
- C. In making its determination on whether an applicant has made a good faith attempt to utilize the conditional use permit, the City Council shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

SECTION 1204.07 PERFORMANCE SECURITY:

- A. Upon approval of a conditional use permit, the City shall be provided, when deemed necessary by the City Council, with a letter of credit or other form of security determined acceptable by the City Council, upon recommendation by the City Attorney. Said security shall be provided to the City prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security shall cover performance stipulations imposed by the City Council as may be applicable, and shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the conditional use permit and ordinances of the City.
- B. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements. Said project can be handled in stages upon the discretion of the City Engineer and Building Official.
- C. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the conditional use permit and ordinances of the City has been issued by the City Building Official.
- D. Failure to comply with the conditions of the conditional use permit or the ordinances of the City shall result in forfeiture of the security.
- E. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

SECTION 1204.08 INITIATION:

The City Council or the Planning Commission may, upon their own motion, initiate a request for a conditional use permit in conformance with the provisions of this Ordinance. Any person owning real estate or having documented interest therein, may initiate a request for a conditional use permit for said real estate in conformance with the provisions of this Ordinance.

1205. ADMINISTRATION – INTERIM USE PERMIT

1205.01	Purpose and Intent
1205.02	Procedure
1205.03	General Standards
1205.04	Termination

SECTION 1205.01 PURPOSE AND INTENT:

The purpose and intent of allowing interim uses is to allow a use or activity that is presently acceptable, but that with anticipated development, redevelopment, or identifiable change may not be acceptable in the future.

SECTION 1205.02 PROCEDURE:

- A. Existing Uses. Uses defined as interim uses which presently exist and which were legally established within a respective zoning district shall be considered approved.
- B. New Uses. Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Section 1204.

SECTION 1205.03 GENERAL STANDARDS:

An interim use shall comply with the following:

- A. Existing Uses. Shall be in conformance 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.
 - 1. Conforms to all zoning regulations as otherwise applicable.
 - 2. The date or event that will terminate the use can be identified with certainty.
 - 3. The existence of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - 4. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

C. Existing Uses and New Uses.

1. Shall maintain harmony and compatibility with surrounding uses and with the architectural character and design standards of existing uses and development.
2. Conforms with all performance standards contained in this Ordinance (i.e., parking, noise, etc.).
3. Shall have no detrimental effect upon the property values or the general health, safety, and welfare of the surrounding uses and property owners.
4. Traffic generated by the use does not overburden or exceed the capabilities of streets and other public services and facilities, including parks, schools, streets and utilities serving the area.

SECTION 1205.04 TERMINATION:

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

- A. The date or event stated in the permit or ordinance.
- B. Upon violation of conditions under which the permit was issued.
- C. Upon change in the City's zoning regulations which renders the use non-conforming.
- D. The redevelopment of the use and property upon which it is located to permitted or conditional use as allowed within the respective zoning district.

1206. ADMINISTRATION - VARIANCES

- 1206.01 General Provisions and Standards
- 1206.02 Procedures
- 1206.03 Lapse of Variance
- 1206.04 Performance Security

SECTION 1206.01 GENERAL PROVISIONS AND STANDARDS:

- ²⁵A. Purpose. The purpose of this Section is to provide for deviations from the literal provisions of this Ordinance in instances where compliance with the requirements of this Ordinance would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when the proposed variance would permit the property owner to use the property in a reasonable manner and when it is demonstrated that the variance will not alter the essential character of the locality.
- B. The City Council shall serve as the Board of Adjustment and Appeals.
- C. Review Criteria: Conditions governing considerations of both regular and minor variance requests:
1. In considering all requests for a variance and in taking subsequent action, the Planning Commission and the Council shall make a finding of fact that the proposed action will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Have the effect of allowing any district uses prohibited therein, permit a lesser degree of flood protection than the flood protection elevation for the particular area, or permit standards which are lower than those required by State law.
 - d. Increase the danger of fire or endanger the public safety.
 - e. Unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of this Title.
 - f. Violate the intent and purpose of the Comprehensive Plan.
 - g. Violate any of the terms or conditions of Item 2, below.

2. A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:
 - a. Practical difficulties will result if the variance is denied due to the existence of special conditions and circumstances which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - (1) Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness, insufficient area or shape of the property.
 - (2) Practical difficulties caused by the special conditions and circumstances may not be solely economic in nature, if a reasonable use of the property exists under the terms of this Title.
 - (3) Special conditions and circumstances causing practical difficulties shall not be a result of lot size or building location when the lot qualifies as a buildable parcel.
 - b. Compliance with the requirements of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicant the ability to put the property in question to a reasonable use and the proposed variance permits the owner to use the property in a reasonable manner.
 - c. The special conditions and circumstances causing the practical difficulties do not result from the actions of the applicant.
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district under the same conditions.
 - e. The request is not a use variance.
 - f. The variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.
 - g. The request does not create an inconvenience to neighboring properties and uses.

- h. The variance requested is in harmony with the purpose and intent of the Ordinance.
 - i. The variance requested is consistent with the Comprehensive Plan.
 - j. The variance requested will not alter the essential character of the locality.
3. Application for a variance shall set forth reasons that the variance is justified in order to make reasonable use of the land, structure or building.
- ²⁵ 4. Should the Council find that the conditions outlined heretofore apply to the proposed lot or parcel, the Council may grant a variance from compliance with the requirements of this Ordinance so as to relieve such practical difficulties to the degree considered reasonable, provided such relief may be granted without impairing the intent of this Ordinance. The Planning Commission, in the case of major variance, based upon a report and recommendation by the City staff, shall have the power to advise and recommend such conditions related to the variance regarding the location, structure, or use as it may deem advisable in the interest of the intent and purpose of this Ordinance provided that they are directly related to and bear a rough proportionality to the impact of the variance. The City Council may recommend such conditions related to the variance regarding the location, structure, or use as it may deem advisable in the interest of the intent and purpose of this Ordinance provided that they are directly related to and bear a rough proportionality to the impact of the variance.

SECTION 1206.02 PROCEDURES: Pursuant to Minnesota Statutes 15.99, as may be amended, an application for a variance shall be approved or denied within sixty (60) days from the date of 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 or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

A. Minor Variances:

- 1. Purpose. The purpose of this Section is to provide for an expeditious method of processing variance requests.
- 2. Qualifications. Requests qualifying as minor variances must meet one of the following criteria:
 - ²⁵ a. Cases where practical difficulties to existing buildings or platted property are created as a result of public action or change in City Code standards (exception: shoreland or floodplain regulations).

- b. Structure or setback deviations which are characteristics of and common to neighboring uses and which do not exceed five (5) feet.

3. Processing.

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- a. Requests for a minor variance shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as established by Council resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced (11" x 17") copy of detailed written and graphic materials necessary for the explanation of the request. The request for minor variance shall be placed on the agenda of the first possible City Council meeting occurring thirty (30) days after the date of application submission. The request shall be considered as being officially submitted when all the information requirements are complied with.
- b. The City Planner serving as the planning agency representative shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Council.
- c. Written notice describing the request and date of consideration of the minor variance request by the City Council shall be mailed to immediately abutting property owners at least ten (10) days in advance of the meeting at which said matter is to be addressed.
- d. For properties within the Shoreland and/or Floodway or Flood Fringe Overlay District, the City shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the City Council meeting where it is to be heard.
- e. The City Staff and the City Council shall have the authority to request additional information from the applicant to retain expert testimony with the consent and at the expense of the applicant, said information to be declared necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of any applicant to supply all necessary supportive information may be grounds for denial of the request.
- f. The Council shall review the application and may upon its option conduct a public hearing on the request. If a public hearing is conducted on the request, written notice shall be provided to

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property owners within one thousand (1,000) feet of the boundary of the property in question (public right-of-way shall not be included in the one thousand (1,000) foot measurement). The City Planner shall have the right to provide additional property owners notification beyond the one thousand (1,000) foot distance if it is judged that the request will have impact upon additional properties. The City Council may also make a determination and require that the matter be processed as a regular variance.

- g. The applicant or a representative shall appear before the Council in order to answer questions concerning the proposed variance request.
- ⁹ h. Approval of a minor variance from this Ordinance shall be by three of five (3 of 5) votes of the entire City Council.
- i. All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Dakota County District Court.
- j. A copy of all decisions granting variances for properties in the Shoreland, Floodway or Flood Fringe shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

B. Regular Variances:

- 1. Classification. All variances which are not classified as "minor" shall be deemed "regular" variances.
- 2. Processing.
 - ^{9 18} a. Request for variances, as provided within this Title, shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced (11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for variance shall be placed on the agenda of the first possible Planning Commission meeting occurring after thirty (30) days after the date of submission of the application. The request shall be considered as being officially submitted when all the information requirements are complied with.

- b. Upon receipt of said application, the City shall set a public hearing following property hearing notification as applicable. The Planning Commission shall conduct the hearing, and reports its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within one thousand (1,000) feet of the boundary of the property in question (public right-of-way shall not be included in the one thousand (1,000) foot measurement). The City Planner shall have the right to provide additional property owners notification beyond the one thousand (1,000) foot distance if it is judged that the request will have impact upon additional properties. The City Assessors records shall be deemed sufficient for determining the location and ownership of said property. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
- c. For properties within the Shoreland, Floodway or Flood Fringe Overlay District, the City shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) day's notice of the hearing.
- d. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance provided a bona fide attempt has been made to comply with the notice requirements of this Section.
- e. The City Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Council.
- f. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
- g. The applicant or representative thereof shall appear before the Planning Commission to answer questions concerning the proposed variance.

- 9 h. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission shall reach a decision on the request within a period of time sufficient to allow a decision to be made within the time requirements of Section 1206.02 (Procedures), unless a delay in action is requested by the applicant. The Commission's recommendation and the City staff's report shall be presented to the Council.
- 9 i. The City Council shall not grant a variance 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.
- j. Upon receiving the report and recommendation of the Planning Commission, the City shall place the report and recommendations on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- k. The Council shall review the application and may at its option conduct a public hearing on the request.
- l. A variance of this Ordinance shall be by three of five (3 of 5) votes of the entire City Council.
- m. All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Dakota County District Court.
- n. A copy of all decisions granting variances for properties in the Shoreland, Floodway or Flood Fringe shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.
- o. Whenever a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial, except as follows:

- (1) If the applicant or property owner can clearly demonstrate that the circumstances surrounding the previous variance application have changed significantly.
 - (2) If the City Council decides to reconsider such matter by a vote of not less than three of five (3 of 5).
- p. If a request for a variance receives approval of the City Council, the applicant shall record such with the County Recorder within thirty (30) days of the City Council approval date. The applicant, immediately upon recording such, or as soon as is reasonably possible, shall 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.

SECTION 1206.03 LAPSE OF VARIANCE:

- A. Unless the City Council specifically approves a different time when action is officially taken on the request, the variance shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the variance. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.
- B. An application to extend the approval of a variance shall be submitted to the City Planner not less than thirty (30) days before the expiration of said approval. Such an application shall state the facts of the request, showing a good faith attempt to utilize the permit, and it shall state the additional time being requested to begin the proposed construction. The application shall be heard and decided by the City Council prior to the lapse of approval of the original request.
- C. In making its determination on whether an applicant has made a good faith attempt to utilize the variance, the City Council shall consider such factors as the type, design and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

SECTION 1206.04 PERFORMANCE SECURITY:

- A. Upon approval of a variance, the City shall be provided, when deemed necessary by the City Council, with a letter of credit or other form of security determined acceptable by the City Council, upon recommendation by the City Attorney. Said security shall be provided to the City prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security

shall cover performance stipulation imposed by the City Council as may be applicable, and shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the variance and ordinances of the City.

- B. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or Building Official's estimated costs of labor and materials for the proposed improvements or development.
- C. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and City Code provisions has been issued by the Building Official.
- D. Failure to comply with the conditions of the variance or appeal and City Code provisions shall result in forfeiture of the security.
- E. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

1207. ADMINISTRATION - APPEALS

1207.01	Board Designation
1207.02	Applicability
1207.03	Filing
1207.04	Stay of Proceedings
1207.05	Procedure
1207.06	Appeal

SECTION 1207.01 BOARD DESIGNATION:

The City Council shall serve as the Board of Adjustment and Appeals.

SECTION 1207.02 APPLICABILITY:

An appeal shall only be applicable to an interpretation of legislative intent of provisions of this Ordinance. Opinions and evaluations as it pertains to the impact or result of a request are not subject to the appeal procedure.

SECTION 1207.03 FILING:

An appeal from the ruling of an administrative officer of the City shall be made by the property owner or their agent within thirty (30) days after the making of the order appealed from.

SECTION 1207.04 STAY OF PROCEEDINGS:

An appeal stays all proceedings in furtherance of the action being appealed unless it is certified to the Board of Adjustment and Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application, on notice to the City.

SECTION 1207.05 PROCEDURE:

The procedure for making such an appeal shall be as follows:

- A. The property owner or their agent shall file with the City Planner a notice of appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council resolution.

- B. The City Planner serving as the planning agency representative shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Board of Adjustment and Appeals.
- C. The Board of Adjustment and Appeals shall make its decision by resolution within sixty (60) days.

SECTION 1207.06 APPEALS FROM THE BOARD OF ADJUSTMENT AND APPEALS:

Any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board of Adjustment and Appeals, shall have the right to seek review within thirty (30) days of the decision with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462 as such statute may be from time to time amended, supplemented or replaced.

1208. SITE AND BUILDING PLAN

1208.01	Purpose
1208.02	Classification
1208.03	Procedure
1208.04	Evaluation Criteria
1208.05	Information Requirement
1208.06	Amended Site and Building Plans
1208.07	Lapse of Approval
1208.08	Performance Security
1208.09	Building Code

SECTION 1208.01 PURPOSE:

Based upon the established Comprehensive Plan, it is the policy of the City of Sunfish Lake to preserve and promote an attractive, stable residential environment for its citizens which is in keeping with the open, natural character of the community. As a means to maintain and achieve this objective every property owner shall, before the alteration of land and/or commencing the construction or exterior alteration of a structure and/or buildings, make application for and process before the City, a site and building plan. Said plan approval may also be required in conjunction with interim use, conditional use and/or variance consideration. The following rules shall govern applications for site and building plan approval.

SECTION 1208.02 CLASSIFICATION:

- A. For the purpose of this Ordinance, site and/or building alterations and new structures shall be classified as either major or minor.
- B. Minor site and/or building alteration or new structures include:
 - 1. Trees.
 - a. The removal of five (5) or less significant trees within the required lot setback areas, within a two (2) year period, shall be exempt from this section but shall be subject to the approval of the City Forester.
 - b. The removal of six (6) or more significant trees within the required lot setback areas, within a two (2) year period, shall be subject to this section.
 - c. Except as provided in the Shoreland Overlay District, the removal of significant trees internal to a lot and outside the required setback areas shall be exempt from this section, except that the removal of

ten (10) or more such trees over a two (2) year period shall be subject to the approval of the City Forester.

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2. Except as provided in the Shoreland Overlay District, the grading, excavation, removal and/or filling of less than fifty (50) cubic yards of dirt, sand, gravel/rock, mulch, or other natural material provided site drainage is not altered. Such activities commonly associated with gardening (e.g., soil amendments, tree/shrub planting, reseeding and rototilling) and grading associated with the resurfacing or top dressing of existing driveways, provided they do not alter site drainage, shall be exempt from any processing requirements.
 - a. When associated with building additions/alterations or other construction activities requiring a building permit, a separate grading permit shall not be required.
 - b. A grading permit shall be required for all other earth disturbing activities and shall be issued at the discretion of the City Building Official, who may confer with other City Consultants regarding acceptability of the proposed grading or excavation activity. Should it be determined that the project impacts site drainage or will alter the land to an extent that may impact neighboring properties, review of the project will be necessary through the Minor Site and Building Plan process, and formal application shall be made with the City Planner, accompanied by a fee as provided for by City Council resolution.
 - c. In any case, all projects must comply with the grading and filling standards in the City's Stormwater Management Ordinance (Section 1216.04.F).
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3. The hard surfacing of an area one thousand (1,000) square feet or less, or the hard surfacing of an existing driveway or a new driveway provided that, in any such case, the site drainage is unaltered and equal to that before construction. The hard surfacing of an area not exceeding two hundred (200) square feet within any consecutive three year period is exempt from this section provided that the site drainage is unaltered and all performance standards contained herein are met.
 4. Existing building alterations which:
 - a. Are less than one thousand (1,000) square feet in total area.
 - b. Do not increase an existing building's footprint greater than one thousand (1,000) square feet.
 - c. Does not result in a structure greater than thirty (30) feet in height.

- d. Maintains the architectural character and appearance of the principal structure.
 - e. Does not adversely impact neighboring properties.
5. Accessory building construction of one thousand (1,000) square feet or less which:
- a. Does not require a conditional use permit or variance.
 - b. Maintains the architectural and design character and appearance of the principal structure.
 - c. Does not adversely impact neighboring properties.
- C. Site and/or building alterations or new structures not qualifying as minor projects shall be classified as major.

⁹ **SECTION 1208.03 PROCEDURES:** Pursuant to Minnesota Statutes 15.99, as may be amended, an application for site and building plan review shall be approved or denied within sixty (60) days from the date of 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 or federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

A. Minor Projects:

- ⁹ 1. Requests for minor site building plan project approval, as provided by this Ordinance, shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by three (3) large scale copies and one (1) reduced scale (11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use.
- 2. The City Planner shall instruct the appropriate staff persons to prepare technical reports when deemed necessary and shall conduct a technical review and be responsible for the processing and approval or denial of the request.
- 3. The City staff shall have the authority to request additional information from the applicant concerning project details or operational factors, or to retain expert testimony with the consent, and at the expense of the applicant, concerning operational factors. Said information is to be

declared necessary to evaluate the request and/or 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 denial of the request.

4. At least seven (7) days prior to a decision on the project, the City Planner shall notify in writing the City Council and the immediately abutting property owners of the proposed project.
5. The City Planner shall have the authority to require the project to be processed as a major site and building plan if it is determined that significant issues are generated which require policy direction or cause area-wide concern.
6. The City Planner shall deny the project or shall approve the project plus impose such conditions or requirements as may be deemed necessary to carry out the intent and purpose of this Ordinance.

B. Major Projects:

- ^{9 18} 1. Request for site and building plan approval, as provided within this Ordinance shall be filed with the City Planner on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced scale (11" x 17") copy of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for site and building plan approval shall be placed on the agenda of the first possible Planning Commission meeting occurring after thirty (30) working days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with.
- ⁸ 2. Written notification of said meeting shall be mailed at least ten (10) days prior to all owners of land within one thousand (1,000) feet of the boundary of the property in question (public right-of-way shall not be included in the one thousand (1,000) foot measurement). The City Planner shall have the right to provide additional property owners notification beyond the one thousand (1,000) foot distance if it is judged that the request will have impact upon additional properties. The County Assessors records shall be deemed sufficient for determining the location and ownership of said property. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be made a part of City records.
3. Proof of Ownership or Authorization: The applicant shall supply proof of title and the legal description of the property for which the site and building plan approval is requested, consisting of an abstract of title or registered

property abstract currently certified together with any 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 site and building plan approval.

4. The City Planner shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and the City Council.
- 22 5. The City Forester will make an assessment of invasive species at a building site. Invasive species are defined by Section 1202.02 of this Ordinance. A copy of the assessment will be given to the property owner and the Planning Commission and City Council. The property owner will also be given education materials relating to invasive species control.
6. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to evaluate the request and/or to 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 denial of the request.
7. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
8. The Planning Commission shall recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Ordinance.
9. The City Council shall not consider a site and building plan application until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after sixty (60) 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.
10. 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 in and made part of the permanent written record of the City Council meeting.

11. The applicant or a representative thereof shall appear before the City Council in order to answer questions concerning the proposed request.
- ⁹ 12. Approval of a request shall require passage by three of five (3 of 5) votes of the entire City Council.

SECTION 1208.04 EVALUATION CRITERIA:

The City Planner, with respect to minor projects, and the Planning Commission, as its basis of recommendation, and the City Council, as its basis for decision on major projects, shall evaluate the effects of the proposed site and building plans. This review shall include, but not be limited to, the following:

- A. Whether the proposed improvements are compatible and in harmony with the existing structures in the surrounding community.
- B. Whether the proposed improvements preserve the character and nature of the surrounding community, including the natural landscape and woodland characteristics of the community.
- C. Whether the proposed improvements are not constructed of unsightly, improper or unsuitable materials.
- D. Whether the proposed improvements will not materially adversely affect any natural resources in the community, except when there is no feasible and prudent alternative to the proposed location of the improvements. For purposes of this clause, "natural resources" shall include, but not be limited to, all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, historical, scenic and aesthetic resources.
- E. Whether the proposed site and improvements shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- F. Whether the proposed site improvement complies with drainage requirements, as provided in Section 1216.04 of this Ordinance.
- G. Whether the proposed site and improvements are consistent with the purposes of this Ordinance and the Property Owner Reference & Development Guide Manual, as established by City Council resolution.

SECTION 1208.05 INFORMATION REQUIREMENT:

The information required for all site and building plan applications generally consists of the following items, and shall be submitted when requested by the City:

A. Existing Information:

1. Names, addresses, and phone numbers of property owner(s), applicant, surveyor, architect, engineer, or other persons associated with the project.
2. Proof of title and the legal description of the property.
3. Property boundary lines in relation to a known section, quarter section, or quarter-quarter section line(s) comprising a legal description of the property and including bearings, distances, curve data, and total acreage of parcel.
4. Lot dimensions, including width as measured at the front building setback line.
5. Building setbacks, existing and proposed.
6. North arrow and scale no smaller than 1 inch = 100 feet.
7. Existing land uses.
8. Layout of buildings, old foundations, septic systems, wells, and other site elements which currently exist on the property and those on adjacent properties to within three hundred fifty (350) feet.
9. Adjacent streets and/or rights-of-way (public or private), curb cuts, driveways, etc.
10. Existing topography, unless waived by the City Planner.
11. Location, size, species, and present condition of all significant trees/vegetation on site.
12. Shoreline, water elevation, 100-Year Floodplain and Ordinary High Water Mark (if applicable).
13. Formal delineation of wetlands, lakes, streams, and other waters on or immediately adjacent to the site, certified by a registered engineer, in accordance with the 1991 Wetland Conservation Act.
14. Location, dimension and purpose of all easements.
15. Location, size, and elevations of any existing utilities, drainage control devices, or other underground facilities on or adjacent to the property.
16. Subsurface conditions on tracts for subdivisions utilizing individual water and sewage disposal systems; location and results of tests to ascertain

subsurface soil, rock and ground water conditions and availability; location and results of soil percolation tests; and proof that no hydric soils exist in the area of development.

17. Location and dimensions of existing storm water drainage systems and natural overland drainage patterns, including a calculation (by a qualified engineer) of storm water runoff before construction.

B. Proposed Design Features:

- ⁹ 1. Proposed layout of principal and accessory buildings, septic systems, wells, fences, retaining walls, entry monuments and other site elements.
- ⁹ 2. Architectural elevations (type and materials used in all exterior surfaces) inclusive of top of foundation, finished floor, garage floor, and basement elevations for all structures.
- ⁹ 3. House plans must show footprint size, total square footage and finished floor area for each level of the structure.
- ⁹ 4. Building height calculations shall be indicated on site and building plans. The building height limitation shall be determined by taking the average existing grade of the structure and adding thirty (30) feet. The existing grade shall be determined by taking spot elevations at all points around the perimeter of the house and finding the average. The building height as measured on the elevation drawings shall be the distance between the top of foundation and peak of the roof which when added to the top of foundation elevation may not exceed the building height limitation as defined above.
5. Proposed driveway(s), curb cuts, streets and/or rights-of-way (public or private).
6. The location and sizing of proposed on-site water (well) systems.
7. The location and size of proposed on-site waste disposal systems (primary and back-up facilities).
8. Grading plan with minimum two (2) foot contours which shall include the proposed grading and drainage of the site, including provisions for surface water ponding and drainage. Also to be stipulated are the garage floor, first floor, and basement elevations of all structures.
- ⁹ 9. A plan for soil erosion and sediment control both during construction (erosion control fencing, hay bale checks, etc.) and following final grading, after development has been completed.

10. A drainage plan of the developed site, prepared by a qualified engineer, delineating in which direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect.
11. Locations and dimensions of all temporary soil or dirt stockpiles.
12. Proposed fill, levees, channel modifications, and other methods to overcome flood or erosion hazard areas in accordance with the Zoning Ordinance and applicable state statutes.
13. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted may also be required.
- ⁹ 14. A landscape plan showing the proposed species, number and sizes of trees and shrubs utilized for screening of the structure from neighboring properties and buffering of garage areas, lighting, fencing, mechanical equipment, and other utilitarian type elements. The plan should also show the types and locations of ground covers used to permanently stabilize areas disturbed during construction.
- ⁹ 15. A lighting plan and fixture specifications showing the location, size, type/style, and wattage/ lumens of all exterior lights on site. The source of light shall not be visible from adjacent properties or lakes and all fixtures must be hooded to control the direction of light and glare.
16. Where structures are to be placed on lots of five (5) acres or more which are subject to potential replat, the site plan shall indicate a logical way in which the lots could possibly be re-subdivided in the future.
17. Applications, statements and supporting documentation and plans for rezoning, variances, conditional use permits or other requests being sought in association with site plan/building permit approval.
18. Optional fire protection measures such as a sprinkler system in all new construction and/or a dry hydrant or standpipe for utilization of swimming pool water.
- ⁹ 19. Where applicable, compliance with Airport Noise Abatement regulations must be demonstrated.
- ⁹ 20. Fences, gates, sheds, freestanding decks, patios or screened porches, docks, and all other accessory structures (proposed and existing) must be shown on plans and will be subject to specific standards outlined in the City's Zoning Ordinance.

21. Such other applicable information as may be required by the City.

SECTION 1208.06 AMENDED SITE PLAN APPROVAL PROCEDURES:

An amended site and building plan may be applied for and administered in a manner similar to that required for a new site and building plan approval.

SECTION 1208.07 LAPSE OF APPROVAL:

- A. Unless the City Planner on minor projects and the City Council on major projects specifically approves a different time, when action is officially taken on the request, the site and building plan approval shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.
- B. An application to extend the approval of a site and building plan approval shall be submitted to the City Planner not less than thirty (30) days before the expiration of said approval. Such an application shall state the facts of the request, showing a good faith attempt to utilize the site and building plan approval, and it shall state the additional time being requested to begin the proposed construction. The request shall be heard and decided by the City Planner or by the City Council, as applicable, prior to the lapse of approval of the original request.
- C. In making its determination on whether an applicant has made a good faith attempt to utilize the site and building plan approval, the City Planner or the City Council, as applicable, shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

SECTION 1208.08 PERFORMANCE SECURITY:

- A. Upon approval of a site and building plan, the City shall be provided, when deemed necessary by the City Planner or the City Council as may be applicable, with a letter of credit or other form of security determined acceptable by the City Council, upon recommendation by the City Attorney. Said security shall be provided to the City prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security shall cover performance stipulation imposed by the City Planner or the City Council, as may be applicable, and shall be non-cancelable and shall guarantee conformance and

compliance with the conditions of the site and building plan approval and ordinances of the City.

- B. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's or City Building Official's estimated costs of labor and materials for the proposed improvements. Said project can be handled in stages upon the discretion of the City Engineer and Building Official.
- C. The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the approved site and building plan and ordinances of the City has been issued by the City Building Official.
- D. Failure to comply with the conditions of the site and building plan approval or the ordinances of the City shall result in forfeiture of the security.
- E. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the site and building plan approval. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.

SECTION 1208.09 BUILDING CODE:

The review and approval of site improvements and/or construction plans pursuant to the requirements of the Uniform Building Code or other City ordinances shall be in addition to the site and building plan review process established under this section.

1209. ADMINISTRATION – INSPECTION AND CERTIFICATE OF OCCUPANCY

- 1209.01 Inspection and Project Compliance
- 1209.02 Certificate Required
- 1209.03 Temporary Certificate
- 1209.04 Application
- 1209.05 Expiration of Building Permit

9 SECTION 1209.01 INSPECTION AND PROJECT COMPLIANCE:

Following the approval of a request processed pursuant to this Ordinance, the City Building Official shall monitor the project, review all permits issued and construction undertaken, and compare the actual development to the approved plans and time limits established by the City Council. If the City Building Officials finds that the project is not proceeding in accordance with specified time limits, or that it substantially deviates or fails to comply with the approved project plans, the City Council and the landowner shall be notified immediately in writing. Within thirty (30) days of such written notice, the City Council shall either by ordinance or resolution, as may be applicable, revoke the project approval, take such steps as deemed necessary to compel compliance with the approved plan, or require the landowner or applicant to seek an amendment to the approved plan.

9SECTION 1209.02 PERMANENT CERTIFICATE OF OCCUPANCY REQUIRED:

No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Official stating that the building, structure, and/or site improvement complies with all of the provisions within this Ordinance and applicable state building code sections. No certificate of occupancy shall be issued until all outstanding bills owed to the City which were generated through application review, approval, and inspection of the project by City Consultants have been paid in full.

9²¹SECTION 1209.03 TEMPORARY CERTIFICATE:

In those cases deemed appropriate and acceptable to the City Building Official, a temporary certificate of occupancy permit may be issued. Prior to such action, the terms and conditions of the temporary certificate (required improvements), and time limit for compliance shall be discussed and agreed upon among City Consultants and documented in writing in the form of an escrow agreement, prepared by the City Attorney's office. Following review and signature by the landowner, the escrow agreement shall be returned to the City with a security deposit in the amount of \$7,500.00 made payable to the City of Sunfish Lake. Submission of the security deposit

shall guarantee completion of the required improvements. No temporary certificate of occupancy shall be issued until all outstanding bills owed to the City which were generated through application review, approval, and inspection of the project by City Consultants have been paid in full. Enforcement of the temporary certificate of occupancy shall be subject to Section 1210 of this Ordinance.

SECTION 1209.04 APPLICATION:

Said certificate shall be applied for coincident with the application for a building permit, conditional use permit, and/or variance and shall be issued within ten (10) days after the Building Official shall have found the building, structure, and/or site improvement to be satisfactory and in compliance with City approvals and applicant's state and legal regulations. The fee for said application shall be part of the building permit fee as established by the City Council.

SECTION 1209.05 EXPIRATION OF BUILDING PERMIT:

Every permit issued by the Building Official in conjunction with an application addressed under this Ordinance shall expire by limitation and become null and void, if the building work authorized by such permit is not commenced within sixty (60) days from the date of issuance of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days time. Before such work can be recommenced, a new permit shall be first obtained so to do, and the fee therefore shall be one-half the original fee which was charged before commencement of any portion of the work. It is mandatory that the work stipulated to be done in the building permit be completed within one (1) year's time or enforcement action will be taken according to the provisions of the Uniform Building Code, Chapter 403 and this Ordinance. An extension of time may be granted by the Building Official at the time of issuance of permit for large projects on which one (1) year's time would not be reasonable. The Building Official shall enforce the provisions of this section.

1210. ENFORCEMENT AND PENALTIES

- 1210.01 Enforcement Responsibility
- 1210.02 Penalties, Violations and Enforcement

SECTION 1210.01 ENFORCEMENT RESPONSIBILITY:

The City Council may institute in the name of the City of Sunfish Lake any appropriate actions or proceedings against a violator as provided by Statute, Charter or Ordinance.

SECTION 1210.02 PENALTIES, VIOLATIONS, AND ENFORCEMENT:

- A. Penalty: Any person violating any provision of this Ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to fine or imprisonment, or both plus, in either case, the cost of prosecution. Each day such violation continued or occurs constitutes a separate offense and may be prosecuted as such.
- B. Enforcement: Nothing herein contained shall prevent the City from taking any other appropriate actions or proceedings against a violator as provided by law or City Code to prevent or remedy the violation or penalize the violator.

9 1211. ADMINISTRATION – ADMINISTRATIVE PERMITS AND APPROVALS

- 1211.01 Purpose
- 1211.02 Designated City Agent
- 1211.03 Administrative Permits
- 1211.04 Non-Permit Approvals

SECTION 1211.01 PURPOSE:

The purpose of this section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit, and of matters requiring the approval of the Designated City Agent with the goal of protecting the health, safety, and welfare of the citizens of the City.

SECTION 1211.02 DESIGNATED CITY AGENT:

Unless otherwise specifically cited in this Ordinance or in formal action taken by the City Council, the City Planner shall serve as the Designated City Agent responsible for administrative permits or administrative approvals.

SECTION 1211.03 ADMINISTRATIVE PERMITS:

- A. Classification: Based upon a determination by the Designated City Agent, administrative permits shall be classified and processed according to the following designations:
 - 1. Emergency Permits: Situations requiring immediate action for the protection of health, safety, and general welfare shall be processed as emergency administrative permits.
 - 2. Non-Emergency Permits: Situations which require immediate attention but are of a non-emergency nature shall be classified as non-emergency administrative permits.
- B. Procedure:
 - 1. Application for an administrative permit shall be filed by the property owner or designated agent with the Designated City Agent on forms to be provided by the City.
 - 2. The application shall be accompanied by a non-refundable fee as set forth by City Council resolution for administrative permit applications.

Applications for amending permits shall be accompanied by an escrow deposit as set forth by City Council resolution for administrative permits.

3. The Designated City Agent shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance.
4. The Designated City Agent shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
 - a. Compliance with and effect upon the Comprehensive Plan and public facilities plan.
 - b. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
 - c. The use, event or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - d. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
 - f. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - g. The use, event or activity and site conform to the performance standards as outlined in Section 1208 and all other applicable provisions of this Ordinance.
5. Review and Approval/Denial:
 - a. Emergency Permits:
 - (1) The Designated City Agent shall make a determination on the approval or denial of an emergency administrative permit

within three (3) working days from the date of submission of a complete application.

- (2) A written notification shall be issued by the Designated City Agent on the approval or denial of the permit. If approved, specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the notification which shall serve as the permit.
- (3) At the time of notification to the applicant, the Designated City Agent shall provide written notification of an approved emergency administrative permit to the City Council, Planning Commission and immediately abutting property owners.

b. Non-Emergency Permits:

- (1) Upon submission of a complete application for a non-emergency administrative permit, the Designated City Agent shall provide written notice of the request to the Mayor, City Council, Planning Commission, and immediately abutting property owners within two (2) working days of the receipt of the application.
- (2) The notice shall specify that any written objections be received by the Designated City Agent within seven (7) days of the mailing. If any written objection of a substantive nature is received within seven (7) days, and is unresolved between the author and the Designated City Agent, the final approval of the requested administrative permit, as well as any administrative permit which is reflected by the Designated City Agent, may be forwarded to the City Council for approval or denial by the applicant or Designated City Agent.
- (3) Unless referred to the City Council for a decision, the Designated City Agent shall make a determination on the approval or denial of a non-emergency administrative permit within fifteen (15) days from the date of submission of a complete application.
- (4) A written notification shall be issued by the Designated City Agent on the approval or denial of the permit. If approved, specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of

this Ordinance shall be attached to the notification which shall serve as the permit.

6. Determination of non-compliance with applicable codes, ordinances, and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered terminated unless, within ten (10) days of such notice, the applicant takes corrective action to the satisfaction of the Designated City Agent.
 7. Unresolved disputes as to administrative applications shall be subject to review and decision by the City Council upon request by the applicant or Designated City Agent.
- C. Information Requirement: The information required for all administrative permit applications shall include:
1. A concise written statement describing the proposed use, event or activity, including the purpose, dates and times of operation, and other pertinent information required by the Designated City Agent to fully evaluate the application.
 2. Information identified in Section 1208 of this Ordinance, as may be applicable.
- D. Performance Standards: All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed.
- E. Administration and Enforcement:
1. The City Planner and City Clerk shall keep a record of applications and administrative permits.
 2. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the City Planner.
 3. Enforcement of the provisions of this paragraph shall be in accordance with Section 1210 of this Ordinance. Violation of an issued permit or of the provisions of this section also shall be ground for denial of future permit applications.

SECTION 1211.04 NON-PERMIT APPROVALS: In cases where a Designated City Agent is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in Section 1211.03.B.4 of this Ordinance.

1212 – 1214. RESERVED

6-1215. NON-CONFORMING BUILDINGS, STRUCTURE, USES AND LOTS

- 1215.01 Purpose
- 1215.02 Provisions

SECTION 1215.01 PURPOSE:

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

SECTION 1215.02 PROVISIONS:

- A. Except as provided below, any non-conforming structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.
- B. Normal maintenance of a non-conforming building, structure, or use is allowed, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conformity.
- C. Alterations may be made to a lawful non-conforming residential building when such modifications will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building except as provided herein.
- D. Legally non-conforming, non-income producing single family residential buildings which violate setback standards and/or minimum size requirements may be expanded to improve livability when approved subject to site and building plan review requirements, provided that the non-conformity is not increased beyond the existing conditions upon the lot and no other deviations with the Zoning Ordinance standards are created.
- ¹¹ E. Nothing in this Section shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of a principal structure or more than fifty (50) percent of replacement cost of an accessory structure. Said value or cost shall be determined by the City Council.

- F. No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Ordinance adoption unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- G. When any lawful non-conforming use of any building, structure, or land has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
- H. A lawful non-conforming use of a building, structure, or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
- ¹¹ I. Any principal building, structure, or use which is damaged to an extent of less than fifty (50) percent of its fair market value, or any accessory building, structure, or use which is destroyed to the extent of less than fifty (50) percent of its replacement cost, said value or cost to be determined by the City Council, may be restored to its former extent; provided:
1. The damaged building or structure is made safe and secure no later than thirty (30) days following the date of said destruction.
 2. A building permit to rebuild damaged portions of the home is obtained within six (6) months of the date of destruction and work is completed within eighteen (18) months of said destruction date. The degree of repairs or alterations shall be the judgment of the City Building Official who may require that building plans be reviewed by the City Planner under the City's Minor Site and Building Plan Review provisions.
 3. If complete replacement of the current home is the desired route, the house is torn down and Major Site and Building Plan application is made within six (6) months of the date of destruction.
 4. If the property owner of said damaged buildings or structures has not torn down the home or obtained a building permit within the allotted six (6) month period, the City Council may declare the building or structure a hazard and public nuisance. The City Council may institute any action(s) necessary to correct, abate, repair, demolish or remove the hazard or public nuisance in accordance with Sections 102 and 105 of the applicable Uniform Building Code as adopted or amended by the City Council.
- ¹¹ J. If at any time a non-conforming principal building, structure, or use is destroyed to the extent of more than fifty (50) percent of its fair market value, or an accessory building, structure, or use is destroyed to the extent of more than fifty

(50) percent of its replacement cost, said value or cost to be determined by the City Council, then without further action by the Council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. If all requirements can be met, the process for Major Site and Building Plan review shall be followed and approved by the City Council.

Estimate of the extent of damage or destruction shall be made by the City Council. Permission to rebuild damaged buildings or structures may be granted by the City Council with approval of a Conditional Use Permit in accordance with subpart L.1 (a-f) of this Section, Shoreland Ordinance requirements if applicable, and the following:

1. The damaged building or structure is made safe and secure no later than thirty (30) days following the date of said destruction.
2. The owners petition the City Council through application for a Conditional Use Permit within six (6) months of said destruction.
 - a. If permission is granted to rebuild the building or structure:
 - (1) Such construction must be completed no later than twelve (12) months following the date of Conditional Use Permit approval.
 - (2) The degree of non-conformity is minimized to the extent physically possible.
 - (3) Reconstruction provides the only possible reasonable use of the property.
 - (4) Reconstruction maintains or enhances the character of the community as directed by the Sunfish Lake Comprehensive Plan.
 - b. If the request for a Conditional Use Permit is denied by the City Council, the damaged building must be removed and the site restored to its natural state no later than sixty (60) days following such denial, according to the following:
 - (1) All refuse, debris, and rubble is removed from the site.
 - (2) Erosion control fencing is installed around all ground areas which have been or will be exposed.

- (3) The foundation is extracted and the excavation back-filled with clean granular back-fill as required under the applicable (1994) Uniform Building Code.
 - (4) The well is capped as required under the Dakota County Well Ordinance.
 - (5) The septic system is sealed as required under the Minnesota State Pollution Control Agency regulations.
 - (6) The site is fine graded, seeded and mulched to restore vegetative soil stabilization at the earliest feasible date (pending weather conditions).
 3. If the property owner of said damaged buildings or structures has not applied for a Conditional Use Permit within the allotted six (6) month period, the City Council may declare the building or structure a hazard and public nuisance. The City Council may institute any action(s) necessary to correct, abate, repair, demolish or remove the hazard or public nuisance in accordance with Sections 102 and 105 of the 1994 Uniform Building Code.
- K. Whenever a lawful non-conforming use of a building, structure, or land is discontinued for a period of six (6) months, any future use of said structure or lands shall be made to conform with the provisions of this Ordinance.
- L. Legal Non-Conforming Lots.
 1. Legal, non-conforming, vacant, or redeveloped substandard sized lots of record may be developed for single family detached uses upon approval of a conditional use permit, provided that:
 - a. The lot in question was legally established in accordance with Ordinance requirements existing at the time of its creation and is a separate, distinct tax parcel.
 - b. The lot in question is similar in size and characteristics to and not highly divergent from other lots immediately abutting or in the adjacent area.
 - c. The lot in question has frontage on a public or private street.
 - d. Public health concerns (potable water and sanitary sewer) can be adequately addressed.
 - e. The setback and yard requirements as determined by the City Council [to be either

- (1) those established as part of the applicable Zoning District; or
- (2) those measurements which are common to immediately abutting properties]

can be achieved while simultaneously resulting in development which complies with the character and quality of the immediate area and the objectives of the City's Comprehensive Plan and Zoning Ordinance.

- f. The lot in question and related potential development is evaluated based upon criteria outlined in Section 1204, Subd. 2.F. and is found to be acceptable per these standards.

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

¹¹ M. Non-conforming building, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:

1. Be legally declared a nuisance by the City.
2. Upon being identified by the City and upon the owner being notified in writing by the City, the owner shall provide to the City a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use investments which will result in the termination or correction of the non-conformity.
 - a. The termination/correction time schedule shall be based upon, but not limited to, factors such as the initial investment and the degree of threat or danger being posed.
 - b. The acceptability of the time schedule shall be determined by the City Council with right of appeal.
 - c. In no case shall a time schedule exceed five (5) years.

1216. GENERAL BUILDING AND PERFORMANCE REQUIREMENTS

1216.01	Purpose
1216.02	Dwelling Unit Restriction
1216.03	Platted and Unplatted Property
1216.04	Drainage Plans and Soil Erosion and Sediment Control
1216.05	Traffic Sight Visibility Triangle
1216.06	Glare
1216.07	Smoke
1216.08	Dust and Other Particulated Matter
1216.09	Odors
1216.10	Noise
1216.11	Refuse
1216.12	Exterior Storage
1216.13	Sewage Disposal
1216.14	Bulk Storage (Liquid)
1216.15	Radiation Emission
1216.16	Electrical Emission

SECTION 1216.01 PURPOSE:

The purpose of this Section of the Zoning Ordinance is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

SECTION 1216.02 DWELLING UNIT RESTRICTION:

- ⁹ A. No garage, tent, accessory building, travel trailer or motor home shall at any time be used as living quarters, temporarily or permanently, except as may be approved in emergency cases by administrative permit.
- B. Tents, play houses or similar structures may be used for play or recreational purposes.
- C. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling. Energy conserving designs in housing are not prohibited by this provision of the Ordinance, provided that a conditional use permit is approved by the City Council and the structure complies with standards imposed by the State and the Uniform Building Code.

SECTION 1216.03 PLATTED AND UNPLATTED PROPERTY:

- A. Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimension of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to City Ordinances.
- B. All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets, adopted plans, and according to the system and standards employed by the City.
- C. Substandard lots of record shall be governed by Section 1215.00 of this Ordinance.
- D. No more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in Section 1202.02 of this Ordinance, in case of doubt or on any questions or interpretation the decision of the City Planner shall be final, subject to the right to appeal to the Planning Commission and City Council.
- E. On a through lot (a lot fronting on two (2) parallel streets), both street lines shall be front lot lines for applying the yard setback regulations of this Ordinance. In addition, no home on a through lot or corner lot in any residential zone shall maintain direct access to any arterial street designated as such by the Comprehensive Plan.
- F. When a development is proposed which is to be located on two or more lots, and such lots are required to meet the minimum district area and frontage requirement and/or are required to accommodate the use, the lots shall be combined in accordance with the City's Subdivision Ordinance, prior to the issuing of a building permit.
- G. Except as may be allowed pursuant to Section 1215, when two or more lots are located in the same residential district, one or more of which lack adequate area or dimensions to qualify for residential use under the current Ordinance requirements and are contiguous and held in one ownership, they shall be combined for use in order to meet the lot requirements by subdividing the property in accordance with the Subdivision Ordinance.

SECTION 1216.04 STORM WATER MANAGEMENT:

- A. Plan Required. Every applicant for a building permit, zoning approval, or a site or building plan approval shall submit a storm water management plan to the City Engineer. No building permit, zoning approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a

waiver of the approval requirement has been obtained in strict conformance with the provisions of this Section. The provisions of this Section apply to all land, public or private, located within the City of Sunfish Lake.

B. Exemptions. The provisions of this section do not apply to:

1. Applications approved by the City Council on or before the effective date of this Ordinance.
2. Any land disturbing activity for which plans have been approved by the Dakota County Soil and Water Conservation District within six (6) months prior to the effective date of this Ordinance.
3. A lot for which a building permit has been approved on or before the effective date of this Ordinance.
4. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
5. Emergency work to protect life, limb, or property.

C. Waivers. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this section upon making a finding that compliance with the requirement will not adversely affect the standards and requirements set forth in Section 1216.04.D. The City Council may require, as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirement.

D. Approval Procedures.

1. Application. A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City Engineer and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Section. Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate staff of the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City Engineer and shall be accompanied by documentation evidencing the payment of all required fees for processing and approval as set forth by City Council resolution. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum, the scale shall be one (1) inch equals one hundred (100) feet.

2. Information Requirement. At a minimum, the storm water management plan shall contain the following information:
 - a. Existing Site Map. A map of existing site conditions showing the site and immediately adjacent areas, including:
 - (1) The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets.
 - (2) Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, utilities, subdivisions, cities and districts or other landmarks.
 - (3) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two (2) feet.
 - (4) A delineation of all streams, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and the United States Army Corps of Engineers.
 - (5) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the public water or wetland, and setting forth those areas of the unaltered site where storm water collects.
 - (6) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable.
 - (7) Vegetative cover and clearly delineating any vegetation proposed for removal.

- (8) 100 year floodplains, flood fringes and floodways.
- b. Site Construction Plan. A site construction plan including:
- (1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities.
 - (2) Locations and dimensions of all temporary soil or dirt stockpiles.
 - (3) Locations and dimensions of all constructions site erosion control measures necessary to meet the requirements of this Section.
 - (4) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Section.
 - (5) Provisions for maintenance of the construction site erosion control measures during construction.
- c. Plan of Final Site Conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:
- (1) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.
 - (2) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development.
 - (3) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect.
 - (4) The proposed size, alignment and intended use of any structures to be erected on the site.
 - (5) A clear delineation and tabulation of all areas which shall be surfaced, including a description of the surfacing material to be used.

- (6) Any other information pertinent to the particular project which in the opinion of the applicant it is necessary for the review of the project.

E. Plan Review Procedure.

1. Process. Storm water management plans meeting the requirements of Section 1216.04.D shall be submitted by the City Engineer to the Planning Commission for review in accordance with the standards of Section 1216.04.F. The Planning Commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan shall be submitted to the City Council at its next available meeting. City Council action on the storm water management plan must be accomplished within one hundred twenty (120) days following the date the application for approval is filed with the City Engineer.
2. Duration. Approval of a plan submitted under the provisions of this Section shall expire one (1) year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the City Engineer for an extension of time to commence construction setting forth the reasons for the request-extension, the City Engineer may grant one extension of not greater than one (1) single year. Receipt of any request for an extension shall be acknowledged by the City Engineer within fifteen (15) days. The City Engineer shall make a decision on the extension within thirty (30) days of receipt of the extension request. Any plan may be revised in the same manner as originally approved.
3. Conditions. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this section are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the City of Sunfish Lake or other public entity of certain land or interests therein.
4. Performance Security.
 - a. Upon approval of a storm water management plan, the City shall be provided, when deemed necessary by the City Council, with a letter of credit or other form of security determined acceptable by the City

Council, upon recommendation by the City Attorney. Said security shall be provided to the City prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security shall cover performance stipulations imposed by the City Council as may be applicable, and shall be non-cancelable and shall guarantee conformance and compliance with the conditions of the storm water management plan and ordinances of the City.

- b. The security shall be in the amount equal to one hundred twenty-five (125) percent of the City Engineer's estimated costs of labor and materials for the proposed improvements. Said project can be handled in stages upon the discretion of the City Engineer.
 - c. The City shall hold the security until completion of the proposed improvements or development and a letter indicating compliance with the storm water management plan and ordinances of the City has been issued by the City Engineer.
 - d. Failure to comply with the conditions of the storm water management plan or the ordinances of the City shall result in forfeiture of the security.
 - e. Whenever a performance guarantee is imposed by the City, the applicant shall be required to enter into a performance agreement with the City. This agreement is to provide authorization to the City to utilize the posted security and complete stipulated work should the applicant fail to meet the terms and conditions of the permit. Said agreement shall hold harmless the City for completion of the work and address other matters as may be determined by the City Attorney.
5. Fees. All applications for storm water management plan approval shall be accompanied by a processing and approval fee in an amount established by City Council resolution.

F. Approval Standards.

1. No storm water management plan which fails to meet the Sunfish Lake Water Resources Management Plan, February 19, 1991, as may be amended, and the standards contained in this section shall be approved by the City Council.
2. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner than causes erosion or flooding of the site or receiving channels or a wetland.

3. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.
4. Tracking. Each site shall have graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each work day.
5. Drain Inlet Protection. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the Minnesota Pollution Control Agency publication "Protecting Water Quality in Urban Areas".
6. Site Erosion Control. The following criteria (a through d) apply only to construction activities that result in runoff leaving the site:
 - a. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheet flow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall be diverted around disturbed areas, unless shown to have resultant runoff rates of less than 05 feet 3/sec. across the disturbed area for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 - b. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
 - c. Runoff from the entire disturbed area on the site shall be controlled by meeting either sub-sections (1) and (2) or (1) and (3), below.
 - (1) All disturbed ground left inactive for fourteen (14) or more days shall be stabilized by seeding or sodding (only available prior to 15 September) or by mulching or covering or other equivalent control measure.
 - (2) For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one (1) or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a

surface area of at least one (1) percent of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(3) For sites with less than ten (10) acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.

d. Unless specifically approved by the City Engineer, any soil or dirt storage piles containing more than ten (10) cubic yards of material shall not be located with a down slope drainage length of less than twenty-five (25) feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven (7) days, soil or dirt storage piles shall be stabilized by mulching, vegetative cover, tarp or other means. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw bales or silt fence barriers around the pile. In street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel shall be covered with tarps or suitable alternative control, if exposed for more than seven (7) days, and the storm drain inlets shall be protected with straw bale or other appropriate filtering barriers.

7. Storm Water Management Criteria for Permanent Facilities.

a. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two year, ten year, and one year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

- b. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.
 - c. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
 - (1) Natural infiltration of runoff on site if suitable soil conditions are available for use.
 - (2) Flow attenuation by use of open vegetated swales and natural depressions.
 - (3) Storm water retention facilities.
 - (4) Storm water detention facility.
 - d. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in Section a above. Justification shall be provided by the applicant for the method selected.
8. Design Standards. Storm water detention facilities constructed in the City of Sunfish Lake shall be designed according to the most current technology as reflected in the Minnesota Pollution Control Agency publication "Protecting Water Quality in Urban Areas" and shall contain, at a minimum, the following design factors:
- a. A permanent pond surface area equal to two (2) percent of the impervious area draining to the pond or one (1) percent of the entire area draining to the pond, whichever amount is greater.
 - b. An average permanent pool depth of four (4) to ten (10) feet.
 - c. A permanent pool length to width ratio of 3:1 or greater.
 - d. A minimum protective shelf extending ten (10) feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1.

- e. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one (1) rod (16.5 feet). This width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 1991.
 - f. All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations.
 - g. Storm water detention facilities for new development shall be sufficient to limit peak flows in each sub-watershed to those that existed before the development for the ten year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan.
 - h. All storm water detention facilities shall have a forebay to remove coarse grained particles prior to discharge into a watercourse or storage base.
9. Wetlands.
- a. Runoff shall not be discharged directly into wetlands without pre-settlement of the runoff.
 - b. A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.
 - c. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the principles outlined in Section 1244.01 of this Ordinance.
10. Steep Slopes. No land disturbing or development activities shall be allowed on slopes of eighteen (18) percent or more, unless specifically approved by the City Council upon recommendation of the City Engineer.
11. Exposed Slopes. The following control measures shall be taken to control erosion during any activity where soils are exposed:
- a. No exposed slope shall be steeper in grade than five (5) feet horizontal to one (1) foot vertical, unless approved by the City Engineer.
 - b. Exposed slopes steeper in grade than ten (10) feet horizontal to one (1) foot vertical shall be contour plowed to minimize direct runoff of water.

- c. At the foot of each exposed slope, a channel and berm shall be constructed to control runoff. The channelized water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
 - d. Along the top of each exposed slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures shall consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipator shall be installed to prevent erosion at the discharge end.
 - e. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with stakes and netting, or shall be worked into the soil to provide additional slope stability.
 - f. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes and are approved in writing by the City Engineer.
12. Catch Basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse grained material. Such basins shall be cleaned when they are half filled with material.
13. Drain Leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the previous areas.
14. Inspection and Maintenance. All storm water management facilities shall be designed to the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The City Engineer shall inspect all storm water management facilities during construction, during the first year of operation, and at least

once every five (5) years thereafter. The inspection records will be kept on file for a period of six (6) years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

15. Models/Methodologies/Computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the City Engineer. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.
16. Watershed Management Plans/Underwater Management Plan. Storm water management plans shall be consistent with adopted watershed management plans and ground water management. Plans shall be prepared in accordance with Minnesota Statutes, Section 103B.231 and 103B.255, respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.
17. Easements. If a storm water management plan involves direction of some or all runoff of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

G. Lawn Fertilizer Regulations.

1. Use of Impervious Surfaces. No person shall apply fertilizer to or deposit grass clippings, leaves or other vegetative materials on impervious surfaces, or within storm water drainage systems, natural drainage ways, or within wetland buffer areas.
2. Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.
3. Fertilizer Content. Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which contains more than one-half (1/2) percent by weight of phosphorus, or granular fertilizer which contains more than three (3) percent by weight of phosphorus, unless the single application is less than or equal to one-tenth (1/10) pound of phosphorus per one thousand (1,000) square feet. Annual application amount shall not exceed one-half (1/2) pound of phosphorus per one thousand (1,000) square feet of lawn area.

4. Buffer Zone. Fertilize applications shall not be made within one (1) rod (16.5 feet) of any land or water resource.

H. Structure Grade Elevations. The top of the foundation and the garage floor of all structures shall be eighteen (18) inches above the grade of the crown of the street upon which the property fronts. Exceptions to this standard may be approved by the City Engineer for special circumstances such as increased setback, site topography, septic system operation and the like, provided that proper site and area drainage is maintained and the elevation of the structure is in keeping with the character of the area.

¹⁹ I. Illicit Discharge.

1. Purpose. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Sunfish Lake through the regulation of non-storm water discharges to the storm drainage system to the maximum extent possible as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the City's storm sewer system in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

2. Definitions. For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 (one) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly

contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system.

Illicit Connections. An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or; Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWPPP). A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

3. Applicability. This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
4. Discharge Prohibitions.
 - a. Prohibition of Illegal Discharges: No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.
 - b. The following discharges are exempt from discharge prohibitions established by this ordinance:
 - (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine, or if discharged non-directly to a public waterbody through a vegetative swale or grass way a minimum of 300 feet as to provide pre-treatment prior to entering the City storm water system), fire fighting activities, and any other water source not containing Pollutants.

- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
 - (3) 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 Federal Environmental Protection Agency, 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.
5. Prohibition of Illicit Connections.
 - a. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
 - b. 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.
 - c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the storm drain system, or allows such a connection to continue.
6. Watercourse Protection. Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse 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 1216.05 TRAFFIC SIGHT VISIBILITY TRIANGLE:

Except as may be approved by the City Council and except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into any yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed between the height of three (3) feet and six (6) feet, measured from where both street or

driveway center lines intersect within the triangle described as beginning at the intersection of the projected curb line of two intersecting streets or drives, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning along the other curb line. The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than two (2) feet. These requirements shall not apply to conditions that legally exist prior to the effective date of this Ordinance unless such conditions are determined to constitute a safety hazard by the City Council.

⁷ **SECTION 1216.06 LIGHTING:**

Exterior lighting on homes or property within the City of Sunfish Lake shall be discouraged and shall only be allowed where necessary for safety purposes unless fully screened from view of abutting properties. All lighting must be in keeping with the natural atmosphere in the City. Any exterior lighting shall be arranged as to deflect light away from any adjoining residential property, over public water or from the public streets. Direct or sky-reflected glare (e.g.: up lighting and flood lighting) shall not be directed into any adjoining property or over public water. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property or over public water. Bare incandescent light bulbs shall not be permitted in view of adjacent property, over public water, or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property or over public water shall not exceed one (1) foot candle (meter reading) as measured from said property or edge of water abutting the property in question.

⁹ **SECTION 1216.07 SMOKE EMISSION AND OPEN BURNING:**

- A. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7009, as amended.
- B. The open burning of vegetative materials or other materials as allowed by Minnesota Statutes shall be in compliance with and regulated by the State of Minnesota Department of Natural Resources under Minnesota Statutes (Chapters 88.01 - 88.22, 88.75 and 88.76).
 - 1. A burning permit shall be required for all open burning and must be obtained from the City Forester after payment of a fee as provided for by City Council resolution.
 - 2. Property owners who fail to obtain a permit for purposes of open burning on land in the City or who otherwise violate Minnesota Statutes (Chapters 88.01 - 88.22, 88.75 and 88.76) shall be guilty of a misdemeanor and be

liable to the state and any of its political subdivisions for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by, or resulting from, any violation of Section 1216.07.B.

SECTION 1216.08 DUST AND OTHER PARTICULATED MATTER:

The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7005, as amended.

SECTION 1216.09 ODORS:

The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7005, as amended.

SECTION 1216.10 NOISE:

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

SECTION 1216.11 REFUSE:

Any accumulation of refuse on any premises not stored in containers which comply with City Code, or any accumulation of refuse including car parts on any premises which has remained thereon for more than one (1) week is hereby declared to be a nuisance and may be abated by order of the City Council, as provided by Minnesota Statutes and the cost of abatement may be assessed on the property where the nuisance was found, as provided by law.

SECTION 1216.12 EXTERIOR STORAGE:

- A. General Prohibition: In all zoning districts, all materials and equipment except as specifically noted and as provided for in Sections 1241 and 1242 of this Ordinance shall be stored within a building or fully screened so as not to be visible from adjoining properties and local street rights-of-way, under the jurisdiction of the City of Sunfish Lake, except for the following:
 - 1. Side or Rear Yards (not including required setback area):
 - a. Clothes line pole and wires.

- b. Not more than two (2) recreational vehicles and equipment (not including race cars) unless approved by the City through an interim use permit.
 - c. Wood piles for the burning supply of the property resident.
2. Required Front Yards:
- a. Off-street parking of passenger vehicles and non-commercial trucks not exceeding a gross weight of 12,000 pounds in residential areas (both on and off-street).
 - b. Travel trailers or motor homes limited to parking only and for a period not exceeding seventy-two (72) hours within a fifteen (15) day period.
 - c. All Yards. Construction and landscaping material currently and actively being utilized as part of a specific project being implemented on the site.

SECTION 1216.13 SEWAGE DISPOSAL:

The installation of on-site sewage treatment systems shall be in compliance with the provisions of the State Uniform Building Code, PCA 70-80 as may be amended, and other applicable state and city codes.

SECTION 1216.14 BULK STORAGE (LIQUID):

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

SECTION 1216.15 RADIATION EMISSION:

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

SECTION 1216.16 ELECTRICAL EMISSION:

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

1217. ACCESSORY BUILDINGS, STRUCTURES, USES AND EQUIPMENT

- 1217.01 Single Family Detached Uses
- 1217.02 Time of Construction
- 1217.03 Building Material
- 1217.04 Conditional Use Permits

SECTION 1217.01 SINGLE FAMILY DETACHED USES:

- A. Except as may be specifically provided, no accessory use, building, structure or equipment shall be allowed within a required front yard. Permission to construct accessory buildings in a front yard may be granted by the City Council through a conditional use permit where topographical and/or other conditions indicate such request will not have a detrimental effect on adjacent property.
- B. A garage not exceeding one thousand two hundred fifty (1,250) square feet shall be considered an integral part of the principal building if it is attached to the principal building or is connected to it by a covered passageway and such garages are exempt from the provisions of this Subsection.
- C. A detached accessory building, except by conditional use permit, shall not exceed one thousand (1,000) square feet) nor exceed one (1) story or sixteen (16) feet in height. All such buildings shall be twenty-five (25) feet or more from all lot lines and shall be six (6) feet or more from any other building or structure on the same lot.
- ¹⁷ D. No permit shall be issued for the construction of more than one accessory building and/or structure, except by conditional use permit, with the exclusion of the construction of a related pool accessory building no larger than two hundred (200) square feet for purposes of storing pool equipment in conjunction with construction of a swimming pool.
- E. Accessory buildings, structures, and uses may encroach into the required rear and side yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required or existing easement.
- F. Accessory buildings, structures, and uses shall not occupy more than twenty-five (25) percent of any required rear yard.
- G. No detached accessory building shall be utilized for human habitation.
- H. Accessory buildings, structures, and uses shall be screened from neighboring properties and the public right-of-way and the design and positioning of any such building, structure, or use shall minimize the impact upon abutting properties.

- I. Stables or barns for the housing of animals allowed by this Ordinance may be permitted subject to the approval of a conditional use permit as regulated by Section 1204 of this Ordinance.
- J. Shoreland regulations applicable to accessory buildings, structures, and uses, as provided in Section 1243 of this Ordinance, shall be in addition to and supersede standards established in this Section.

⁹ **SECTION 1217.02 TIME OF CONSTRUCTION:**

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, except by approval of a conditional use permit.

SECTION 1217.03 BUILDING MATERIALS:

The same or similar quality exterior material shall be used in the accessory building and in the principal building. All accessory buildings shall also be compatible with the principal building on the lot and shall be designed to blend with the environment. "Compatible" means that the exterior appearance of the accessory building is not at variance with the principal building from an aesthetic and architectural standpoint as to cause:

- A. A difference to a degree to cause incongruity.
- B. A depreciation of neighborhood values or adjacent property values.
- C. A nuisance. Types of nuisance characteristics include unsightly building exterior.

SECTION 1217.04 CONDITIONAL USE PERMITS:

Application for a conditional use permit under this Subsection shall be regulated by Section 1204 of this Ordinance. Such a conditional use permit may be granted provided that:

- A. There is a demonstrated need and potential for continued use of the structure for the purpose stated.
- B. No commercial or home occupation activities are conducted on the property.
- C. The building has an evident re-use or function related to the principal use.

- D. Accessory building shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare.
- E. The provisions of Section 1204.02.F. of this Ordinance shall be considered and a determination made that the proposed activity is in compliance with such criteria.

1218. FENCING / SCREENING

- 1218.01 Fence Regulations
- 1218.02 General Landscaping and Maintenance
- 1218.03 Required Fencing, Screening and Landscaping
- 1218.04 Screening of Mechanical Equipment

¹ SECTION 1218.01 FENCE REGULATIONS:

A. Approvals Required.

1. Except as may be specifically excluded in this section, fences constructed in compliance with this Section shall be subject to the approval of a minor site and building plan review, as regulated by Section 1208 of this Ordinance and the performance standards established by this Section.
2. As herein provided, fences subject to the approval of a conditional use permit shall be processed according to Section 1204 of this Ordinance, and shall comply with the performance standards established by this Section and the stipulations imposed by the City Council.

B. General Provisions. All fences within the City shall be subject to the following general provisions:

1. No fences shall be placed on or extend into public rights-of-way.
2. That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or the public right-of-way.
3. Both sides of any fence shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.
4. No physical damage of any kind shall occur to abutting property during construction.
5. 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 is used, such as cedar or redwood. Except for dog runs (not to exceed one hundred [100] square feet) and tennis courts, the use of chain link is prohibited.

6. A certificate of survey shall be required for all fences (except hedges and plantings) to be constructed on or within ten (10) feet of the property line or of an adjacent public right-of-way in the case of lots with a property line as the centerline of the street. An exception may be granted in cases where corner property stakes are located and a survey exists in the City property file.
 7. Fences utilized for gardening purposes which are setback a minimum of twenty-five (25) feet from any property line and which are at least fifty (50) percent open, are no higher than four (4) feet, are no longer than fifty (50) feet in length per section, and in total does not exceed one hundred fifty (150) feet shall be excepted from City review and processing requirements.
 8. Fences, utilized for the protection of gardens, crops, and shrubs from deer, which are setback a minimum of twenty-five (25) feet from any property line, are at least ninety (90) percent open, are no higher than six (6) feet, and are limited to specified areas requiring protection, shall be exempt from City review and processing requirements. In cases where compliance with this section is at issue, the acceptability of such fence shall be subject to the determination of the City Forester and City Planner.
 9. Except those fences which are exempt from the City's review and processing requirements, screening will be required in association with any fence to buffer views, neighboring property, or public rights-of-way, or to generally ensure aesthetic quality and compatibility with the natural character of the community. The City Council may choose to waive this requirement at their discretion in rare cases where fencing will be thoroughly screened by existing vegetation or will not adversely impact adjacent properties or in the case of split rail fences.
- C. Specific Fence Standards. Fences may be allowed in the City of Sunfish Lake subject to the following specific standards:
1. Except as may be provided herein, split rail fences not exceeding forty-two (42) inches in height may be permitted anywhere within the property lines of a lot located within the City. A property survey may be required subject to items B.1 and B.6 as specified herein.
 - 11 2. Except as may be provided herein, fences up to six (6) feet in height and no more than fifty (50) percent solid matter shall be permitted within the buildable area of a lot on a permanent basis but shall not exceed two hundred (200) total linear feet on a property.
 - 11 25 3. Solid fences are prohibited except under unique circumstances where practical difficulties can be shown to justify approval of a variance under

the terms and conditions of the City Zoning Ordinance but in no case may the fence be located within a required setback area.

4. Fences not exceeding six (6) feet in height, for uses other than single family dwellings, may be permitted in front of the front building line as established by the primary structure on the lot, when required for screening of adjacent property. In such cases, the required front setback for the fence shall be the same as for the use which it is intended to screen. In no case shall a fence exceeding forty-two (42) inches in height be set back less than ten (10) feet from the roadway in such instances.
5. On corner lots, no fence shall be located in a sight visibility triangle unless it is in compliance with the sight clearance requirements for such lots as set forth in the Section 1216.05 of this Ordinance.
6. Freestanding stone, brick, stucco, concrete, wood, or other walls not required as retaining structures are considered fences under this Section of the Ordinance.
7. There are no height restrictions on natural hedges or plantings utilized as fences in any residential zoning district.

⁵⁹ D. Fence and Gate Standards Allowed by Conditional Use Permit, Interim Use Permit and Administrative Permit. The following fences and gates may be approved by conditional use permit, interim use permit, or administrative permit only, in accordance with the standards as set forth by the City Council.

1. Fences and gates allowed by conditional use permit are as follows:
 - a. Chain link fences up to ten (10) feet in height may be permitted to enclose tennis courts.
 - b. Security or other gates which limit vehicular access to a property, subject to the following:
 - (1) The gate is located within the buildable area of the lot and meets structure setback requirements.
 - (2) The gate is no higher than six (6) feet and no wider than twenty-four (24) feet including all support structures or aesthetic features.
 - (3) The gate design and materials are consistent with subsection 1218.01.B items 1-6 of this Section and are reflective of the style/ architectural integrity of the residence. Gates may not be constructed of more than fifty (50) percent solid matter.

- (4) Gates must comply with subsection 1218.01.B item 9 (landscaping) of this Section, unless otherwise waived by the City Council.
- (5) Provision for emergency vehicle access to the property shall be arranged with and subject to the approval of the City Council and police, fire and ambulance providers.

⁵ 2. Fences and gates allowed as an Interim Use are as follows:

- a. Man-made fences up to six (6) feet in height and not more than fifty (50) percent solid matter are allowed as an interim use to enclose an area more than 2,500 square feet but not exceeding 5,000 square feet. The location of the fence and time frame for its existence shall be determined on a case by case basis by the City Council.
- b. Existing barbed wire and all electrically charged fences.

⁵ 3. Standards for evaluating fence or gate conditional use and interim use permits are as follows:

- a. The fence or gate placement, height or design does not create a safety hazard with regard to, from or on a public street or roadway.
- b. The fence or gate placement, height or design does not create a safety problem or negatively affect adjoining properties or uses.
- c. The fence or gate does not negatively impact views of abutting properties or serve to distract from the open natural setting of the community.
- d. The provisions of Section 1204.2.F of this Ordinance are considered and satisfactorily met.

E. Non-Conforming Fences. It is the intent of this Section to allow the continuation of such non-conforming fences 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 fences within the City. Such fences shall be regulated by the following provisions:

- 1. An existing fence not permitted by this Ordinance, except when required to do so by law or ordinance, shall not be enlarged, extended, reconstructed or structurally altered unless such fence is changed to one

permitted in that district. 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 fence.

¹¹ **SECTION 1218.02 GENERAL LANDSCAPING AND MAINTENANCE:**

All exposed ground areas, including street boulevards, and areas not devoted to parking areas, drives, sidewalks, patios or other such uses shall be landscaped with native plants (excluding noxious weeds), grass, shrubs, trees or other ornamental landscape materials within one (1) year following the date of building occupancy. All landscaped areas shall be kept neat, clean and uncluttered, and in those cases where landscaping is required as part of City approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size. No such landscaped areas which are in public view shall be used for the parking of vehicles or for the storage of material or supplies except as allowed by Section 1216.12 Exterior Storage. Fences and/or plantings placed upon utility easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. In such cases, costs for removal and replacement shall be the responsibility of the property owner.

SECTION 1218.03 REQUIRED FENCING, SCREENING AND LANDSCAPING:

A. Fencing and Screening. Where any storage in any residential district and/or non-residential use abuts property zoned for residential use, the storage activity and/or non-residential use shall provide screening along the boundary of the residential property. Screening shall also be provided where a non-residential use is across the street from a residential zone, but not on that side of a non-residential use considered to be the front (as determined by the City Planner). All the fencing and screening specifically required by this Ordinance shall be subject to Section 1216.05 and shall consist of either a fence or a green belt planting strip as provided for below.

1. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen. The planting plan and type of plantings shall require the approval of the City Council.

¹¹ 2. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect to six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences must comply with the requirements of Section 1218.01 Fence Regulation.

⁹B. Landscaping. Prior to approval of a building permit, all uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan shall be developed with an emphasis upon the boundary or perimeter of the proposed site at points adjoining other property to screen the structure from adjacent existing and future uses and to buffer garage areas, lighting, fencing, mechanical equipment, and other utilitarian type elements. Except as may be recommended by the City Forester and the City Planner and approved by the City Council, all landscaping incorporated in said plan that is required for screening shall conform to the following standards and criteria:

1. All plants must be at least equal the following minimum size:

	<u>Potted/Bare Root</u>	<u>Balled and Burlapped</u>
Shade Trees*	2 in. diameter	2 in. diameter
Half Trees (Flowering Crabs, Russian Olive, Hawthorn, etc.)	6-7 feet high	1-1/2 in. diameter
Evergreen Trees	-----	3-4 feet high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)	3-4 feet high	3-4 feet high
Low Shrubs-Deciduous	18-24 inch	24-30 inch
-Evergreen	18-24 inch potted	24-30 inch
-Spreading		
Evergreens	18-24 inch potted	18-24 inch

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

2. Spacing.

- a. Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgment of the City Tree Inspector.
- b. Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the City Tree Inspector.
- c. Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4) feet on center, and/or evergreen shrubs shall not be planted more than three (3) feet on center.

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

Deciduous Trees:

Ash, Marshall Seedless/Summit	Fraxinus pennsylvania spp.
Beech, blue	Carpinus caroliniana
Birch, river	Betula nigra
Coffee-tree, Kentucky	Gymnocladus dioicus
Crabapples	Malus spp.
Ginkgo (male tree)	Ginkgo biloba
Hackberry	Celtis occidentalis
Honeylocust	Gleditsia triacanthos spp.
Ironwood	Ostrya virginiana
Lindens, Greenspire/Redmond	Tilia spp.
Maples, amur/black/Norway/ Red/Sugar	Acer spp.
Oaks, bur/chestnut/northern pin/northern red/pin/ red/white	Quercus spp.
Plum, American/Canada	Prunus spp.

Evergreen Trees:

Arborvitae (white cedar)	Thuja spp.
Fir, Douglas	Pseudotsuga menziesii glauca
Junipers	Juniperus spp.
Pines	Pinus spp.
Spruce	Picea spp.
Yew, Japanese	Taxus cuspidata

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4. Design.
- a. The landscape plan shall show site amenities, (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, walls, gazebos, trellises, etc.) which are largely intended for aesthetic purposes.
 - b. All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as drives, parking, patios or walkways must be planted into ornamental vegetation (lawns, ground covers, grasses, perennial flowers, trees or shrubs) unless otherwise approved by the City Forester.

- c. Turf slopes in excess of 1:1 are prohibited, unless stabilized with erosion control blanket or sodded and staked.
 - d. All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting, unless gutters or some other means is used to prevent soil erosion from stormwater.
5. Landscape Guarantee. All new plants shall be guaranteed for two (2) full years from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.
6. Existing Trees. With respect to existing trees in a new development, or a site alteration or building expansion project, all trees on the site are to be saved which do not have to be removed for street, buildings, parking, utilities, drainage or active recreational purposes. Trees over six (6) inches in diameter, measured at five (5) feet above the ground, which are to remain, are to be marked with a red flag, and to be protected with snow fences or other suitable enclosure, prior to any excavation. Said protection plan shall be subject to the review and approval by the City Forester. The City may further require that the developer retain a professional forester to prepare a forest inventory and management plan for the development, in order to control and abate any existing or potential loss. In those instances where trees of over six (6) inches in caliper will be lost due to construction, the City Council may require the planting of new trees in an amount equal to or greater than the total caliper inches which will be removed.

SECTION 1218.04 SCREENING OF MECHANICAL EQUIPMENT:

Mechanical equipment located on the roof of any building and visible from the street level or from neighboring properties shall be screened with a material designed to blend harmoniously with the building's facing materials. Where buildings have exposure to buildings with higher elevation, roof equipment shall be totally screened or enclosed with a material to blend with the roof surface material.

1219. GENERAL YARD, LOT AREA AND BUILDING REGULATIONS

1219.01	Purpose
1219.02	Height
1219.03	Building Type and Construction
1219.04	Yards
1219.05	Minimum Floor Area Per Dwelling Unit
1219.06	Single Family Dwellings

SECTION 1219.01 **PURPOSE:**

This Section identifies yard, lot area, building size, and building type and height requirements in each zoning district.

SECTION 1219.02 **HEIGHT:**

- A. The building height limits established in each zoning district shall not apply to the following list of items, except that no such structural element shall exceed forty (40) feet in total height or exceed the maximum height of the building by more than five (5) feet, whichever is greater, except by conditional use permit.
1. Belfries
 2. Chimneys or flues
 3. Church spires
 4. Cooling towers
 5. Cupolas and domes which do not contain usable space
 6. Flag poles
 7. Public monuments
 8. Necessary mechanical and electrical appurtenances
 9. Water towers
 - ² 10. Antennas and antenna support structures as regulated by Section 1226 of this Ordinance.
- B. Modifications to the site grading of a lot may not be undertaken as a means of achieving increased building height, unless approved by the City Council.

SECTION 1219.03 **BUILDING TYPE AND CONSTRUCTION:**

- A. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to insure that they will not adversely impact the property values of the abutting properties or adversely impact the community's public health, safety and general welfare.

- B. Exterior building finishes shall consist of materials comparable in grade and quality to the following:
1. Brick
 2. Natural stone
 3. Decorative concrete block
 4. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, cypress
 5. Glass curtain wall panels
 6. Stucco
 7. Other materials as determined by the City Council.

SECTION 1219.04 YARDS:

Except as provided below, no lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

- A. The following shall not be considered as encroachments on yard setback requirements.
1. Cantilevers up to ten (10) feet in width, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two and one-half (2-1/2) feet into a required yard.
 2. Terraces, steps, decks, uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than twenty-five (25) feet from a side yard and rear lot lines, or more than five (5) feet into a required front yard. No encroachment shall be permitted in existing or required drainage and utility easements.
 - ⁵ 3. In rear yards, recreational equipment, arbors and trellises, and air conditioning or heating equipment not exceeding established State noise levels, provided they are at a distance of ten (10) feet from any lot line. No encroachment shall be permitted in existing or required drainage and utility easements.
- B. Required Side or Rear Yard Reduction. A required yard on a lot may be reduced by a conditional use permit if the following conditions met:
1. The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question and which, if

approved, will not set a precedent which is contrary to the intent of this Ordinance.

2. Property line drainage and utility easements as required by the City's Subdivision Ordinance are provided and no building will occur upon this reserved space.
3. The reduction will work toward the preservation of trees or unique physical features of the lot or area.
4. If affecting a north lot line, the reduction will not restrict sun access from the abutting lots.
5. The reduction will not obstruct traffic visibility, cause a public safety problem and complies with Section 1216.05 of this Ordinance.
6. The conditions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.

SECTION 1219.05 MINIMUM FLOOR AREA PER DWELLING UNIT:

- A. A one story dwelling shall contain not less than one thousand five hundred (1,500) square feet of usable ground floor area exclusive of open porches, garages and breezeways.
- B. A story and one-half or two story dwelling shall contain not less than one thousand (1,000) square feet of usable ground floor area exclusive of open porches, garages and breezeways.

SECTION 1219.06 SINGLE FAMILY DWELLINGS:

All single family detached dwellings shall:

- A. Be constructed upon a continuous perimeter foundation that meets the requirements of this Ordinance and Uniform Building Code.
- B. Shall not be less than forty (40) feet in length and not less than twenty-five (25) feet in width over that entire minimum length. Width measurements shall not take account of overhang and other projections beyond the principal walls. Dwelling shall also meet the minimum floor area requirements as set out in this Ordinance.
- C. Have an earth covered, composition, shingled or tiled roof.
- D. Receive a building permit. The application for a building permit in addition to other information required shall indicate the height, size, design and the

appearance of all elevations of the proposed building and a description of the construction materials proposed to be used. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to cause a significant depreciation in the property values of the neighborhood or adversely affect the public health, safety or general welfare.

1220. BUILDING RELOCATION

- 1220.01 Review Process
- 1220.02 Performance Standards
- 1220.03 Occupancy
- 1220.04 Performance Security

SECTION 1220.01 REVIEW PROCESS:

The relocation of any building or structure on a lot or onto another lot within the City shall be subject to review and approval through the conditional use permit process.

SECTION 1220.02 PERFORMANCE STANDARDS:

- A. Upon relocation, the building shall comply with the applicable requirements of the State Uniform Building Code.
- B. The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the City Council.
- ¹¹ C. If the relocated structure is a principal structure, the relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the County Assessor.
- D. The relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the County Assessor.

SECTION 1220.03 OCCUPANCY:

The relocated structure shall be ready for occupancy within eight (8) months from the date of location on the site.

SECTION 1220.04 PERFORMANCE SECURITY:

A performance security shall be provided to the City as specified in Section 1204.07 of this Ordinance.

1221. HOME OCCUPATIONS

1221.01	Purpose
1221.02	Application
1221.03	Procedures and Permits
1221.04	Requirement-General Provisions
1221.05	Non-Conforming Use
1221.06	Inspection
1221.07	Occasional Sales in Residential and Institutional Zoning Districts

SECTION 1221.01 PURPOSE:

The purpose of this Section is to maintain the character and integrity of residential areas and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations.

SECTION 1221.02 APPLICATION:

Subject to the non-conforming use provision of this Section, all occupations conducted in the home shall comply with the provisions of this Section.

SECTION 1221.03 PROCEDURES AND PERMITS:

- A. Permitted Home Occupation. Any permitted home occupation as defined in this Ordinance, and subject to the performance standards of this Section, may be conducted solely within a single family detached dwelling (excluding attached garage space and/or any accessory structure) without permit or special approval of the City.
- B. Special Home Occupation.
 - 1. Permit Required. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a "special home occupation permit" which shall be applied for, reviewed and disposed of in accordance with the procedural provisions of an interim use permit pursuant to Section 1205 of this Ordinance.
 - 2. Declaration of Conditions. The Planning Commission and City Council may impose such conditions on the granting of a special home occupation

interim use permit as may be necessary to carry out the purpose and provisions of this Section.

3. Transferability. Permits shall not run with the land and shall not be transferable.
4. Lapse of Special Home Occupation Permit by Non-Use. Whenever within one (1) year after granting a permit the use as allowed by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the City Planner at least thirty (30) days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
5. Reconsideration. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matters is made by not less than four-fifths (4/5) vote of the entire City Council.

SECTION 1221.04 REQUIREMENT-GENERAL PROVISIONS:

All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

A. General Provisions.

1. No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
3. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
5. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
6. The home occupation shall meet all applicable fire and building codes.
7. There shall be no exterior display or exterior signs or interior display or interior signs related to the home occupation which are visible from outside the dwelling.
8. All home occupations shall comply with the provisions of the City Nuisance Ordinance.
9. No home occupation shall be conducted between the hours of 6:00 PM and 7:00 AM unless said occupation is contained entirely within the principal building, excluding attached garage space, and will not require any on-street parking facilities.
10. Except as herein provided, no commodity shall be sold on the premises.
11. Not over twenty-five (25) percent of any one story shall be used for a home occupation.
12. Product sales associated with private social events (i.e., "Tupperware parties") shall be exempted from this section provided they occur no more than four (4) times per year at any given residence.

B. Requirements-Permitted Home Occupations.

1. No person other than those who customarily reside on the premises shall be employed.
2. Customers and/or clients from the general public shall not come to the premises in question for purposes pertaining to the conduct of the home occupation.
3. All permitted home occupations shall be conducted entirely within the principal structure, excluding attached garage space, and may not be conducted in accessory building.

C. Requirements-Special Home Occupation.

1. No person other than a resident shall conduct the home occupation.

- 9
2. Special home occupations shall be limited to only those activities of a non-residential nature which are specified as allowed by state statute or regulation such as day care group nursery, and which comply with Sections A and B above, but are conducted in whole or in part in attached garage space or an accessory building.

SECTION 1221.05 NON-CONFORMING USE:

Existing home occupations lawfully existing on the date of this Ordinance may continue as non-conforming uses. They shall, however if applicable, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the Ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this Section.

SECTION 1221.06 INSPECTION:

The City of Sunfish Lake hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.

SECTION 1221.07 OCCASIONAL SALES IN RESIDENTIAL AND INSTITUTIONAL ZONING DISTRICTS:

- A. Personal Vehicles, Trailers, Recreational Equipment, and Similar Items:
 1. The merchandise sold shall be the personal property of the occupant or property owner.
 2. Sales of such personal merchandise shall be limited to no more than two (2) merchandise items per calendar year, unless approved by the City Council.
 3. Merchandise items for sale shall not be placed in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
 4. For sale signs on or in such merchandise shall be limited to two (2) square feet.

B. Estate, Garage or Rummage Sales:

1. Merchandise offered for sale shall be the personal property of the occupant.
2. Sales shall be limited to a maximum of four (4) consecutive days and occurring no more than two (2) times within one (1) calendar year per property, unless approved by the City Council.
3. Merchandise items for sale shall not be placed in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
4. Signs shall be governed by Section 1222.02.A.7 of this Ordinance.

1222. SIGNS ²³

- 1222.01 Purpose
- 1222.02 General Regulations
- 1222.03 Permitted Signs in All Zoning Districts
- 1222.04 Institutional District Signs

SECTION 1222.01 PURPOSE:

The purpose of this Section is to achieve the following objectives:

- A. To establish standards which permit reasonable and equitable opportunity for business identification.
- B. To preserve and promote civic beauty and prohibit signs which would detract from this objective because of size, shape, height, location, condition, cluttering or illumination.
- C. To ensure that signs do not create safety hazards.
- D. To preserve and protect property values.

SECTION 1222.02 GENERAL REGULATIONS:

- A. Permit Required. It is unlawful to install, construct, erect, alter, revise, reconstruct or relocate any sign as defined in this Ordinance in the City of Sunfish Lake without first obtaining approval of an Administrative Permit as required by this Ordinance, except as provided in Section 1222.02.B, below.
- B. Exceptions. Administrative Permit need not be obtained for the following signs, provided that all other applicable requirements of this Ordinance are met:
 - 1. One sign up to three (3) square feet in area (excluding temporary signs) may be posted on any parcel of land, except that such sign may not be an off-premise sign.
 - 2. Signs posted by authorized government officials on public land or right-of-way.
 - 3. Up to two (2) address signs per property. An address sign shall not exceed two (2) square feet in area per side and shall not include any other messages.

4. Flags. No flag on a flagpole shall exceed forty (40) square feet in area. No single property shall fly more than three (3) flags at one time. Flagpoles shall not exceed forty (40) feet in height. If the total area of the flags exceeds seventy two (72) square feet, the excess area shall be included in any sign area calculations for the property. Wall-mounted flags shall be limited to one flag per property and shall not exceed twenty (20) square feet in area.
5. All noncommercial speech signs of any size posted in any number from forty-six (46) days before the state primary in a state general election year until ten (10) days following general election, and thirteen (13) weeks prior to any special election until ten (10) days following the special election as allowed by MN Statutes 211B.045.
6. Real Estate Signs. One (1) real estate sign shall be allowed per parcel when a property is offered for sale or lease. Real estate signs shall be six (6) square feet or less and shall not exceed six (6) feet in height. Signs shall be removed within three (3) days of the date of closing or leasing of the property.

C. Prohibited Signs. The following signs are prohibited in all zoning districts:

1. Abandoned signs.
2. Billboards.
3. Roof signs.
4. Off-premises signs.
5. Portable signs.
6. Dynamic display signs.
7. Signs posted within the public right-of-ways and on public property excluding signs expressly allowed herein and those allowed by governmental agencies.
8. Signs painted directly on the outside wall of a building, fence, rock or similar structure.
9. Signs attached to trees.

D. Maintenance. The area on the property around the sign on which it is erected shall be properly maintained and clear of brush, long grass, weeds, debris, rubbish and other obstacles. All burned-out light bulbs or damaged panels on a sign shall be immediately replaced.

- E. Appearance. Signs must be legible and lettering must be type-set, stenciled, printed, stamped, commercially produced, or mechanically produced.
- F. Location. No sign or sign structure shall be placed on or protrude over the public right-of-way.

SECTION 1222.03 PERMITTED SIGNS IN ALL ZONING DISTRICTS:

The following signs are permitted in all zoning districts. Approval of an Administrative Permit is required for each sign.

- A. Temporary Signs. No sign permit shall be issued by the City for a temporary sign for a period of more than twenty-one (21) days at one time or for more than three (3) twenty-one (21) day periods in any calendar year. Permit periods may run consecutively without interruption if approved by the City. Only one (1) temporary sign shall be allowed on a property at one time. In cases of properties with multiple tenants, one (1) temporary sign per tenant shall be allowed at one time. Temporary signs shall not exceed six (6) square feet.

SECTION 1222.04 INSTITUTIONAL DISTRICT SIGNS:

- A. General Provisions. In addition to the signs allowed in Section 1222.02.B, the following signs are permitted the INS District. An Administrative Permit is required for each sign. All signs in the INS District shall be integrated with the design and architecture of any buildings or structures on the property in terms of materials, style, color, and placement. If the sign is illuminated, it shall meet the applicable luminary requirements set forth in Section 1216.06 of this Ordinance.
- B. Permitted Signs. The following additional types of signs are permitted in the INS District:
 - 1. Monument Signs. A monument sign shall not consist of more than fifty (50) square feet of sign area per side. A monument sign shall not be greater than ten (10) feet in height. A monument sign shall be set back at least fifty (50) feet from all property lines. One (1) monument sign is allowed per property.
 - 2. Directional Signs. Directional signs shall be less than four (4) square feet in surface area, consist of only two surfaces and contain no illumination or additional messages. Two such signs shall be allowed per property.

1223. OFF-STREET PARKING

- 1223.01 Number of Spaces
- 1223.02 Design and Maintenance Standards

SECTION 1223.01 NUMBER OF SPACES:

- A. Dwellings. A minimum of two (2) off-street parking spaces shall be provided for each dwelling. Such space may be within a structure or in the open and shall have an access drive to a public thoroughfare.
- B. Churches. A minimum of one (1) parking space for every three (3) seats provided for the congregation shall be provided on the site.
- C. Other Uses. Other uses not specifically mentioned herein or unique cases shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of buildings, type of use, and expected volume and turnover.
- D. Handicapped parking spaces shall be provided as applicable pursuant to MS 168.021, as may be amended.

SECTION 1223.02 DESIGN AND MAINTENANCE STANDARDS:

- A. 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. Plans for surfacing and drainage shall be subject to approval by the City Engineer.
- B. Lighting. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect light away from the adjoining property.
- C. An area of twenty-five (25) feet in depth shall be required between the property line and a parking area. Such area shall be landscaped with grass, shrubs and trees in a manner as prescribed on a plan to be submitted to the City Council for approval.
- D. Maintenance of Off-Street Parking Space. It shall be the joint and several responsibility of the operator and owner of the property to be served by a parking area to maintain in a neat and adequate manner, the parking space, accessways and landscaping.
- E. Stall, aisle, and driveway design shall be subject to the review and approval of the City Engineer and in the case of non-residential uses shall comply with the standards outlined on the following page.

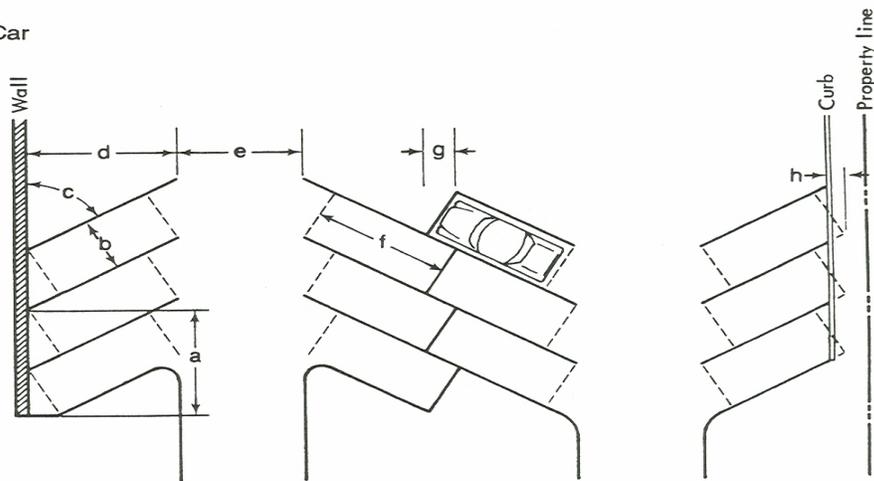
- F. Required Screening. All open off-street parking areas of five (5) or more spaces shall be screened and landscaped from abutting or surrounding residential districts and uses, and the public right-of-way in compliance with Section 1216.04 of this Ordinance.

PARKING LOT DIMENSIONS TABLE

Angle of Parking (Degree)	Stall Width	Curb Length Per Car	Stall Depth	Aisle Width	Angle of Parking (Degree)	Stall Width	Curb Length Per Car	Stall Depth	Aisle Width
0	8'6"	23'0"	8'6"	12'0"	50	8'6"	11'2"	20'0"	12'6"
	9'0"	23'0"	9'0"	12'0"		9'0"	11'9"	20'5"	12'0"
	9'6"	23'0"	9'6"	12'0"		9'6"	12'5"	20'9"	12'0"
	10'0"	23'0"	10'0"	12'0"		10'0"	13'2"	21'0"	12'0"
20	8'6"	24'11"	14'6"	11'0"	60	8'6"	9'10"	20'9"	18'6"
	9'0"	26'4"	15'0"	11'0"		9'0"	10'5"	21'0"	18'0"
	9'6"	27'10"	15'6"	11'0"		9'6"	11'0"	21'3"	18'0"
	10'0"	29'3"	15'11"	11'0"		10'0"	11'6"	21'6"	18'0"
30	8'6"	17'0"	16'11"	11'0"	70	8'6"	9'0"	20'10"	19'6"
	9'0"	18'0"	17'4"	11'0"		9'0"	9'8"	21'0"	19'0"
	9'6"	19'0"	17'10"	11'0"		9'6"	10'2"	21'3"	18'6"
	10'0"	20'0"	18'3"	11'0"		10'0"	10'8"	21'3"	18'0"
40	8'6"	13'3"	18'9"	12'0"	80	8'6"	8'8"	20'3"	24'0"
	9'0"	14'0"	19'2"	12'0"		9'0"	9'2"	20'4"	24'0"
	9'6"	14'10"	19'6"	12'0"		9'6"	9'8"	20'5"	24'0"
	10'0"	15'8"	19'11"	12'0"		10'0"	10'3"	20'6"	24'0"
45	8'6"	12'0"	19'5"	13'6"	90	8'6"	8'6"	20'0"	24'0"
	9'0"	12'9"	19'10"	13'0"		9'0"	9'0"	20'0"	22'0"
	9'6"	13'5"	20'2"	13'0"		9'6"	9'6"	20'0"	22'0"
	10'0"	14'2"	20'6"	13'0"		10'0"	10'0"	20'0"	22'0"

Note: This table pertains to a wall to wall situation. In calculating dimensions, two (2) feet may be subtracted from each stall depth for each overhang and overlap. No subtraction for overlap is allowed for angles greater than sixty (60) degrees.

- a = Curb Length per Car
- b = Stall Width
- c = Angle of Parking
- d = Stall Depth
- e = Aisle Width
- f = Stall Length
- g = Overlap
- h = Overhang



1224. ESSENTIAL SERVICES

1224.01	Purpose
1224.02	Special Permit Required
1224.03	City Approval Required
1224.04	Conditional Use Permit Required
1224.05	Conditional Use Permit and Major Site and Building Plan Review Required

SECTION 1224.01 PURPOSE:

The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

SECTION 1224.02 SPECIAL PERMIT REQUIRED:

All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead utility lines and electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a permit approved by the City Engineer, and shall be subject to conditions imposed by any applicable franchise agreement.

SECTION 1224.03 CITY APPROVAL REQUIRED:

All underground telephone lines, pipelines for local distribution, underground transmission lines, and overhead utility lines and electric transmission lines less than 33 KV, which are extended to serve more than one parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the City after approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:

- A. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
- B. The City Planner shall transmit the map and accompanying information to the City Engineer for review and approval regarding the project's relationship to the Comprehensive Plan and parts thereof and/or City Code provisions.

- C. The City Engineer shall report in writing to the Zoning Administrator the findings as to the compliance of the proposed project with the Comprehensive Plan and City Code provisions.
- D. In considering applications for the placement of essential services, as regulated in this Section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- E. Upon receiving the approval of the City Engineer, the City Clerk shall issue a permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the City Clerk to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in Section 1206 of this Ordinance.

SECTION 1224.04 CONDITIONAL USE PERMIT REQUIRED:

¹² All transmissions pipelines (i.e. pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 35 KV which are less than sixty (60) feet in height above the natural ground level shall be a conditional use in all districts subject to the following procedural requirements:

- A. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the Planning Commission to review the proposed project.
- B. The City Planner shall transmit the map and accompanying information to the Planning Commission for its review and recommendations regarding the project's relationship to the Comprehensive Plan and parts thereof.
- C. The Planning Commission shall hold the necessary public hearings as prescribed by this Section for conditional uses.
- D. The Planning Commission shall report in writing to the Council its findings as to compliance of the proposed project with the Comprehensive Plan.
- E. In considering the applications for the placement of essential services, as regulated by this Section, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed project upon the health, safety and general welfare of the City, existing and anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- F. Requirements and conditions imposed by any applicable franchise agreement shall be imposed.

¹² **SECTION 1224.05 CONDITIONAL USE PERMIT AND MAJOR SITE AND BUILDING PLAN REVIEW REQUIRED FOR OVERHEAD ELECTRIC TRANSMISSION AND SUBSTATION LINES, POLES, TOWERS, AND OTHER RELATED APPURTENANCES SIXTY (60) FEET OR MORE IN HEIGHT:**

In addition to other applicable provisions of this Section, all new, replacement, or reconstructed electric transmission and substation lines, poles, towers, and other related appurtenances sixty (60) feet or more in height above the natural ground level shall require the processing of a Conditional Use Permit subject to the following requirements:

- A. As a part of any Conditional Use Permit application under this subsection, the applicant shall conduct a review of alternatives as specified in this subsection. The applicant need not show a property interest in any of the alternatives.
- B. For an application to be considered complete, the review of alternatives shall include the following materials:
 - 1. Documentation demonstrating the need, objectives, and purpose for such a facility so that alternatives to the facility can be adequately assessed;
 - 2. A listing and map clearly illustrating all of the alternatives considered by the applicant, including starting and ending points whether or not within the City of Sunfish Lake;
 - 3. A “no-build” alternative which discusses measures which could be taken in an attempt to meet the need, objectives, and purpose without construction of the proposed facility;
 - 4. An alternative which places the line underground; and
 - 5. Designation of the applicant’s preferred route and route end-points.
- C. For each alternative in the analysis, the applicant shall provide:
 - 1. Cost, including construction, land acquisition, and other development costs;
 - 2. The number, type, and size of vegetation that would be removed or damaged as a result of the construction of the alternative;
 - 3. The number, types, and distances of buildings located within a four hundred (400) foot distance of the facility, including wires;

4. The amount of parkland, wetland, floodplain, shoreland, and open water within a four hundred (400) foot distance of the facility, including wires;
 5. A map or maps showing the location of each of the items in subparagraphs C.2, C.3, and C.4 of this subsection.
 6. An analysis of the audible noise generated by the proposed facility, and any existing facility currently located in each alternative route.
 7. A summary of current research regarding the health effects of Electromagnetic Frequency (EMF) levels and electric fields, conducted by health and scientific professionals, including those whose research does and does not receive utility sponsorship.
 8. EMF and electric field levels and under maximum and average anticipated loading at the base of the utility poles, underneath the wires between poles, at ground level above underground wires, at the edge of the property line or edge of utility easement, at the edge of the closest habitable building, and at the point above ground where there would be the greatest EMF and electric field levels;
 9. Reasonable and prudent measures to minimize EMF and electric field levels along all alternative routes; and
 10. Depictions of the views of the proposed facility, both before and after the construction of the facility if above ground, from the five closest residences along each route and from other locations along each route which will have a significant view of the facility.
- D. All alternative routes in the analysis must comply with the following unless the applicant shows that a particular requirement is not reasonable or prudent:
1. The routes must be on or along corridors presently used for public roads, public trails, railroads, existing above-ground utilities, or on corridors which were previously used for such purposes and which are being retained for future public or utility purposes;
 2. Arterial or collector streets must be used instead of local roadways; and
- E. Promptly after receiving an application, the City shall publish a prominent announcement in the official newspaper. The announcement must include a map showing the alternative routes identified by the applicant, advise that, by a specified date, any person may suggest other alternatives for study, schedule a public hearing before the City Council, and explain the procedure for review of the application. The applicant shall pay for the costs of this announcement.

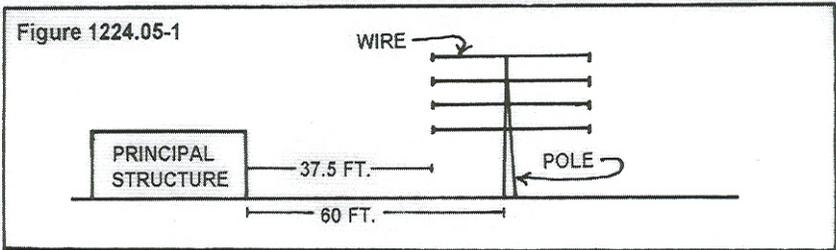
- F. Within thirty (30) days following the receipt of the application, the City Council shall hold a public hearing on the alternative routes studied in the application, and consider whether any other alternative routes should be studied. The applicant shall submit the information required in subparagraph C of this Ordinance for any additional alternative(s) so designated. The alternatives analysis and application shall be deemed to be complete when the applicant has provided the information required under subparagraph C for all alternatives including those designated by the City Council, subject to the provisions of Minn. Stat. §15.99.
- G. The City may have the alternative route analysis reviewed by an independent expert acceptable to the applicant. The applicant shall not unreasonably withhold this acceptance and shall reimburse the City for the full cost of these services. The City may request an escrow deposit to cover these expenses before they are incurred. The applicant will have five business days to reject the City's selected expert after receiving notice from the City. If the applicant does not reject the expert within that time, the expert will be deemed to be acceptable. If the applicant rejects the expert, the time periods for City action shall be extended by the number of days that it takes for the City and the applicant to reach an agreement after the applicant's rejection of the expert.
- H. After a complete alternatives analysis has been reviewed by staff and/or an independent expert, the planning commission shall hold a public hearing on the application. Notice of this hearing shall be provided consistent with the City's notice for other Conditional Use Permit hearings.
- I. The Planning Commission shall review the application at the public hearing, and shall make a recommendation to the City Council as to its preferred alternative. The City Council shall review the application, together with the Planning Commission's recommendation and evidence gathered pursuant to the public hearing, and select an alternative route. The City Council's selection shall be made within sixty (60) days of the recommendation from the Planning Commission. The City Council's selection shall be made in accordance with the requirements for approving a Conditional Use Permit under Section 1204 of the City's Zoning Ordinance. The selected alternative may be one which was not identified in the applicant's initial analysis. The Planning Commission and City Council may impose reasonable conditions as a part of the approval to protect adjacent property and the public.
- J. In making their decisions, the Planning Commission and City shall consider the following factors:
1. The potential adverse aesthetic, economic, environmental, social, health, and/or safety impacts on adjacent property or the public.
 2. The potential interference with public use of public property.

3. The applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future.
 4. The applicant's need to adequately and reliably serve customers within the City of Sunfish Lake now and in the foreseeable future.
 5. The relative burdens and benefits to be born or received by the residents and property owners of Sunfish Lake and other communities in the relevant service area.
 6. Compliance with the requirements in subparagraph D.
 7. Cost of the alternative, and cost to the City of Sunfish Lake, its taxpayers, and utility ratepayers.
 8. Considerations for Conditional Use Permits in Section 1204 of the City's Zoning Ordinance.
 9. Compliance with the standards as listed in subparagraph L of this Section.
- K. If, after the City Council's action, the applicant believes that it is precluded from using the selected alternative because of a reason beyond its own control that was not apparent during the application process, the applicant may notify the City and request the selection of a different alternative. If the City Council finds that the applicant is so precluded, the Planning Commission shall recommend, and the City Council shall select, a different alternative.
- L. Application for Major Site Plan Review for Transmission Line Facilities - General Conditions and Procedures Applicable to the Selected Route under Section 1224.05.
1. After the City Council has selected an alternative route which involves the construction, reconstruction, or replacement of facilities under this Section, and prior to receiving any building or other construction permits for said facilities, the applicant must prepare detailed site and building plans for each pole or tower location. These plans will be subject to the major site plan review process as defined in Section 1208 of the Zoning Ordinance. As a part of the site plan review application, the applicant shall secure and demonstrate adequate property interest in the property or properties on and/or over which the facility will be located. If the applicant makes a site plan application for any route other than the selected alternative route, the City shall reject the application and it will not be considered.
 2. The applicant shall submit a landscape plan prepared by landscape architect registered in the State of Minnesota. The plan shall be designed to mitigate the size and number of trees to be removed for the facility, and shall minimize the visual impact on abutting properties caused by the utility poles. The applicant shall submit a landscape financial security to

ensure the proper installation and maintenance for a two (2) year period following installation. With the written concurrence of abutting property owner, the applicant may include plantings on abutting property. In such case, the applicant shall be responsible for installation, and the abutting property owner shall thereafter be responsible for maintenance of the landscaping.

- 3. The facility must meet all of the location standards specified below. If the standards are conflicting, the most restrictive standard shall apply.
 - a. Utility poles or towers and shall be setback a distance of sixty (60) feet and wires must be setback a distance of thirty seven and one half (37.5) feet (See figure 1224.05-1, below) or no less than the minimum requirements under the National Electric Safety Code (NESC) whichever is greater. The setback shall be measured from the base of the pole or the point at ground level directly beneath an overhead wire, to:
 - (1) The principal structure or the buildable area for a principal structure, whichever requires the greater setback, on developed property; or
 - (2) The buildable area for a principal structure on vacant, developable property; or
 - (3) Fifteen feet from the edge of the easement and/or property line of the utility company's property;

whichever of these requires the greater setback.



- b. If the measurement point is the buildable area, the applicant may obtain a restrictive building easement over a portion of the buildable area and choose instead to measure the setback from the edge of that easement which is farthest away from the pole or wires.
- c. The utility poles and lines must comply with all clearance requirements in the NESC in effect at the time of construction. The applicant shall provide verification of compliance with that code.

- d. The site plan prepared by the applicant must design and locate the utility poles in a manner which minimizes the visual impact on abutting properties. The poles must be installed in accordance with the plan as approved by the City.
4. The applicant must design the utility poles to minimize their visual impact. The applicant must submit pole configuration, material and color options that are technically feasible. The city may require the applicant to design the poles in a manner which reduces the visual impact of the project, including regulating the height and spacing of the poles. The poles may not exceed the minimum height required by the NESC in effect at the time of construction.
5. The applicant must design and locate the facility to minimize audible noise to adjacent property. The City may require the applicant to take measures to reduce audible noise impacts on residential property, public open space, or institutional uses.
6. The applicant must take all reasonable and prudent measures to minimize EMF and electric field levels, in accordance with a plan submitted to, and approved by, the City of Sunfish Lake. These measures must not increase the visual impact of the facility such as by using taller utility poles and must not increase EMF or electric field levels in other parts of the City, unless this is specifically approved by the City Council.
7. The facility shall be constructed in compliance with any state and federal regulations concerning EMF and electric fields. The applicant shall provide verification of compliance with such regulations. If any future state or federal regulations governing EMF or electric fields require significant alterations to the facility, the applicant or subsequent owner shall notify the City at least sixty (60) days before making said alterations and describe the required changes.
8. If located on a public right-of-way, the facility must not interfere with the use of the right-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.
9. The applicant and any subsequent owner shall continually maintain the utility poles, wires, and other equipment that are part of the facility in good conditions, including repainting or restaining deteriorated pole surface finishes as appropriate, securing poles and/or guy wires to the ground, replacing poles that are in a deteriorated condition, and maintaining landscaping installed on the facility's property in a healthy and attractive condition.

1225. ANIMALS

1225.01 Keeping Animals

SECTION 1225.01 KEEPING ANIMALS:

The following animals may be kept in the City:

- A. Domestic animals are allowed in all zoning districts.
- B. Horses are an allowed accessory use per district regulations.
- C. Except as provided herein, farm animals are not allowed in the City.
- D. Animals being kept as part of the Minnesota Zoological Gardens, St. Paul Como Zoo, or similar institutional docent programs are an allowed use in all zoning districts. Before such animals are allowed, however, the participant in the program must notify immediately abutting property owners and the City Planner in writing of their participation in the program and identify the animal being kept.
- ⁵⁹ E. Farm and Non-Domestic Animals.
 - 1. Except as herein provided, farm or other non-domestic animals may be allowed within the City subject to the approval of an administrative permit by the City Forester. The consideration involving the approval or denial of an administrative permit shall include, but not be limited to:
 - a. The notification of immediately abutting property owners and an assessment of the possible negative impacts upon such properties.
 - b. The adequacy of the site and buildings to accommodate the animals in question.
 - c. The public health, safety, and general welfare concerns posed by the animals in question.
 - 2. Approval of an administrative permit may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years. In cases where complaints from neighbors have been received or where there has been a change in conditions or violations, a renewal shall require City Council approval and at their discretion, may be processed in accordance with the procedural requirements of an Interim Use Permit.

- F. Animals may only be kept for commercial purposes if authorized in the zoning district where the animals are located and upon the approval of an interim use permit pursuant to Section 1205 of this Ordinance.
- G. Animals may not be kept if they cause a nuisance or endanger the health or safety of the community.
- H. Dog kennels shall require an interim use permit pursuant to Section 1205 of this Ordinance and shall be subject to other applicable sections of the City Code, including legal non-conforming use provisions for established facilities.

2 1226. COMMUNICATION RECEPTION / TRANSMISSION DEVICES

- 1226.01 Purpose
- 1226.02 General Standards
- 1226.03 Accessory and Secondary Use Antennas
- 1226.04 Personal Wireless Service Antennas
- 1226.05 Satellite Dishes
- 1226.06 Commercial and Public Radio and Television Transmitting Antennas,
and Public Utility Microwave Antennas

SECTION 1226.01 PURPOSE:

The purpose of this section is to establish predicable, balanced regulations for the siting and screening of wireless communications equipment in order to accommodate the growth of wireless communicating systems within the City of Sunfish Lake while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare.

SECTION 1226.02 GENERAL STANDARDS:

The following standards shall apply to all personal wireless service, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antenna.

- A. All obsolete and unused antenna shall be removed within twelve (12) months of cessation of operation at the site, unless an exemption is granted by the City Council.
- B. All antenna shall be in compliance with all City building and electrical code requirements and as applicable shall require related permits.
- C. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications and shall be verified and approved by a registered professional engineer.
- D. Unless the antenna/antenna support structure and land is under the same ownership, written authorization for antenna erection shall be provided by the property owner.
- E. No advertising message shall be affixed to the antenna structure.
- F. The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by an electrical engineer or other appropriate professional.

- G. Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- H. When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses.
- I. If a new antenna support structure is to be constructed, it shall be designed so as to accommodate other users including but not limited to other personal wireless service companies, local police, fire and ambulance companies.
- J. Antenna support structures under two hundred (200) feet in height shall be painted silver or have a galvanized finish to reduce visual impact, unless otherwise allowed by federal law.
- K. Except as may be applicable in cases where a conditional use permit is required, antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service are exempt from sub-paragraphs C, F, and I above, and must comply with Subd. L. below.
- L. Amateur radio support structures (towers) shall be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturers specifications.

SECTION 1226.03 ACCESSORY AND SECONDARY USE ANTENNAS:

The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, TVROs two (2) meters or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federally licensed amateur radio stations and television receivers.

- A. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
- B. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five (5) feet from all lot lines.
- C. Accessory or secondary use antennas and necessary support structures, monopoles or towers may extend a maximum of fifteen (15) feet above the normal height restriction for the affected zoning district, except support structures

and antennas used in the amateur radio service may extend a maximum of seventy (70) feet above grade, as defined in this Ordinance, in any zoning district.

- D. The installation of more than one (1) support structure per property shall require the approval of a conditional use permit.

SECTION 1226.04 PERSONAL WIRELESS SERVICE ANTENNAS:

Personal wireless service antennas shall be allowed in the INS, Institutional District of the City subject to the following standards as may be applicable:

- A. **Antennas Located Upon A Public Structure.** Personal wireless service located upon a public structure shall be processed in accordance with the provisions of Section 1208.03 of this Ordinance (minor site plan review) and comply with the following standard.

- 1. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.

- B. **Antennas Not Located Upon A Public Structure.** Personal wireless service antennas not located upon a public structure shall require the processing of a conditional use permit and shall comply with the following standards:

- 1. The applicant shall demonstrate by providing a coverage/ interference analysis and capacity analysis prepared by a registered professional engineer that location of the antennas as proposed is necessary to meet the frequency reuse, capacity and spacing needs of the wireless communication system and to provide adequate coverage.

- 2. The antennas shall be located on an existing structure, if possible, and shall not extend more than fifteen (15) feet above the structural height of the structure to which they are attached.

- 15 3. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground mounted pole provided that:

- a. The pole not exceed seventy-five (75) feet in height.
- b. The setback of the pole from the nearest residential structure is not less than the height of the antenna. Exceptions to such setback may be granted if a registered structural engineer specifies in

writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.

- c. The setback of the pole from adjacent private properties is not less than the height of the antenna.
- d. The pole is at least 400 feet away from any other pole supporting personal wireless service antennas.
- e. The lot on which the pole is to be located is at least two and one-half (2 ½) acres in size.
- f. The number of poles supporting personal wireless service antennas shall not exceed one per lot.
- g. No company providing wireless communications service or antenna locations shall have more than two poles supporting personal wireless service antennas in the City.

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- 4. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be screened from view by landscaping where appropriate and shall be situated in the rear yard of the principal use unless the City Council finds that another location would have less impact on adjacent residential properties.
- 5. Unless the antenna is mounted on an existing structure, a security fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure.
- 6. The conditional use permit provisions of Section 1204 of this Ordinance are considered and determined to be satisfied.

SECTION 1226.05 SATELLITE DISHES:

- A. Residential District Standards. Single satellite dish TVROs greater than one (1) meter in diameter located within the R-1, Single Family Residential zoning district of the City shall require the processing of a conditional use permit and shall comply with the following standards:
 - 1. All accessory and secondary use provisions of Section 1226.03 of this Ordinance are satisfactorily met.

2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership.
 3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.
 4. The satellite dish antenna is not greater than three (3) meters in diameter.
 5. The conditional use permit provisions of Section 1204 of this Ordinance are considered and determined to be satisfied.
- B. Institutional District Standards. Commercial, private and public satellite dish transmitting or receiving antennas in excess of two (2) meters located within the INS, Institutional zoning district of the City shall require the processing of a conditional use permit and shall comply with the following standards:
1. All accessory and secondary use provisions of Section 1226.03 of this Ordinance are satisfactorily met.
 2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership.
 3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.
 4. The conditional use permit provisions of Section 1204 of this Ordinance are considered and determined to be satisfied.

SECTION 1226.06 COMMERCIAL AND PUBLIC RADIO AND TELEVISION TRANSMITTING ANTENNAS, AND PUBLIC UTILITY MICROWAVE ANTENNAS:

Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

- A. Such antenna shall be considered an allowed conditional use within the INS, Institutional District of the City and shall be subject to the regulations and requirements of Section 1204 of this Ordinance.
- B. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a dimension equal to the height of the antenna,

transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.

- C. Unless the antenna is mounted on an existing structure, a fence not greater than eight (8) feet in height with a maximum opacity of fifty (50) percent shall be provided around the support structure and other equipment.

1227. PUBLIC PROPERTY / RIGHTS-OF-WAY

- 1227.01 Coverage
- 1227.02 Liability

SECTION 1227.01 COVERAGE:

The erection and/or placement of any structure in the public right-of-way or on City property by any person, or group other than the City of Sunfish Lake, Dakota County, Metropolitan Public Agency or the State of Minnesota, shall require the processing of a conditional use permit in accordance with Section 1204 of this Ordinance.

SECTION 1227.02 LIABILITY:

As a condition of approval for the erection or placement of a structure in the public right-of-way, or on City property by any party other than a governmental unit, the applicant shall be required to sign a contract with the City that holds harmless the City of Sunfish Lake for any potential liability and shall demonstrate to the City proof of adequate liability insurance.

1228. AIRCRAFT

- 1228.01 Landing Areas
- 1228.02 Operation

SECTION 1228.01 LANDING AREAS:

Aircraft landing areas are hereby prohibited within the City of Sunfish Lake.

SECTION 1228.02 OPERATION

Except in the case of an emergency, the landing and the taking off of aircraft within the City of Sunfish Lake is prohibited.

1229. MINING

1229.01 Prohibition

SECTION 1229.01 PROHIBITION:

Mining as defined by Section 1202 of this Ordinance is prohibited in the City of Sunfish Lake.

1230 – 1239. RESERVED

1240. GENERAL ZONING DISTRICT PROVISIONS

- 1240.01 Establishment of Districts
- 1240.02 Zoning District Boundaries
- 1240.03 Zoning Map
- 1240.04 Annexations

SECTION 1240.01 ESTABLISHMENT OF DISTRICTS:

In order to classify, regulate and restrict the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards, recreation and open space within and surrounding such buildings, the City of Sunfish Lake is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:

- A. R-1, Single Family Residential District.
- B. INS, Institutional District.
- C. Special Districts:
 - 1. S, Shoreland Overlay District.
 - 2. W, Wetland System Overlay District.

SECTION 1240.02 ZONING DISTRICT BOUNDARIES:

Zoning district boundary lines established by this Ordinance generally follow lot lines, the centerlines of street rights-of-way, water courses or the corporate limit lines, all as they exist upon the effective date of this Ordinance.

- A. Appeals concerning the exact location of a zoning district boundary line shall be heard by the Council serving as the Board of Adjustment and Appeals pursuant to Section 1207 of this Ordinance.
- B. Whenever any street or other public way is vacated by official action of the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

- C. All streets and public ways, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such streets or public ways. Where the center line of a street or public way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

- D. All areas within the corporate limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoins such water area. If such water area adjoins two or more zones the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the half-way point and/or to the corporation limits.

SECTION 1240.03 ZONING MAP:

The location and boundaries of the districts established by this text are hereby set forth on the Zoning Map entitled "Zoning Map of Sunfish Lake." Said map shall be on file with the City Clerk, and hereinafter referred to as the "Zoning Map." Said map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

SECTION 1240.04 ANNEXATIONS:

All territory hereafter annexed to the City of Sunfish Lake which is not shown on the Zoning Map shall automatically upon annexation be classified within the R-1 District and shall be subject to all regulations, notations, references and conditions as are applicable to said district until such time that a determination may be made as to the proper district classification for such territory and an amendment can be made to that effect.

1241. R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

1241.01	Purpose
1241.02	Permitted Uses
1241.03	Interim Uses
1241.04	Accessory Uses
1241.05-1	Conditional Uses
1241.05-2	Uses by Administrative Permit
1241.06	Lot Area and Setback Requirements
1241.07	Lot Coverage and Height

SECTION 1241.01 PURPOSE:

The purpose of the R-1, Single Family Residential District is to provide for low density single family detached residential dwelling units and directly related, complementary uses. These properties are large in size and commonly have accessory structures. This district also allows limited recreational uses.

SECTION 1241.02 PERMITTED USES:

Subject to applicable provisions of this Ordinance, the following are permitted uses in an R-1 District:

- A. Single family detached dwellings.
- B. Public parks and playgrounds.
- C. Residential care facilities serving six (6) or fewer persons.

SECTION 1241.03 INTERIM USES:

Subject to applicable provisions of this Ordinance, the following are interim uses in the R-1 District and are governed by Section 1205 of this Ordinance:

- A. Water related activities as defined by and pursuant to Section 1106 of the City Code.
- ⁴ B. For lots of record established prior to 1 January 1997, the City Council may approve by interim use permit, the subdivision of one (1) parcel which does not meet the minimum lot frontage requirement stipulated by this ordinance from another parcel of land which meets the minimums established by this Ordinance provided that:

1. When future access and lot frontage meeting the minimum specified by this Ordinance and the Subdivision Ordinance is made available through the subdivision of abutting property, permanent access shall be by way of such abutting property, and any driveway easements allowed under this Section shall be permanently abandoned.
2. The potential for public street access through the incorporation of adjoining land must exist for a single lot subdivision to be considered under the terms of this Ordinance and the Subdivision Ordinance.
3. No more than one (1) additional lot is created and if there is potential for additional subdivisions meeting the minimum standards required by this Ordinance and the Subdivision Ordinance, the property shall be deed restricted, prohibiting such division.
4. Access to the site not meeting minimum frontage requirements shall be by easement crossing a parcel which has minimum required frontage on a public or approved private road.
5. The easement providing access to a site lacking required minimum frontage shall be subtracted from the minimum required developable area of the lot affected (that lot over which the easement is placed must be 2.5 net acres or greater).
6. In no case shall access by easement serve more than two (2) lots.
7. The construction standards of driveways provided under this Section shall be subject to standards recommended by the City Engineer and approved by the City Council.
8. The lots resulting after the proposed subdivision shall meet the minimum developable area as specified by this Ordinance.
9. The City Council may limit the placement of structures on the lots resulting after the proposed subdivision in consideration of preservation of trees and topography and views of abutting properties and may also limit the lighting of driveways.
10. Maintenance of the property access shall be the responsibility of the property owner(s) and not the City.
11. The provisions of Section 1204 of this Ordinance shall be considered and satisfactorily met.

SECTION 1241.04 ACCESSORY USES:

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-1 District:

- A. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.
- B. Private garages and off-street parking.
- C. Greenhouses, provided they do not exceed five hundred (500) square feet in area.
- D. Swimming pools, provided they are located below ground and are constructed with a protective safety feature such as a retractable cover and/or fence. The City Council, may at its discretion, exempt the structure from the required protective safety features if the property owner can demonstrate no safety hazards are posed for neighboring properties due to special site considerations including topography, dense vegetation, etc.
- E. Living quarters within the principal structure of persons employed on the premises.
- F. Except as otherwise limited, private recreational facilities, only accessory to an existing principal permitted use on the same lot and which are operated for the enjoyment and convenience of the residents of the principal use and their occasional guests. The lighting, of either a temporary or permanent nature, of such facilities which includes tennis courts, swimming pools, sport activity areas, and the like shall be prohibited.
- G. Security lights provided the impact on surrounding properties, public water bodies, and the public right-of-way is minimized and is in compliance with Section 1216.06 of this Ordinance (proximity security lights are recommended if such lighting is to be installed).
- ⁹ H. Accessory buildings, structures, and uses customarily incidental and directly related to the uses permitted in Sections 1241.02 and 1241.05 of this Ordinance and subject to applicable regulation of this Ordinance.
- I. Customary and incidental home occupations as regulated by Section 1221 of this Ordinance.
- J. One name plate sign not over two (2) square feet in area for each dwelling unit.
- ² K. Radio and television receiving antennas including single satellite dish TVROs one (1) meter or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including

radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section 1226 of this Ordinance.

- ¹¹ L. Day care facilities serving twelve (12) or fewer persons.

SECTION 1241.05-1 CONDITIONAL USES:

Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-1 District. (Requires a conditional use permit based upon procedures set forth in and regulated by Section 1204 of this Ordinance.)

- A. Accommodations for horses as an accessory use, in accordance with the following provisions:
1. The minimum lot size for accommodating one horse shall be three (3) acres, plus two (2) acres of grazing land for each additional horse.
 2. All stables shall be located a minimum distance of two hundred (200) feet from any adjacent residential structure, excluding the residence of the applicant, and all corral areas shall be located a minimum distance of one hundred (100) feet from any adjacent residential lot, excluding the residence of the applicant.
 3. All accommodations for horses shall occur within the rear yard of a residential lot.
 4. Where an application for the boarding of a horse shall occur adjacent to a vacant lot, the City Council shall take into account a proper location of a future residence in considering the application.
 5. Only the horses of the property owner shall be kept on the property and there shall be no boarding of animals for other persons.
 6. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.
- B. Governmental and public related utility buildings, essential service structures as defined by Section 1201.02 of this Ordinance necessary for the health, safety and general welfare of the City, excluding public works type facilities, provided that:
1. When an abutting residential use or a residential use district, the property is screened and landscaped in compliance with Section 1218.03 of this Ordinance.

2. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.
- ²C. Single satellite dish TVROs greater than one (1) meter in diameter as regulated by Section 1226 of this Ordinance.

⁹**SECTION 1241.05-2 USES BY ADMINISTRATIVE PERMIT:**

Subject to applicable provisions of this Section, performance standards established by this Ordinance, and processing requirements of Section 1211, the following are uses allowed in an R-1 District by administrative permit as may be issued by the designated City agent.

- A. Emergency Permits.
 1. Temporary dwelling quarters (mobile homes or trailers).
 2. Temporary construction gates or security structures.
- B. Non-Emergency Permits.
 1. Temporary electric fences for gardens.

SECTION 1241.06 LOT AREA AND SETBACK REQUIREMENTS:

The following minimum requirements shall be observed in an R-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance.

- A. Lot Area Requirements:
 - ¹¹ 1. Lot Area: The minimum lot area shall be two and one-half (2½) acres of net area. For the purposes of this Ordinance and as defined in Section 1202.02.L, net area means two and one-half (2½) acres of land, not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, and land in excess of twelve (12) percent slope.
 2. Lot Width:
 - a. Two Hundred (200) feet.
 - b. Fifty (50) feet if located on a curve or cul-de-sac. Lot width must be two hundred (200) feet at the front yard setback line.

- B. Setbacks:
1. Front Yard: One Hundred (100) feet.
 2. Side Yard:
 - a. Corner: One Hundred (100) feet.
 - b. Interior: Fifty (50) feet.
 3. Rear Yard: Fifty (50) feet.

- C. Accessory Structure(s) Setbacks:
1. Front Yard: One Hundred (100) feet.
 2. Side Yard: Twenty-Five (25) feet.
 3. Rear Yard: Twenty-Five (25) feet.

SECTION 1241.07 LOT COVERAGE AND HEIGHT

The following lot coverage and height requirements shall be observed in an R-1 District:

- A. The total ground area of all buildings shall not exceed a lot coverage of ten (10) percent.
- ¹³ B. Building Height: No building structure shall exceed two and one-half (2½) stories or thirty (30) feet in existing grade height, whichever is the lesser in height, except as provided by Section 1219.02 of this Ordinance. The existing grade height of a building, as defined by Section 1202.02.B, must not exceed thirty (30) feet measured from the average existing ground level prior to construction of any point on the perimeter of the building line to the top of the cornice of a flat or mansard roof and to the highest gable of a pitched or hipped roof. Finished grade building height, as defined by Section 1202.02.B, has the potential to create an adverse impact on adjacent properties. Therefore, depending on the finished grade building height, the City, as part of a site and building plan approval, may impose additional conditions relating to structure siting and landscaping screening in order to reduce the potential adverse impact. If the City Council determines that the conditions relating to structure siting and landscape screening are not sufficient to substantially reduce the adverse impact to adjacent properties, the City Council may deny site and building plan approval.

1242. INS, INSTITUTIONAL DISTRICT

1242.01	Purpose
1242.02	Permitted Uses
1242.03	Interim Uses
1242.04	Accessory Uses
1242.05-1	Conditional Uses
1242.05-2	Uses by Administrative Permit
1242.06	Lot Area and Setback Requirements
1242.07	Lot Coverage and Height Requirements

SECTION 1242.01 PURPOSE:

The INS District is intended to provide a district for facilities devoted to serving the public. It is unique in that the primary objective of uses within this district is the provision of services, frequently on a non-profit basis, rather than the sale of goods or services. It is intended that uses within such a district will be compatible with adjoining development, and they normally will be located on an arterial street or thoroughfare.

SECTION 1242.02 PERMITTED USES:

Subject to applicable provisions of this Ordinance, the following are permitted uses in the INS District:

- A. Religious institutions, such as churches, chapels, temples and synagogues, limited to worship and related social events.
- ² B. Personal wireless service towers and antennas, including necessary equipment buildings, as regulated by Section 1226 of this Ordinance.

SECTION 1242.03 INTERIM USES:

Subject to applicable provisions of this Ordinance, the following are interim uses in the INS District and are governed by Section 1205 of this Ordinance.

- A. Water related activities as defined by and pursuant to Section 1106 of the City Code.

SECTION 1242.04 ACCESSORY USES:

Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the INS District:

- A. Accessory uses customarily incidental to the uses permitted in Sections 1242.01 and 1242.05 of this Ordinance.
- B. Off-street parking and loading areas.
- ²C. Radio and television receiving antennas including single satellite dish TVROs two (2) meters in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section 1226 of this Ordinance.

SECTION 1242.05-1 **CONDITIONAL USES:**

Subject to applicable provisions of this Ordinance, the following are conditional uses in an INS District. (Requires a conditional use permit based upon procedures set forth in and regulated by Section 1204 of this Ordinance.)

- A. Living quarters which are provided as an accessory use to a principal use in Section 1242.02 or to a conditional use in this Section provided that:
 - 1. The use shall not be used as rental property.
 - 2. A maximum of one (1) such dwelling shall be allowed.
 - 3. There shall be a demonstrated and documented need for such a facility.
 - 4. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.
- B. Governmental and public regulated utility buildings, and essential service structures as defined by Section 1202.02 of this Ordinance necessary for the health, safety and general welfare of the City, excluding public works type facilities and uses, provided that:
 - 1. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2. Equipment is completely enclosed in a permanent structure with no outside storage.
 - 3. Adequate screening from neighboring uses and landscaping is provided in compliance with Section 1218.03 of this Ordinance.
 - 4. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.

- C. Publicly owned civic 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:
 - 1. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2. Equipment is completely enclosed in a permanent structure with no outside storage.
 - 3. Adequate screening from neighboring uses and landscaping is provided in compliance with Section 1218.03 of this Ordinance.
 - 4. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.

- D. Day care, social services or other non-directly related worship type activities as an accessory use within a religious institutional building(s), provided that:
 - 1. Compatibility with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.
 - 2. Equipment is completely enclosed in a permanent structure with no outside storage.
 - 3. Adequate screening from neighboring uses and landscaping is provided in compliance with Section 1218.03 of this Ordinance.
 - 4. The provisions of Section 1204.02.F of this Ordinance are considered and satisfactorily met.

- ²E. Personal wireless service towers and antennas not located on a public structure, as regulated by Section 1226 of this Ordinance.

- ²F. Commercial and public radio and television transmitting antennas, and public utility microwave antennas, as regulated by Section 1226 of this Ordinance.

- ²G. Commercial, private and public satellite dish transmitting or receiving antennas in excess of two (2) meters in diameter, as regulated by Section 1226 of this Ordinance.

⁹**SECTION 1242.05-2 USES BY ADMINISTRATIVE PERMIT:**

Subject to applicable provisions of this Section, performance standards established by this Ordinance, and processing requirements of Section 1211, the following are uses

allowed in an INS District by administrative permit as may be issued by the designated City agent.

A. Emergency Permits.

1. Temporary dwelling quarters (mobile homes or trailers).
2. Temporary construction gates or security structures.

B. Non-Emergency Permits.

1. Temporary electric fences for gardens.

SECTION 1242.06 LOT AREA AND SETBACK REQUIREMENTS:

The following minimum requirements shall be observed in an INS District subject to additional requirements, exceptions, modifications set forth in this Ordinance.

A. Lot Area Requirements:

- ¹¹ 1. Lot Area: The minimum lot area shall be two and one-half (2½) acres of buildable area. For the purposes of this Ordinance, buildable area means two and one-half (2½) acres of land, not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, and land in excess of twelve (12) percent slope.
2. Lot Width:
 - a. Two Hundred (200) feet.
 - b. Fifty (50) feet if located on a curve or cul-de-sac. Lot width must be two hundred (200) feet at the front yard setback line.

B. Setbacks:

1. Front Yard: One Hundred (100) feet.
2. Side Yard:
 - a. Corner: One Hundred (100) feet.
 - b. Interior: Fifty (50) feet.
3. Rear Yard: Fifty (50) feet.

- C. Accessory Structure(s) Setbacks:
1. Front Yard: One Hundred (100) feet.
 2. Side Yard: Twenty-Five (25) feet.
 3. Rear Yard: Twenty-Five (25) feet.

SECTION 1242.07 LOT COVERAGE AND HEIGHT REQUIREMENTS:

The following lot coverage and height requirements shall be observed in the INS District:

- A. The total lot coverage of all buildings shall not exceed fifteen (15) percent.
- ¹³ B. Building Height: No building structure shall exceed two and one-half (2-1/2) stories or thirty (30) feet in existing grade height, whichever is the lesser in height, except as provided by Section 1219.02 of this Ordinance. The existing grade height of a building, as defined by Section 1202.02.B, must not exceed thirty (30) feet measured from the average existing ground level prior to construction of any point on the perimeter of the building line to the top of the cornice of a flat or mansard roof and to the highest gable of a pitched or hipped roof. Finished grade building height, as defined by Section 1202.02.B, has the potential to create an adverse impact on adjacent properties. Therefore, depending on the finished grade building height, the City, as part of a site and building plan approval, may impose additional conditions relating to structure siting and landscaping screening in order to reduce the potential adverse impact. If the City Council determines that the conditions relating to structure siting and landscape screening are not sufficient to substantially reduce the adverse impact to adjacent properties, the City Council may deny site and building plan approval.

1243. SHORELAND OVERLAY DISTRICT

1243.01	Purpose and Scope
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1243.03	General Provisions
1243.04	Shoreland Alterations
1243.05	Placement and Design of Roads, Driveways, and Parking Areas
1243.06	Stormwater Management
1243.07	Conditional Uses
1243.08	Non-Conformities
1243.09	Compliance
1243.10	Administrative Procedures

SECTION 1243.01 PURPOSE AND SCOPE:

This section is adopted for the purpose of:

- A. Designating suitable land use districts for each body of public water.
- B. Regulating the placement of sanitary and waste treatment facilities on lots.
- C. Regulating the area of a lot and the length of water frontage suitable for building sites.
- D. Regulating the alteration of shorelands and public waters.
- E. Regulating alterations of the natural vegetation and the natural topography along shorelands.
- F. Conserving and developing natural resources, and maintaining a high standard of environmental quality.

SECTION 1243.02 DISTRICT PROVISIONS:

- A. The Shoreland Overlay District shall be applied to and superimposed as an overlay upon all zoning districts as contained herein as existing or amended by this Section and official Zoning Map. The regulations and requirements imposed by the Shoreland Overlay District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.
- B. Designations of Types of Land Use: In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and

- g. Recreational use of the surface water;
 - h. Road and driveway accessibility;
 - i. Socioeconomic development needs and plans as they involve water and related land resources;
 - j. The necessity to preserve and restore certain areas having significant historical or ecological value.
3. The Shoreland (S) and Single Family Residential (R-1) boundaries of the zoning districts on the map which is designated as the Sunfish Lake Zoning Map is made a part of this Ordinance.

SECTION 1243.03 GENERAL PROVISIONS:

A. Minimum Lot Standards: The following standards shall apply to all shorelands of all public waters within the jurisdiction of this Ordinance:

<u>Recreational Development Lakes:</u>	<u>Unsewered and Sewered Areas</u>
¹¹ 1. Buildable lot area above ordinary high water mark	2.5 acres
2. Frontage on improved public street or private road	200 feet
3. Lot width at building setback line	200 feet
4. Lot width at ordinary high water mark of abutting water body	150 feet
5. Building setback from ordinary high water mark *	200 feet **
6. Building setback from property line located adjacent to street	100 feet
7. Maximum lot coverage by impervious surface	30 percent
8. Surface building side yard setback	50 feet
9. Sewage system setback from ordinary high water mark	150 feet

* Where adjacent principal buildings have setbacks less than those required, the minimum setback in the case of both initial construction as well as building additions shall be no less than the average setback of the two (2) adjacent principal structures. If only one adjacent lot is occupied

by a principal structure, the minimum shall be the average of the adjacent principal structure and the minimum setback, but in no case shall a setback be less than the minimum established. Additionally, no structure shall be allowed in the shore or bluff impact zones.

** The setback shall be measured horizontally, not following any slope which may exist on the property.

B. Normal building setback requirements and setback requirements from the ordinary high water mark shall not apply to docks, decks, swimming rafts, or temporary structures which will not be considered accessory structures for the purposes of this Ordinance. Docks, decks, swimming rafts and temporary structures shall be allowed subject to the following criteria.

1. Docks.

a. Docks are seasonal and temporary in nature and, therefore, shall not be permanently affixed to the shore or lake bottom.

b. Docks shall not:

(1) Be greater than four (4) feet in width.

(2) Exceed two hundred (200) square feet in area if configured in a linear, T, L, U, Y, or similar shape.

(3) Extend more than fifty (50) feet from the lakeshore.

c. Docks shall not be covered with any roof structures or awning, nor shall they be enclosed in any manner.

¹⁶ d. Each parcel of land containing a principal structure and having lakeshore fee ownership/frontage as part of that parcel shall have no more than one (1) dock, and no other docks are allowed.

e. Docks may be constructed of wood, metal, fiberglass or plastic or any combination thereof provided they are visually unobtrusive and limited to color(s) which blend with the environment.

2. Decks (Detached - Low Profile).

a. Permanent decks for observation or sitting shall be allowed if located greater than thirty-five (35) feet from the ordinary high water mark of the lakeshore.

b. Decks shall be sited in such a manner that they are unobstructive to the natural topography, vegetation, and shoreland.

- c. Decks may be required to be screened with natural plant materials.
- d. A deck or combination of decks shall not exceed two hundred (200) square feet.
- e. Decks shall not be covered with roof structures or awning, nor shall they be enclosed in any manner.
- f. Decks may contain railings as may be required under State or Uniform Building Code regulations for safety.

3. Swimming Rafts.

- a. Swimming rafts are seasonal and temporary in nature and therefore shall not be permanently affixed to the lake bottom.
- b. Rafts shall not exceed one hundred (100) square feet in area.
- c. Rafts shall not be located greater than fifty (50) feet from the lakeshore.
- d. Rafts shall not be covered with a roof structure or awning or enclosed in any manner.
- e. Only one (1) raft shall be allowed for each parcel of land having lakeshore access and frontage.
- f. Rafts may be constructed of wood, metal, fiberglass or plastic or any combination thereof provided they are visually unobtrusive and limited to color(s) which blend with the environment.

4. Temporary Accessory Site Components, Games or Equipment.

- a. Temporary site components include boating equipment, lawn furniture, tents, game equipment, or other similar site elements.
- b. All temporary structures which are intended for use on an intermittent basis, excluding boats and picnic tables, shall be properly secured and stored out of view from neighboring properties and the lake while not in use.

C. Accessory Structure Requirements: For each buildable parcel meeting minimum lot standards or legal non-conforming lot in the City having lake frontage and containing a principal building, one (1) accessory structure may be allowed between the principal building and the building setback line from the Ordinary High Water Mark as provided for below:

1. An allowable accessory structure with a height of eighteen (18) inches or less, such as fountains, wading or fish pools, swimming pools, patios, surfaced play areas, and the like and associated landscape features such as retaining walls may be allowed as a conditional use and consistent with the following:
 - a. The accessory structures are located a minimum of twenty-five (25) feet from all lot lines, six (6) feet or more from any other on-site structure (excluding low-profile features).
 - b. The accessory structures are not limited to a percentage of yard area, but are required to be in conformance with the thirty (30) percent over all impervious surface requirement for lots and shall not exceed one thousand (1,000) square feet, except as herein provided by the Ordinance.
 - c. Screening of low-profile accessory structures from neighboring properties and the lake shall be completed wherever possible and may be required by the City Council.
 - d. As may be applicable, the pumping of pool water shall be directed away from the lake and associated drainage/cleaning equipment shall be stored out of sight after each use.
 - 11 e. Swimming pool fencing: Subject to other applicable provisions of the Zoning Ordinance, fencing for swimming pools shall meet Uniform Building Code standards and shall be landscaped and screened to minimize visual impacts.
2. Except as provided herein, the following accessory structures are prohibited between the principal structure and water body and are permitted only within the side yards paralleling the principal structure of lots containing lake frontage provided a twenty-five (25) foot setback to all lot lines and a six (6) foot setback to all other on-site structures can be met:
 - a. Storage or tool shed up to a maximum size of one hundred sixty (160) square feet and limited to twelve (12) feet in height.
 - b. Detached residential garage up to a maximum size of one thousand (1,000) square feet and limited to one story in height.
3. The City Planner is notified of all proposed improvements and the necessary permits for construction, grading, drainage or other required alterations are obtained.

4. In no case shall more than one accessory structure be allowed between the principal structure and water body except as outlined in the accessory building section of the Zoning Ordinance.
 5. Required screening of accessory structures shall require submittal of a landscape plan for review by the City Planner and City Forester. The plans shall conform to the planting and screening regulations outlined in this Zoning Ordinance.
 6. Significant Historic Sites: No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
 7. Steep Slopes: The City Planner, City Engineer, and/or City Building Inspector shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters.
 8. Landscape or slope modifications associated with the construction of an allowed accessory building or structure are allowed pursuant to site and building plan review requirements specified by the Ordinance.
- D. Stairways, Lifts, and Landings: Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall be allowed in addition to the accessory limitations as outlined above and shall meet the following design requirements:
1. Stairways and lifts shall not exceed four (4) feet in width.
 2. Landings for stairways and lifts shall not exceed thirty-two (32) square feet in area.
 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
 4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 5. Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water whenever practical.

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items 1 to 5 above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- E. High Water Elevations: Permanent structures shall be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed shall be determined as follows:
1. For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water mark/elevation, whichever is higher.
 2. Structures may have the lowest floor placed lower than the ordinary high water elevation if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
 3. When the elevation of the ordinary high water mark for a body of water has been determined on individual lots, it shall be located and mapped by a registered engineer or land surveyor. When the elevation of the ordinary high water mark for a body of water has not been determined, the issuing authority shall determine it as provided for in this Ordinance.
 4. When fill is required to meet this elevation, the fill shall be allowed to stabilize and construction shall not begin until the property has been inspected by the Building Inspector.
- F. Height of Structures:
1. All principal structures in the City, other than those elements excepted under Section 1219.03 of the Zoning Ordinance, shall be limited to 2½ stories or thirty (30) feet in height, whichever is lesser.
 2. The height of accessory structures shall be regulated as outlined herein and within the Zoning Ordinance. Where specific provisions have not been included for the exact type of structure being proposed, under no circumstances shall the accessory structure exceed 12 feet in height within the Shoreland District without approval of a Conditional Use Permit by the City Council.

SECTION 1243.04 SHORELAND ALTERATIONS:

Alterations of vegetation and topography shall be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Vegetation Alterations:

1. Vegetation alteration necessary for the construction of structures, sewage treatment systems and roads/parking areas may be allowed subject to review and approval by the City Planner and City Forester provided every effort is made to preserve existing vegetation.
2. Removal or alteration of vegetation within two-hundred (200) feet of the ordinary high water mark (the required building setback area) is only allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes (12 percent or greater) is prohibited.
 - b. Preservation of the majority of natural lakefront vegetation shall be required. Mowed lawns within 100 feet of the ordinary high water mark may only be permitted in an area which encompasses up to twenty (20) percent of the shore impact zone.
 - (1) Lots existing at the time of Ordinance passage which contain mowed areas in excess of this requirement may be allowed to continue in the same manner, but under no circumstances may mowed turf areas be increased beyond that which exists or the limitations specified herein.
 - c. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access/storage areas, and permitted accessory structures or facilities, provided that:
 - (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming Summer, leaf-on conditions, is not substantially reduced.
 - (2) No cutting or removal of trees over six (6) inches in diameter measured at a point two (2) feet above ground level shall be permitted until a certificate of compliance has been issued by the City.

- (3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

⁹B. Topographic Alterations/Grading and Filling:

1. A grading permit shall be required for all earth disturbing activities on riparian lots within the Shoreland District including the grading, excavation, removal and/or filling of dirt, sand, gravel/rock, mulch or other natural materials. The grading permit shall be issued at the discretion of the City Building Official according to the process outlined in Section 1208.02.B.2 of this Ordinance and may require application for Minor Site and Building Plan approval.
2. The grading and filling standards in this Section and in the City's Stormwater Management Ordinance (Section 1216.04.F) shall be incorporated into the issuance of a grading or building permit.
3. Public roads and parking areas are regulated by Section 1243.05 of this Ordinance.
4. The following considerations and conditions shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
 - a. Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - (1) Sediment and pollutant trapping and retention.
 - (2) Storage of surface runoff to prevent or reduce flood damage.
 - (3) Fish and wildlife habitat.
 - (4) Recreational use.
 - (5) Shoreline or bank stabilization.
 - (6) Noteworthiness, including special qualities such as historic significant, critical habitat for endangered plants and animals, or others.

* This evaluation shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a

watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant shall be so advised.

- b. Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- c. Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible. All disturbed areas and filled areas shall be finish graded, seeded, fertilized and mulched according to the recommendations of the City Council or its agent within thirty (30) days of completion of grading or filling. The City Council shall retain authority under this sub-section until such time as the City Council is satisfied with the reparations made pursuant to this sub-section.
- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used.
- e. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- f. Fill or excavated material shall not be placed in a manner that creates an unstable slope.
- g. Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes greater than 3:1, defined as three (3) feet horizontal run to one (1) foot vertical rise.
- h. Fill or excavated material shall not be placed in bluff impact zones.
- i. Any alterations below the ordinary high water mark/elevation of public waters shall first be authorized by the Commissioner of the Department of Natural Resources under Minnesota Statutes, Section 105.42.
- j. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
- k. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the

finished slope does not exceed three (3) feet horizontal to one foot vertical, the landward extent of the rip rap is within ten (10) feet of the ordinary high water mark/elevation, and the height of the rip rap above the ordinary high water mark/elevation does not exceed three (3) feet.

5. Connections to Public Waters: Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors is prohibited.

SECTION 1243.05 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS:

- A. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.
- C. Public and private watercraft access ramps, approach roads, and access-related parking areas are prohibited.
- D. Controlled pedestrian or watercraft access lots for use by owners of lots without lake frontage (non-riparian) or the public is prohibited.

SECTION 1243.06 STORMWATER MANAGEMENT:

In addition to the City's Stormwater Management Ordinance, the following general and specific standards shall apply:

- A. General Standards:
 1. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 2. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential,

and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

B. Specific Standards:

1. Impervious surface coverage of lots shall not exceed thirty (30) percent of the lot area.
2. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
3. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
4. The use of phosphate fertilizers is prohibited within the 1,000 foot Shoreland District boundary.

SECTION 1243.07 CONDITIONAL USES:

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Section 1204 of this Ordinance. The following additional evaluation criteria and conditions apply within shoreland areas:

- A. Evaluation Criteria:** A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site shall be made to ensure:
1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 2. The visibility of structures and other facilities as viewed from public waters is limited.
 3. The site is adequate for water supply and on-site sewage treatment.

4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- B. Conditions Attached to Conditional Use Permits: The City Council, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
1. Decreased setbacks from the ordinary high water mark/elevation.
 2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
 3. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching, storage and/or docking areas, and vehicle parking areas.

SECTION 1243.08 NON-CONFORMITIES:

All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to applicable State Statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards shall also apply in shoreland areas:

- A. Construction on Non-Conforming Lots of Record:
1. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 1243.03 of this Ordinance may be allowed without variances as building sites for single family detached dwellings provided the area, width, and yards thereof are within sixty (60) percent of the minimum requirements of this Ordinance, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
 2. A variance from setback requirements shall be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the full width or area requirements of this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one or more contiguous lots and equal one or more parcels of land under the same ownership so that the combination of lots or parcels will equal one or more lots meeting the area and width requirements of Section 1243.03 of this section.

⁵B. Additions/Expansions to Non-Conforming Structures:

1. All additions or expansions to the outside dimensions of an existing non-conforming principal structure shall conform with Section 1215 (Non-Conforming Uses) of this Ordinance.
2. Additions or expansions to non-conforming accessory buildings, structures, or facilities is prohibited.

C. Non-Conforming Sewage Treatment Systems:

1. A sewage treatment system not meeting the requirements of Section 402 of this Ordinance shall be upgraded, at the time a permit or variance of any type is required for any improvements on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water mark/elevation.
2. The governing body of the City of Sunfish Lake has by formal resolution notified the Commissioner of its progress to identify non-conforming sewage treatment systems. The City of Sunfish Lake shall require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which shall not exceed one (1) year. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

SECTION 1243.09 COMPLIANCE:

All subdivisions shall comply with the applicable provisions of the Subdivision Ordinance. Any proposed plat for shoreland areas which is inconsistent with the provisions of this Ordinance shall be approved by the Commission of Natural Resources.

SECTION 1243.10 ADMINISTRATIVE PROCEDURES:

- A. The administrative procedures as set forth in this Ordinance shall apply and all provisions thereof shall be applicable to this section.
- B. Notices of public hearings to consider variances, amendments, conditional uses and subdivisions shall be forwarded to the Commissioner of Natural Resources at least ten (10) days prior to such hearing.
- C. All amendments and final decisions granting variances, conditional uses or subdivisions shall be forwarded to the Commissioner of Natural Resources within ten (10) days of final action or amendment.

1244. W, WETLANDS OVERLAY DISTRICT

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1244.13	Standards and Procedures for Evaluating Wetland Replacement Plans
1244.14	Standards and Criteria for State Wetland Banking
1244.15	Calcareous Fens

SECTION 1244.01 PURPOSE:

The purpose and intent of this Section is to insure that the wetland resources within the City of Sunfish Lake are protected and conserved. Wetland resources serve to provide food, shelter and habitat for fish and wildlife, store surface runoff and reduce flooding damages, replenish subsurface water supplies, provide outdoor recreation areas and enhance the natural beauty and biodiversity of landscapes within the City. This section incorporates by reference the Wetland Conservation Act of 1991, Laws of Minnesota 1991, Chapter 354, as amended by Laws 1993, Chapter 175 and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules Chapter 8420, as amended) whose purpose is to:

- A. Achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands;
- B. Increase the quantity, quality and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;
- C. Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands; and
- D. Replace wetland values where avoidance of activity is not feasible and prudent. These purposes being consistent with the City's desire to preserve areas containing low lands, marshes, wetlands, drainage areas, water bodies and waterways which are essential to the health, safety and general welfare of the City's residents.

SECTION 1244.02 SCOPE:

Wetlands shall not be drained or filled wholly or partially unless replaced by restoring or creating wetland areas of at least equal public value. This Section, along with the above mentioned references, shall be utilized by the City to insure the protection of the City's wetland resources.

In addition to the provisions of this Section, City decisions on draining and filling of wetlands are subject to Minnesota Statutes, chapters 116B and 116D, which provide that an action which is likely to have material adverse effects on natural resources must not be allowed if there is a feasible and prudent alternative consistent with the requirements of the public health, safety and welfare and the state's paramount concern for the protection of its natural resources. Economic considerations alone do not justify adversely effective actions.

SECTION 1244.03 DISTRICT APPLICATION:

- A. All wetlands within the City of Sunfish Lake are hereby designated as part of the Sunfish Lake Wetlands Overlay District, and the requirements set forth in this Section shall govern development and other activities within these districts. The Wetlands Overlay District is defined and established to include those wetland areas under the protection of the Wetland Conservation Act of 1991, Laws of Minnesota 1991, Chapter 354, as amended by Laws 1993, chapter 175.
- B. The Sunfish Lake Wetlands Overlay District shall be applied to and superimposed as an overlay upon all zoning districts as contained herein as existing or amended by the text of this Section. The regulations and requirements imposed by the Sunfish Lake Wetlands Overlay District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.
- C. The boundaries of wetlands within the City may be changed by the City Council, Department of Natural Resources, or Army Corps of Engineers, whatever applicable, when it can be demonstrated by registered site survey and topographic work, and hydrologic analysis performed by registered engineer or land surveyor that the established boundaries are incorrect.

SECTION 1244.04 PERMITTED USES:

Permitted uses within a wetland, and as described in this Section, are subject to guidelines established by the Minnesota Department of Natural Resources and the United States Army Corps of Engineers. The following uses shall be permitted in the Wetlands Overlay District:

- A. The control of noxious weeds if the control does not drain or fill the wetland.
- B. Excavation in wetlands if done in a manner such that the wetlands are not drained or filled and prove to be a restoration or enhancement as defined by the Army Corps of Engineers.

SECTION 1244.05 CONDITIONAL USES:

Permitting for conditional uses in the Wetland Overlay District shall be based upon procedures set forth in and regulated by Section 1204 of this Ordinance. Conditional use permits shall be subject to the elevation criteria as set forth in Section 1204 in this Ordinance. Subject to other more restrictive limitations which may be imposed by this Section, the uses listed in part B may be allowed in wetlands by conditional use permit subject to the following:

- A. A wetland shall not be drained or filled, wholly or partially, unless either the activity meets the exemption criteria stated in part B or unless it is replaced under an approved replacement plan meeting the criteria of Section 1244.13-C.

A wetland activity shall be considered exempt if it qualifies for any one of the exemptions.

These exemptions do not apply to calcareous fens as identified by the Commissioner of the Department of Natural Resources.

No exemptions apply to wetlands that have been previously restored or created as a result of an approved replacement plan. All such wetlands are subject to replacement on subsequent drainage or filling.

Nonexempt wetlands shall not be partially drained or filled in order to claim an exemption or no-loss determination on the remainder. Therefore, no exemptions or no-loss determinations shall be applied to the remaining wetland that would not have been applicable before the wetland impact.

Present and future owners of wetlands drained or filled without replacement under an exemption in part B, sub-parts 1, 2, 4, 7, 8 and 23, can make no use of the wetland area after it is drained or filled, for ten years after the draining or filling, unless it is first replaced under the requirements of Minnesota Statutes, section 103G.222, paragraph (g). Also, for ten years the wetland may not be restored for replacement credit. At the time of wetland draining or wetland filling, the wetland landowner shall record a notice of these restrictions in the office of the Dakota County Recorder. At a minimum, the recorded document shall contain the name or names of the wetland landowners, a legal description of the property to which the restrictions apply, a statement of the restrictions, the date on which the ten-year period expires, the City of Sunfish Lake as the local

government which certified the exemption, if such occurred, the signatures of all owners, and an acknowledgment.

A person conducting an activity in a wetland under an exemption in part B shall ensure that:

1. Appropriate erosion control measures are taken to prevent sedimentation of the water;
2. The activity does not block fish activity in a watercourse; and
3. The activity is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under Minnesota Statutes, chapter 103H.

B. A request for an exemption shall be required of a prospective applicant on a form provided by the City of Sunfish Lake. Exemptions which qualify for City of Sunfish Lake review are as follows:

1. Activities in a wetland necessary to repair and maintain existing public or private drainage systems as long as wetlands that have been in existence for more than 20 years are not drained. This exemption allows maintenance which fills wetlands that have been in existence for more than 20 years when the wetlands are located within the right-of-way acreage of the ditch or within a one rod width on either side of the top of the ditch, whichever is greater, and the filling is limited to the side casting of spoil materials resulting from the maintenance and the spoil deposition area is permanently seeded into grass after maintenance activities are completed.

The owner shall provide documentation that the wetlands which will be partially or completely drained by the maintenance have not existed for more than 20 years.

Aerial photographs from two years of normal or wetter than normal water level conditions showing no wetlands are one form of acceptable documentation. If aerial photographs are unavailable, a sworn affidavit shall be submitted. Otherwise, the landowner shall show that the maintenance will not reduce the wetland from what it was 20 years ago or more.

This exemption includes lowering the elevation of previously placed tile when made necessary by land subsidence provided the lowering does not drain wetlands.

2. Activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county agricultural stabilization and conservation service office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985.

The wetland landowner shall provide Agricultural Stabilization and Conservation Service documents confirming that the county agricultural stabilization and conservation service office determined before September 19, 1988, that wetland drainage had begun before December 23, 1985 and that the determination has not been overturned by subsequent appeal or review and is not currently under administrative review.

3. Activities exempted from federal regulation under United States Code, title 33, section 1344(f).

The City of Sunfish Lake shall certify the exemption only if the wetland landowner furnishes proof of qualification for one of the exemptions from the United States Army Corps of Engineers.

This exemption shall not apply to a project with the purpose of converting a wetland to a non-wetland, either immediately or gradually, or converting the wetland to another use, or when the wetland fill will result in significant discernible change to the flow or circulation of water in the wetland, or partly draining it, or reducing the wetland area.

4. Activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clause (14), limited to when a new road crosses a wetland, and all of clause (26).

This exemption is for nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23 and 25 issued under Code of Federal Regulations, title 33, section 330.5. The City of Sunfish Lake shall certify such an exemption only if the applicant furnishes proof of qualification for one of these nationwide permits from the United States Army Corps of Engineers. Nationwide permit 14 for a new road shall not qualify for this exemption, nor do nationwide permits under numbers not listed in this exemption.

To qualify for a nationwide permit, the applicant for a United States Army Corps of Engineers permit shall meet any regional conditions imposed by the United States Army Corps of Engineers, and must obtain from the

Minnesota Pollution Control Agency an individual section 401 certification when required.

5. Activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland.

The wetland landowner shall provide a contract or easement conveyance or affidavit demonstrating that the wetland landowner or a predecessor restored the wetland for conservation purposes but retained the right to subsequently drain the restored wetland.

6. Activities in a wetland created solely as a result of:
 - a. Beaver dam construction;
 - b. Blockage of culverts through roadways maintained by a public or private entity;
 - c. Actions by public entities that were taken for a purpose other than creating the wetland; or
 - d. Any combination of a. to c.

Wetland areas created by beaver activities may be drained by removing those materials placed by beaver. Wetland drainage is permitted by removing or moving materials blocking installed roadway culverts and drainage structures. Additional excavation or removal of other materials is not permitted unless it can be shown by aerial photographs that the proposed wetland activity will not drain or fill wetland that was there before the beaver dam was built or the culvert became plugged.

Wetlands may be drained or filled if the wetland landowner can show that the wetland was created solely by actions the purpose of which was not to create the wetland and were approved, permitted, funded, or overseen by a public entity.

Impoundments or excavations constructed in non-wetlands solely for the purpose of effluent treatment, storm water retention, soil and water conservation practices, and water quality improvements, and not as part of a compensatory wetland mitigation process that may, over time, take on wetland characteristics, are also exempted.

7. Placement, maintenance, repair, enhancement, or replacement of utility or utility-type service, including the transmission, distribution, or furnishing, at wholesale or retail, or natural or manufactured gas, electricity, telephone, or radio service or communications if:

- a. The impacts of the proposed project on the hydrologic and biological characteristics of the wetland have been avoided and minimized to the extent possible; and
- b. The proposed project significantly modifies or alters less than one-half acre of wetlands.

For new placement and enhancement of existing facilities, the utility must demonstrate that the character and extent of the impacts of the proposed project on the wetlands have been minimized and that the entire project will, cumulatively, drain or fill less than one-half acre of wetland.

For maintenance, repair, and replacement, the City of Sunfish Lake may issue a seasonal or annual exemption certification or the utility may proceed without City of Sunfish Lake certification if it is carrying out the work according to best management practices. Work of an emergency nature may proceed as necessary and any wetland drain or wetland fill activities shall be addressed with the City of Sunfish Lake after the emergency work has been completed.

8. Activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland.

This exemption is for maintenance, but not expansion, of the rights-of-way in which utilities are located. Spill remediation is not routine maintenance.

The City of Sunfish Lake may issue a seasonal or annual exemption certification or the utility may proceed if it is carrying out the work according to best management practices. Work of an emergency nature may proceed as necessary and any wetland drain or wetland fill activities shall be addressed with the City of Sunfish Lake after the emergency work has been completed.

9. Alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline within all existing or acquired interstate pipeline rights-of-way. This exemption includes construction activities.
10. Temporarily crossing or entering a wetland to perform silvicultural activities, including timber harvest as part of a forest management activity, so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the wetland activities do not result in the construction of dikes, drainage ditches, tile lines, or buildings; and the timber harvesting and other silvicultural practices do not result in the drainage of the wetland or public waters.

This exemption is for temporary-use roads constructed for the primary purpose of providing access for the conduct of silvicultural activities.

11. Permanent access for forest roads across wetlands so long as the activity limits the impact on the hydrologic and biologic characteristics of the wetland; the construction activities do not result in the access becoming a dike, drainage ditch or tile line; with wetland filling avoided wherever possible; and there is no drainage of the wetland or public waters.

This exemption is the same as exemption 10 except that it is for permanent forest roads which are roads constructed for the primary purpose of providing access for the conduct of silvicultural activities.

12. Activities associated with routine maintenance or repair of existing public highways, roads, streets, and bridges, provided the activities do not result in additional intrusion into the wetland outside of the existing right-of-way.

This exemption does not prevent repairing washouts or adding material to the driving surface provided the road's occupancy of the wetland outside of the existing right-of-way does not increase.

13. Emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and do not result in the draining or filling, wholly or partially, of a wetland. This exemption applies to public works other than roads, such as buildings and bridges.

14. Normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland. This exemption applies to private structures, such as buildings and road crossings.

15. Duck blinds. This exemption allows floating duck blinds and blinds on poles or pilings. This exemption does not allow wetland fill other than poles or pilings.

16. Development projects and ditch improvement projects in the state that have received preliminary or final plat approval, or infrastructure that has been installed, or having local site plan approval, conditional use permits, or similar official approval by a governing body or government agency, within five years before July 1, 1991. Plat approval must be preliminary as approved by the City of Sunfish Lake.

Subdividers who obtained preliminary plat approval in the specified time period, and other project developers with one of the listed approvals timely obtained, provided approval has not expired and the project remains

active, may drain and fill wetlands, to the extent documented by the approval, without replacement. Those elements of the project that can be carried out without changing the approved plan and without wetland draining or wetland filling must be done in that manner. If wetlands can be avoided within the terms of the approved plan, they must be avoided. For county, joint county, and watershed district ditch projects, this exemption applies to projects that received final approval in the specified time period.

17. Activities that result in the draining or filling of less than 400 square feet of wetlands. This exemption applies if the total wetland loss by draining and filling will be less than 400 square feet per year per landowner, and the cumulative impact by all persons on a wetland over time without replacement after January 1, 1992, does not exceed five percent of the wetland's area.

SECTION 1244.06 EXEMPTION DETERMINATIONS:

A wetland landowner intending to drain or fill a wetland without replacement, claiming exemption, shall apply for a conditional use permit from the City of Sunfish Lake before beginning wetland drainage or wetland filling activities for determination whether or not the activity is exempt. A wetland landowner who does not request a determination may be subject to the enforcement provisions contained herein and Minnesota Statutes, section 103G.2372. The City of Sunfish Lake shall keep on file all documentation and findings of fact concerning exemption determinations for a period of ten years.

The City of Sunfish Lake shall offer exemption certificates as part of the wetland program within their jurisdiction.

The wetland landowner applying for exemption is responsible for submitting the proof necessary to show qualification for the particular exemption claimed.

The City of Sunfish Lake shall place the decision authority for exemption applications with the City Engineer.

The City Engineer's decision shall be based on the exemptions standards in Section 1244.05. If the decision requires a finding of wetland size or type, the City's engineer may seek the advice of the technical panel.

A wetland landowner draining or filling a wetland under an exemption shall ensure that appropriate erosion control measures are taken to prevent sedimentation of the water, the drain or fill does not block fish passage, and the drain or fill is conducted in compliance with all other applicable federal, state, and local requirements, including best management practices and water resource protection requirements established under Minnesota Statutes, chapter 103H.

SECTION 1244.07 NO-LOSS DETERMINATIONS:

A wetland landowner unsure if proposed work will result in a loss of wetland shall apply by conditional use permit application to the City of Sunfish Lake for a determination. A wetland landowner who does not request a determination may be subject to the enforcement provisions contained herein and Minnesota Statutes, section 103G.2372. The City of Sunfish Lake shall keep on file all documentation and findings of fact concerning no-loss determinations for a period of ten years.

The wetland landowner applying for a no-loss determination is responsible for submitting the proof necessary to show qualification for the claim.

The City of Sunfish Lake shall place the decision authority for no-loss applications with the City Engineer.

The City Engineer shall issue a no-loss certificate if the wetland landowner requests and if either:

- A. The work will not drain or fill a wetland;
- B. Water level management activities will not result in the conversion of a wetland to another land use;
- C. The wetland activities are in a surface impoundment for containment of fossil fuel combustion waste or water retention, and are not part of a compensatory wetland mitigation program; or
- D. The wetland activity is being conducted as part of an approved replacement plan or is conducted or authorized by public agencies for the purpose of wetland restoration and the activity is restricted to placing fill in a previously excavated drainage system to restore a wetland to its original condition.

SECTION 1244.08 REPLACEMENT PLAN DETERMINATIONS:

A wetland landowner intending to drain or fill a wetland who does not qualify for an exemption or no-loss determination shall obtain approval of a replacement plan from the City of Sunfish Lake before beginning draining or filling the wetland. A person who does not do so is subject to the enforcement provisions in 1244.12 and Minnesota Statutes, Section 103G.2372. An application for approval of a replacement plan may be obtained from the City of Sunfish Lake.

The City of Sunfish Lake shall, within ten days of receipt of the application, mail a copy of the application and an invitation to submit comments, as applicable, to:

- A. The Board of Water and Resources, who will subsequently publish the application in the Environmental Quality Board Monitor.

- B. Members of the public who have requested a copy.
- C. The Soil and Water Conservation District.
- D. The watershed district or water management organization, if there is one.
- E. The Dakota County Board of Water and Soil resources.
- F. Mayors of the cities within the watershed.
- G. The Commissioner of the Department of Natural Resources.

At the same time, the City of Sunfish Lake shall publish notice of the application with an invitation to comment in a general circulation newspaper in the area affected.

The City of Sunfish Lake will not make its decision before 30 days and not more than 60 days have elapsed from the mailing of notice, publication in the Environmental Quality Board Monitor, when required, or publication in the newspaper, whichever is later. The City of Sunfish Lake decision shall not be effective until 30 days after a copy of the decision has been mailed to the Environmental Quality Board Monitor for publication, when required, and mailed to the same list specified above for notice of the application and to the applicant. The mailing to the applicant shall be by registered mail and will advise that the decision is not effective for 30 days, and is stayed if it is appealed.

Publication in the Environmental Quality Board Monitor of replacement plan applications and decisions shall be performed, except for the wetland fill activities described in the next paragraph, when the City of Sunfish Lake shall publish a general notice in the Environmental Quality Board Monitor that it will not be publishing notice of such individual wetland activities, but will instead provide mailed notice of each project to anyone asking to be put on the City of Sunfish Lake's mailing list for such projects. This notice will be published not less often than once every year. The notice will advise how persons may submit their names and addresses to be put on the mailing list.

Projects eligible for this form of Environmental Quality Board Monitor notice are all those which will fill less than one-tenth acre of wetland; and all those which will fill less than one-quarter acre of wetland, and result from a private road fill or the construction or expansion of a single-family dwelling unit or a farm building when the project cannot be modified so as to avoid the wetland fill.

The City of Sunfish Lake's decision shall be based on the replacement standards contained in this Section and on the technical determination of the technical evaluation panel concerning the public values, location, size, and type of the wetland being altered. The City of Sunfish Lake will consider the recommendation of the technical evaluation panel to approve, modify, or reject the proposed replacement plan.

For wetland replacement plans involving both the City of Sunfish Lake and one or more other local government units, approval of all local government units involved shall be obtained before the project may proceed.

SECTION 1244.09 TECHNICAL EVALUATION PANEL AND PROCEDURES:

The City of Sunfish Lake shall form, by resolution, a technical evaluation panel consisting of three persons:

- A. A technical professional employee of the Board of Water and Soil Resources.
- B. A technical professional employee of the Dakota County Soil and Water Conservation District.
- C. A technical professional with expertise in water resources management appointed by the City of Sunfish Lake.

The member appointed by the City of Sunfish Lake shall act as the contact person and coordinator for the panel. Two members of the technical review panel will be knowledgeable and trained in applying methodologies of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (January 1989), and evaluation of public values. The technical evaluation panel reserves the right to invite additional wetland experts to help the panel in its work.

The panel shall make technical determinations on questions of public values, location, size, and type for replacement plans if requested to do so by the City of Sunfish Lake, the wetland landowner, or a member of the technical evaluation panel. The panel may review replacement plans and recommend to the City of Sunfish Lake either approval, approval with changes or conditions, or rejection. The panel will make no determinations or recommendations without at least one member having made an on-site inspection. Panel determinations and recommendations must be endorsed by at least two of the three members.

The panel, or one of its members when so authorized by all of the members, may assist the City of Sunfish Lake in making wetland size and type determinations when asked to do so by the City of Sunfish Lake as part of making an exemption or no-loss determination.

If requested by the City of Sunfish Lake, the wetland landowner, or a member of the technical evaluation panel, the panel shall answer technical questions or participate in the monitoring of replacement wetlands and will similarly participate in the monitoring of banked wetlands.

SECTION 1244.10: APPEAL OF CITY DECISIONS:

- A. Appeal of replacement plan decisions: The decision of the City of Sunfish Lake to approve, approve with conditions, or reject a replacement plan, becomes final if not appealed to the Board of Water and Soils Resources within 30 days after the date on which the decision is mailed to those required to receive notice of the decision.

Appeal may be made by the wetland landowner, by any of those required to receive notice of the decision, or by 100 residents of the county in which a majority of the wetland is located.

Appeal is effective upon mailing of the notice of appeal to the Board of Water and Soils Resources with an affidavit that a copy of the notice of appeal has been mailed to the City of Sunfish Lake. The City of Sunfish Lake shall then mail a copy of the notice of the appeal to all those to whom it was required by this Section to mail a copy of the notice of decision.

- B. Appeal of exemption and no-loss determinations:
1. An exemption or no-loss determination may be appealed to the Board by the wetland landowner after first exhausting all City of Sunfish Lake administrative appeal options.
 2. Those required to receive notice of replacement plan decisions as provided for in Section 1244.08 may petition the Board to hear an appeal from an exemption or no-loss determination. The Board shall grant the petition unless it finds that the appeal is meritless, trivial, or brought solely for the purposes of delay. In determining whether to grant the appeal, the Board shall also give consideration to the size of the wetland, other factors in controversy, any patterns of similar acts by the City of Sunfish Lake or landowner or petitioner, and the consequences of the delay.
 3. The determination of the City of Sunfish Lake on the exemption or no-loss application is final unless an appeal or petition is mailed to the board within 30 days after the decision is mailed to the landowner. The appeal or petition shall be accompanied by an affidavit that a copy has been sent to the City of Sunfish Lake and to the wetland landowner if it is a petition.
- C. Board of Soil and Water Resources Procedures: The appeal shall be decided by the Board within sixty days after receiving the notice of appeal and affidavit or granting the petition. Parties to the appeal will be the appellant, the City of Sunfish Lake and in the case of replacement plan appeals, all those required to receive notice of the City of Sunfish Lake's decision.

Upon appeal, the City of Sunfish Lake shall forward to the Board the record on which it based its decision. The board will make its decision on the appeal after

hearing. Thirty days' notice of the hearing will be given by the Board to the parties. The parties may present written and oral argument. When the City of Sunfish Lake has made formal findings contemporaneously with its decision and there is an accurate verbatim transcript of the proceedings and the proceedings were fairly conducted, the Board shall base its review on the record. Otherwise, it may take additional evidence, or remand the matter.

The Board shall affirm the City of Sunfish Lake's decision if the City of Sunfish Lake's findings of fact are not clearly erroneous; if the City of Sunfish Lake correctly applied the law to the facts, including this Section; and if the City of Sunfish Lake made no procedural errors prejudicial to a party. Otherwise, the Board shall reverse the decision, amend it, or remand it with instructions for further proceedings.

SECTION 1244.11 COMPENSATION:

Replacement plan applicants who have completed the City of Sunfish Lake process and the Board of Water and Soil Resources appeal process and the plan has not been approved as submitted, may apply to the Board of Water and Soil Resources for compensation under Minnesota Statutes, Section 103G.237.

SECTION 1244.12 ENFORCEMENT PROCEDURES:

- A. **Enforcing Authorities:** The Commissioner of the Department of Natural Resources, conservation officers, and other peace officers may issue cease and desist orders and restoration and replacement orders.
- B. **Cease and Desist Orders:** Site-specific cease and desist orders may be issued when the enforcement authority has probable cause that a drain or fill activity is being or has been conducted in a wetland and does not qualify for an exemption or a no-loss determination and is being or has been conducted without prior approval of a replacement plan by the City of Sunfish Lake.

A cease and desist order shall not be issued if the wetland landowner has a valid certificate of exemption or no-loss from the City of Sunfish Lake or has evidence to support an exemption. Otherwise:

1. The enforcement authority may issue a cease and desist order upon discovery of the wetland drain or wetland fill activity;
2. The order may be withheld to give the wetland landowner time to produce the evidence required by the City of Sunfish Lake to the enforcement authority of qualification for an exemption or no-loss determination; or

3. A cease and desist order may be issued with an effective date three weeks from the date of issuance. The enforcement authority may exercise this option when the enforcement authority cannot readily make a determination on the facts and circumstances to deny a wetland landowner's claim of exemption or no-loss, and continued drain or fill activity would not cause irreparable harm to the wetland.

The enforcement authority shall advise the wetland landowner that the wetland landowner's application, if any, for an exemption or no-loss determination, should be made immediately to the City of Sunfish Lake and that whatever wetland drain and wetland fill work the wetland landowner has done may require restoration according to a restoration plan designed by the Soil and Water Conservation District, if the application for exemption or no-loss determination is denied.

The enforcement authority issuing a cease and desist order shall submit copies to the Soil and Water Conservation District, City of Sunfish Lake, and department.

If an application for an exemption or no-loss determination is triggered by a cease and desist order, the City of Sunfish Lake or the technical evaluation panel will make a decision within three weeks from the date of application. The City of Sunfish Lake or the technical evaluation panel shall review evidence of exemption or no-loss produced by the wetland landowner, inspect the site if necessary, and determine:

1. If the area in question is a wetland; and
2. If the activity qualifies for an exemption or no-loss determination.

In cases where the cease and desist order has been issued to the City of Sunfish Lake, the determination of exemption or no-loss shall be made by the Board of Soil and Water Resources.

If the decision is that the wetland activity is exempt or results in a no-loss determination, the decision maker shall issue a certificate of exemption or no-loss, request that the enforcement authority rescind the cease and desist order, and notify the Soil and Water Conservation District, the department, and the wetland landowner.

If the application is denied, the decision-maker shall immediately notify the Soil and Water Conservation District, the department, the enforcement authority, and the wetland landowner.

- C. Restoration and Replacement Orders. The enforcement authority shall issue a restoration order or replacement order when the wetland drain or wetland fill has already been completed when discovered, or after a cease and desist order has been issued and the wetland landowner does not seek an exemption or no-loss

determination within three weeks, or the City of Sunfish Lake denies the application.

Promptly upon being informed by the enforcement authority of the need, the Soil and Water Conservation District staff person shall inspect the site and prepare a plan in consultation with the City of Sunfish Lake for restoring the site to its pre-altered condition, unless the Soil and Water Conservation District person concludes that restoration is impossible. The Soil and Water Conservation District shall incorporate its plan into a restoration or replacement order and send it to the enforcement authority for service in person or by certified mail to the wetland landowner.

The restoration order shall specify a date by which the wetland landowner must either:

1. Restore the wetland according to the Soil and Water Conservation District plan and obtain a certificate of satisfactory restoration from the Soil and Water Conservation District; or
2. Submit a replacement plan to the City of Sunfish Lake.

The order shall state that it will be canceled when the wetland landowner obtains a certificate of exemption or no-loss from the City of Sunfish Lake or a certificate that restoration has been completed according to an approved restoration plan. Otherwise, the wetland landowner must restore the wetland in the manner required by the restoration order.

If the Soil and Water Conservation District determines that restoration will not restore all the loss caused by the wetland drain or wetland fill activity, the enforcement authority may order a combination of restoration and replacement, or may order replacement rather than restoration, as determined by the Soil and Water Conservation District. The order shall direct the wetland landowner to obtain replacement plan approval from the City of Sunfish Lake. The order shall specify that if replacement plan approval is not obtained, the wetland landowner shall restore the wetland in a manner determined by the Soil and Water Conservation District.

Each cease and desist, restoration, and replacement order shall notice the wetland landowner that violation of the order is a misdemeanor.

If, as part of a misdemeanor proceeding, the court orders restoration or replacement, the Soil and Water Conservation District shall determine which is appropriate, and if it is restoration, the method of restoration. If the court orders replacement, the wetland landowner shall follow the replacement plan process in this Section unless the court orders otherwise.

SECTION 1244.13 STANDARDS AND PROCEDURES FOR EVALUATING WETLAND REPLACEMENT PLANS:

A. Procedures:

1. General: No person shall drain or fill a wetland, wholly or partially, without first having a wetland value replacement plan approved by the City of Sunfish Lake consistent with this Section and provided that the activity is not prohibited under the special considerations provisions in Section 1244.13.D.9.
2. Pre-application conference and site visit. Before preparation of a wetland value replacement plan, the wetland landowner shall meet with the City of Sunfish Lake for a pre-application conference and site visit. A wetland landowner may submit the sequencing information required in 1244.14-B and request a determination of compliance with the sequencing requirements from the City of Sunfish Lake before preparing a replacement plan.
3. Evaluation. Technical questions concerning the public value, location, size, and type of wetland shall be submitted to the technical evaluation panel. Wetland boundaries shall be determined using the methodologies in the federal Manual for Identifying and Delineating Jurisdictional Wetlands (January 1989).

Wetland type shall be identified according to Cowardin, et al. 1979, Classification of Wetlands and Deepwater Habitats of the United States and according to United States Fish and Wildlife Service Circular No. 39 (1971 edition) "Wetlands of the United States." The technical evaluation panel shall provide its determinations to the City of Sunfish Lake for consideration.

B. Sequencing:

1. Requirement. Except for calcareous fens that are subject to Section 1244.13.B.9, the City of Sunfish Lake will not consider or approve a wetland replacement plan unless the City of Sunfish Lake finds that the applicant has demonstrated that the activity impacting a wetland has complied with all of the following principles in descending order or priority:
 - a. Avoids direct or indirect impacts to the wetland that may destroy or diminish the wetland under the criteria in Section 1244.13.B.3;
 - b. Minimizes the impact to the wetland by limiting the degree or magnitude of the wetland activity and its implementation under the criteria in Section 1244.13.B.4;

- c. Rectifies the impact by repairing, rehabilitating, or restoring the affected wetland under the criteria in Section 1244.13.B.6;
 - d. Reduces or eliminates the impact to the wetland over time by preservation and maintenance operations under the criteria in Section 1244.13.B.6; and
 - e. Replaces unavoidable impacts to the wetland by restoring or creating substitute wetland areas having equal or greater public value as provided for in this Section.
2. Application Options. An applicant may either submit the information required for sequencing analysis as part of the application for replacement plan approval or apply for a preliminary sequencing determination from the City of Sunfish Lake before preparing a replacement plan. The City of Sunfish Lake may request additional information needed to make a determination. For projects impacting wetland areas less than 0.1 acres, the City of Sunfish Lake may provide an on-site sequencing determination without written documentation from the applicant.
3. Determination of Impact Avoidance.
- a. Avoidance shall be required when indicated by special considerations as stated in this Section.
 - b. Wetland Dependence Determination:
 - (1) Based on information provided by the applicant, the City of Sunfish Lake shall determine if the proposed project is wetland dependent. A project is wetland dependent if wetland features, functions, or values are essential to fulfill the basic purpose of the project. A wetland present at the site of a proposed project does not make that project wetland dependent.
 - (2) A project that has been determined by the City of Sunfish Lake to be wetland dependent is exempt from the analysis of avoidance alternatives in item Section 1244.13.B.3.c.
 - c. Alternative Analysis:
 - (1) The applicant shall provide the City of Sunfish Lake with documentation describing at least two alternatives in addition to the proposed project, one of which may be the no-build alternative, that would avoid impacts to wetlands. The alternatives may include consideration of alternate sites or alternative project configurations on the proposed site. The

alternatives shall be judged by the City of Sunfish Lake as good faith efforts, or the City of Sunfish Lake shall require the applicant to redraft them for reconsideration.

- (2) The City of Sunfish Lake will determine whether any feasible and prudent alternatives are available that would avoid impacts to wetlands. An alternative shall be considered feasible and prudent if it is capable of being done from an engineering point of view, is in accordance with accepted engineering standards and practices, is consistent with reasonable requirements of the public health, safety, and welfare, is an environmentally preferable alternative based on a review of social, economic, and environmental impacts, and would create no truly unusual problems. The City of Sunfish Lake shall consider the following in evaluating alternatives as applicable:
 - (a) Whether the basic project purpose can be reasonably accomplished using one or more other sites in the same general area that would avoid wetland impacts. An alternate site will not be excluded from consideration only because it includes or requires an area not owned by the applicant that could reasonably be obtained, used, expanded, or managed to fulfill the basic purpose of the proposed project;
 - (b) The general suitability of alternate sites considered by the applicant;
 - (c) Whether reasonable modification of the size, scope configuration, or density of the project would avoid impacts to wetlands;
 - (d) Efforts by the applicant to accommodate or remove constraints on alternatives imposed by zoning standards or infrastructure, including request for conditional use permits, variances, or planned unit developments; and
 - (e) The physical, economic and demographic requirements of the project. Economic considerations alone do not make an alternative not feasible and prudent.
- (3) If the City of Sunfish Lake determines that a feasible and prudent alternative exists that would avoid impacts to wetlands, it will deny the replacement plan. If no feasible

and prudent alternative is available that would avoid impacts to wetlands, the City of Sunfish Lake will evaluate the replacement plan for compliance with Section 1244.13.B.4 to 6.

4. Determination of Impact Minimization.

a. The applicant shall demonstrate to the City of Sunfish Lake satisfaction that the activity will minimize impacts to wetlands. In reviewing the sufficiency of the applicant's efforts to minimize wetland impacts, the City of Sunfish Lake shall consider:

- (1) The spatial requirements of the project;
- (2) The location of existing structural or natural features that may dictate the placement or configuration of the project;
- (3) The purpose of the project and how the purpose relates to placement, configuration, or density;
- (4) The sensitivity of the site design to the natural features of the site, including topography, hydrology and existing vegetation;
- (5) The value, function, and spatial distribution of the wetlands on the site;
- (6) Individual and cumulative impacts; and
- (7) An applicant's efforts to:
 - (a) Modify the size, scope, configuration, or density of the project;
 - (b) Remove or accommodate site constraints including zoning, infrastructure, access, or natural features; and
 - (c) Otherwise minimize impacts.

b. If the City of Sunfish Lake finds that an applicant has not complied with the requirements to minimize wetland impacts, the City of Sunfish Lake shall list, in writing, its objections to the project. If, within thirty days, the applicant does not withdraw the project proposal or indicate intent to submit an amended project proposal satisfying the City of Sunfish Lake's objections, the statement of objections shall constitute a denial.

5. Determination of Impact Rectification. Temporary impacts to a wetland shall be rectified by repairing, rehabilitating, or restoring the affected wetland.
 - a. Wetland activities may qualify for a no-loss determination in Section 1244.07 by meeting all of the following conditions:
 - (1) The physical characteristics of the affected wetland, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, and hydrologic regime, are restored to pre-project conditions sufficient to ensure that all pre-project functions and values are restored;
 - (2) The activity is completed and the physical characteristics of the wetland are restored within six months of the start of the activity; and
 - (3) The party responsible for the activity provides a performance bond to the City of Sunfish Lake for an amount sufficient to cover the estimated cost to restore the wetland to pre-project conditions. The City of Sunfish Lake will return the performance bond to the responsible party upon a determination by the City of Sunfish Lake that the conditions in this item and item b. below have been met.
 - b. An applicant shall be granted a no-loss determination under the criteria in item a. once in a ten-year period for a particular site within a wetland, except that repairs to the original project shall be allowed under the no-loss determination, if the City of Sunfish Lake determines the request to be necessary and reasonable.
 - c. Wetland impacts that do not qualify for a no-loss determination according to the criteria in item a. are subject to replacement under the criteria in Section 1244.13.C to I.
6. Determination of reduction or elimination of wetland impacts over time. After a wetland activity is completed, further wetland impacts from the draining or filling must be reduced or eliminated by maintaining, operating, and managing the project in a manner that preserves and maintains remaining wetland functions and values. The City of Sunfish Lake shall require applicants to implement best management practices to protect wetland functions and values.
7. Unavoidable impacts. Unavoidable wetland impacts that remain after efforts to minimize, rectify, or reduce or eliminate them shall be replaced according to Section 1244.13.C to I.

8. Calcareous Fens. Calcareous fens, as identified by the Commissioner, may not be filled, drained, or otherwise degraded, wholly or partially, by any action, unless the commissioner, under an approved management plan, decides some alteration is necessary, as provided in this Section.
- C. Replacement Plan Components: On an application form provided by the City of Sunfish Lake and with needed attachments supplied by the applicant, the following documentation shall be provided, except that for replacement plans utilizing the wetland bank in Section 1244.14, items 2 and 4 do not apply; instead the applicant shall submit the credit transfer form prescribed in Section 1244.14.E.2.e:
1. Organizational information, including the following:
 - a. The post office address of the applicant;
 - b. For corporations, the principal officers of the corporation, any parent companies, owners, partners, and joint venturers, and a designated contact person;
 - c. Managing agents, subsidiaries, or consultants that are or may be involved with the wetland draining or filling project;
 2. Either an affidavit confirming that the wetland values shall be replaced before or concurrent with the actual draining or filling of a wetland or an irrevocable bank letter of credit to guarantee the successful completion of the wetland value replacement;
 3. For the impacted wetland:
 - a. A recent aerial photograph or accurate map of the impacted wetland area;
 - b. The location of the wetland, including the county, watershed name or number, and public land survey coordinate of approximate wetland center;
 - c. The size of the wetland, in acres or square feet;
 - d. The type of wetland using United States Fish and Wildlife Service Circular No. 39 (1971 edition) and National Wetland Inventory mapping conventions (Cowardin et al., 1979);
 - e. A list of the dominant vegetation in the impacted wetland area, including common names of the vegetation exceeding 20 percent coverage and an estimate of coverage, for example, 50 percent willow, 20 percent cattails, and 30 percent sedge;

- f. A soils map of the site showing soil type and substrate, where available;
- g. The size of the watershed that drains surface water into the wetland as determined from a United States Government Survey topographical map or other suitable topographical survey;
- h. The locations of any surface inlets or outlets, natural or otherwise, draining into or out of the wetlands, and if the wetland is within the floodplain of a stream, river, or other watercourse, the distance and direction to the watercourse;
- i. A map, photograph, or written description of the land use of the immediate watershed within one mile of the impacted wetland. The surrounding land use information shall also indicate the presence and location, if any, of wetland preservation regions and areas, wetland development avoidance regions and areas, and wetland deficient regions and areas as identified in the comprehensive water plan;
- j. The nature of the proposed project, its area extent, and the impact on the wetland must be shown in sufficient detail to allow the City of Sunfish Lake to determine the amount and types of wetland to be impacted and to demonstrate compliance with the replacement sequencing criteria in Section 1244.13.B if applicable;
- k. Evidence of ownership or rights to the affected areas, including a legal description. When two or more wetland landowners are involved, including both the impact site and the proposed replacement site, a contract or other evidence of agreement signed by all wetland landowners and notarized must be included with the replacement plan. The contract or agreement must contain an acknowledgment of the covenant provisions in Section 1244.13.C.4.f by landowners on which a replacement wetland is proposed and the location and acreage of replacement wetlands. The contract becomes binding upon final approval of the replacement plan;
- l. A list of all other local, state, and federal permits and approvals required for the activity; and
- m. Other information considered necessary by the City of Sunfish Lake for evaluation of the activity;

4. For the replacement wetland Section 1244.13.C.3, sub-items a. to i. and k. to m., and:
 - a. An explanation of the size and type of wetland that will result from successful completion of the replacement plan;
 - b. Scale drawings showing plan and profile views of the replacement wetland and fixed photo-reference points for monitoring purposes. Photo-reference points should include views of any control structures and enough additional points to adequately depict the entire project;
 - c. How the replacement wetland shall be constructed, for example, excavation or restoration by blocking an existing tile; the type, size, and specifications of outlet structures; elevations, relative to Mean Sea Level or established bench mark, of key features, for example, sill, emergency overflow, and structure height; and best management practices that will be implemented to prevent erosion or site degradation;
 - d. For created wetlands only, additional soils information sufficient to determine the capability of the site to produce and maintain wetland characteristics;
 - e. A timetable that clearly states how and when implementation of the replacement plan shall proceed, and when construction of the replacement wetland shall be finalized;
 - f. A notice in a form provided by the board attached to and recorded with the deed for lands containing a replacement wetland, specifying the following:
 - (1) The location of the replacement wetland;
 - (2) That the wetland is subject to the act;
 - (3) That the fee title owner is responsible for the costs of repairs or reconstruction, if necessary, or for replacement costs;
 - (4) That reasonable access to the replacement wetland shall be granted to the proper authorities for inspection, monitoring, and enforcement purposes;
 - (5) That costs of title review and document recording is the responsibility of the fee title owner; and

- (6) That the City of Sunfish Lake or board can require necessary repairs or reconstruction work to return the wetland to the specifications of the approved replacement plan and require reimbursement of reasonable costs from the wetland owner, or can require replacement of the wetland according to the act;
 - g. A statement that the replacement wetland was not previously restored or created under a prior approved replacement plan;
 - h. A statement that the replacement wetland was not drained or filled under an exemption during the previous ten years;
 - i. A statement that the replacement wetland was not restored with financial assistance from public conservation programs;
 - j. A statement that the replacement wetland was not restored using private funds other than those of the landowner unless the funds are paid back with interest to the individual or organization that funded the restoration and the individual or organization notifies the City of Sunfish Lake in writing that the restored wetland may be considered for replacement;
 - k. A plan for monitoring the success of the replacement plan in meeting the project goal Section 1244.15.D.1, and as specified in this Section; and
 - l. Other information considered necessary for evaluation of the project by the City of Sunfish Lake.
5. The applicant shall provide information known to the applicant or readily available concerning the special considerations criteria in Section 1244.13.O.9.

D. Replacement Plan Evaluation Criteria:

- 1. Sequencing. Prior to the City of Sunfish Lake considering or approving a replacement plan, the applicant shall have exhausted all possibilities to avoid and minimize adverse wetland impacts according to sequencing in Section 1244.13.B.

The applicant shall demonstrate to the City of Sunfish Lake that the replacement plan complies with this part and Section 1244.13.E.

- 2. Type of Replacement. The order of preference for the method of replacement, from most preferred to least preferred, is project-specific restoration, project-specific creation, then wetland banking. Modification

or conversion of non-degraded wetlands from one wetland type to another, for example by impoundment of additional water, does not constitute adequate replacement.

Wetlands drained or filled under an exemption may not be restored for replacement credit for ten years after draining or filling.

3. **Timing of Replacement.** Replacement of wetland values shall be completed before or concurrent with the actual draining or filling of a wetland, unless an irrevocable bank letter of credit is submitted to the City of Sunfish Lake to guarantee successful completion of the replacement. All wetlands to be restored or created for replacement shall be designated for replacement before restoration or creation. Submission to the City of Sunfish Lake of the information required in Section 1244.13.C and subsequent approval shall be considered evidence of designation for replacement, provided the information is submitted before the actual wetland restoration or wetland creation.
4. **Location of Replacement Wetlands.** Replacement wetlands shall be located within the same watershed or county as the impacted wetlands.
5. **Statewide Replacement for Public Transportation Projects.** Wetlands impacted by public transportation projects may be replaced statewide, provided they are approved by the commissioner under an established wetland banking system or under this Section.
6. **Size of Replacement Wetlands.** Replacement wetlands shall be of a size sufficient to ensure that they provide equal or greater public value than the wetland that was drained or filled. For a wetland located on nonagricultural land, the minimum size of the replacement wetland shall be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland. For a wetland located on agricultural land, the minimum size of the replacement wetland shall be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland. The actual replacement ratios required for a replacement wetland may be more than the minimum, subject to the evaluation of wetland functions and values. A review by the City of Sunfish Lake shall determine the actual required replacement ratios. Future wetland owners may make no use of the wetland after it is altered, other than as agricultural land for a period of ten years unless future replacement to achieve a 2:1 ratio occurs. The wetland landowner shall record a notice of this restriction in the office of the Dakota County recorder.
7. **Carbon Balance.** When it is necessary to replace a drained or filled peat land, the replacement wetland shall be re-vegetated with planted or naturally invading vegetation established within three growing seasons.

8. Ecological Consistency. Restoration and replacement of wetlands must be accomplished according to the ecology of the landscape area affected. A replacement plan that would result in wetlands or wetland characteristics that do not naturally occur in the landscape area in which the replacement will occur shall not be approved.
9. Special Considerations. The factors in items a. to i., when identified as being applicable to an impact site or a replacement site, shall be considered by the City of Sunfish Lake in the review of replacement plans.
 - a. Federal or state-listed endangered species. A replacement plan for activities that involve sites where federal or state-listed endangered species are known to be present shall not be approved if it is determined that the proposed wetland activities will constitute a taking of those listed species under Minnesota Statutes, section 84.0895. Limited information on the presence of listed species at a particular site is available from the department's natural heritage program. Wetland activities that involve taking listed species are subject to Minnesota Statutes, section 84.0895.
 - b. Rare natural communities. A replacement plan for wetland activities that involve the modification of a rare natural community as determined by the department's natural heritage program shall not be approved if the City of Sunfish Lake determines that the proposed wetland activities will permanently adversely affect the natural community.
 - c. Special fish and wildlife resources. A replacement plan for wetland activities that would have a significant adverse impact that cannot be mitigated on a special or locally significant fish and wildlife resource shall not be approved. These wetland activities include, but are not limited to:
 - (1) Fish passage and spawning areas;
 - (2) Colonial water bird nesting colonies;
 - (3) Migratory waterfowl concentration areas;
 - (4) Deer wintering areas; and/or
 - (5) Wildlife travel corridors.

Wetland activities involving streams must not block fish passage unless approved by the department.
 - d. Archaeological or historic sites. A replacement plan for wetland activities that involve the modification of known archaeological or historical sites on or eligible for the National Register of Historic Places, as designated by the state historic preservation officer, shall not be approved if the City of Sunfish Lake determines that

the proposed wetland activities will have a significant adverse impact on the archaeological or historical value of the site.

- e. Groundwater sensitivity. A replacement plan for wetland activities shall not be approved if the City of Sunfish Lake determines the wetland activities would have a significant adverse impact on groundwater quality. The publication "Criteria and Guidelines for Assessing Geologic Sensitivity of Ground Water Resources in Minnesota" (MDNR, 1991) may be used as a guide in determining potential wetland impacts.
 - f. Sensitive surface waters. A replacement plan shall not be approved if the City of Sunfish Lake determines the wetland activities will have a significant adverse impact on the water quality of outstanding resource value waters or on trout waters designated by the Commissioner.
 - g. Education or research use. Wetlands known to be used for educational or research purposes shall be maintained or adequately replaced.
 - h. Waste disposal sites. The City of Sunfish Lake shall evaluate the type and amount of waste material found at the site. Wetland activities involving known or potential hazardous wastes or contaminants shall be conducted according to applicable federal and state standards.
 - i. Consistency with other plans. The City of Sunfish Lake shall consider the extent to which proposed wetland activities are consistent with other plans, such as watershed management plans, land use plans, zoning, and master plans.
10. Evaluation of wetland functions and values.
- a. Evaluation options. Replacement wetlands shall replace the functions and values that are lost from a wetland that is drained or filled. A replacement wetland should replace the same combination of functions and values provided by the impacted wetland. The evaluation of wetlands shall be performed in accordance with part 8420.540 of the Board of Water and Soil Resources Wetland Conservation Act Rules (August, 1993).

E. Wetland Replacement Standards:

- 1. General requirements. The standards and guidelines in this part shall be used in wetland creation and restoration efforts to ensure adequate replacement of wetland functions and values.

2. Specific requirements. The standards in items a. to h. shall be followed in all wetland replacements unless the technical evaluation panel determines that a standard is clearly not appropriate.
 - a. Water control structures must be constructed using specifications provided in the Minnesota Wetland Restoration Guide or their equivalent. Control structures may be subject to the department dam safety regulations.
 - b. Best management practices shall be established and maintained adjacent to the entire perimeter of all replacement wetlands.
 - c. For replacement wetlands where the dominant vegetation of the wetland type identified as the replacement goal is not likely to recover naturally in a five-year period, wooded and shrub wetlands especially, the replacement wetland shall be seeded or planted with appropriate species, as determined by the Soil and Water Conservation District, in coordination with the department. If the replacement wetland is seeded or planted, the seed or planting stock should be of local wetland origin to preserve local genotypes. During the monitoring period, the applicant must take reasonable steps to prevent invasion by any species, for example, purple loose strife and Eurasian water milfoil, that would defeat the re-vegetation goal of the replacement plan.
 - d. Erosion control measures as determined by the Soil and Water Conservation District shall be employed during construction and until permanent ground cover is established to prevent siltation of the replacement wetland or nearby water bodies.
 - e. For all restored wetlands where the original organic substrate has been stripped away and for all created wetlands, provisions shall be made for providing an organic substrate. When feasible, the organic soil used for backfill should be taken from the drained or filled wetland.
 - f. The bottom contours of created types 3, 4, and 5 wetlands shall be undulating, rather than flat, to provide a variety of water depths.
 - g. Side slopes of created wetlands and buffer strip shall not be steeper than 5:1, five feet horizontally for every one foot vertically as averaged around the wetland. Side slopes of 10:1 to 15:1 are preferred.
 - h. Created wetlands shall have an irregular edge to create points and bays.

- F. Monitoring: The purpose of wetland value replacement monitoring is to ensure that the replacement wetland achieves the goal of replacing lost functions and values.
- G. Duration of Monitoring: Monitoring shall be by means of an annual report as specified in Section 1244.13.H and shall continue for five years following completion of the wetland replacement project. Through written notification to the applicant, the City of Sunfish Lake may extend the required monitoring period for not more than an additional five-year period if, at the end of the initial five-year period, the goal of the replacement plan has not been achieved, but may be achieved with more time.
- H. Monitoring Annual Report:
1. Purpose. The purpose of the annual report is to describe actual wetland restoration or wetland creation activities completed during the past year, wetland activities planned for the upcoming year, and the information in 2. The applicant shall submit the annual report to the City of Sunfish Lake on a date determined by the City of Sunfish Lake until the applicant has fulfilled all of the requirements of the City of Sunfish Lake.
 2. Report Content. The annual report shall include the following information and other site-specific information identified by the City of Sunfish Lake:
 - a. A description of the project location, size, current wetland type (Cowardin classification), and desired wetland type (goal);
 - b. A comparison of the as-built specifications versus the design specifications (first annual plan only) and a rationale for significant changes;
 - c. Hydrology measurements: seasonal water level elevations during the period April through October (msl or referenced to a known bench mark);
 - d. A list of the dominant vegetation in the wetland, including common names of the vegetation exceeding 20 percent coverage and an estimate of coverage, for example, 50 percent willow, 20 percent cattail, and 30 percent sedge; and
 - e. Color photographs of the project area taken anytime during the period June through August, referenced to the fixed photo-reference points identified on the wetland replacement plan and labeled accordingly.

- I. Monitoring Determinations by the City of Sunfish Lake. The City of Sunfish Lake:
1. Shall inspect the project when construction is complete and certify compliance with construction specifications, and may inspect the project at any time during the construction and monitoring period, and any time after that to assess the long-term viability of the replaced wetland. When the City of Sunfish Lake certifies that the construction specifications have been met, the City of Sunfish Lake shall so advise the applicant and return any bond or other security that the applicant had provided;
 2. May order corrective action at any time during the required monitoring period if it determines that the goal of the approved replacement plan will not be met, and may require the applicant to prepare an amended wetland value replacement plan for review and approval by the City of Sunfish Lake which describes in detail the corrective measures to be taken to achieve the goal of replacing lost wetland functions and values;
 3. Shall make a finding based on a site visit at the end of the monitoring period as to whether the goal of the replacement plan has been met. If the goal of the replacement plan has not been met, the City of Sunfish Lake shall order corrective action and extend the monitoring period; and
 4. Shall require one or more of the following actions if during the monitoring period the City of Sunfish Lake finds that the goal of the replacement plan will not be met:
 - a. Order the applicant to prepare and implement a new replacement plan;
 - b. Issue a cease and desist order on the draining and filling activity if it has not been completed;
 - c. Order restoration of the impacted wetland;
 - d. Obtain forfeiture of a bond or other security and use the proceeds to replace the lost wetland values;
 - e. Ask the district court to order the applicant to fulfill the replacement plan; or
 - f. Other actions that the City of Sunfish Lake determines necessary to achieve the goal of the replacement plan.

SECTION 1244.14 STANDARDS AND CRITERIA FOR STATE WETLAND BANKING:

Wetlands may be restored or created within the City of Sunfish Lake for purposes of deposit in the wetland bank in accordance with Minnesota Rule, Parts 8420.0700 - 8420.0760. The City of Sunfish Lake shall be responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.

SECTION 1244.15 CALCAREOUS FENS:

- A. General. Calcareous fens shall not be drained or filled or otherwise altered or degraded except as provided for in a management plan approved by the Commissioner. No exemptions shall be granted for any wetland drain or wetland fill activities which affect calcareous fens.

3-1245. AN, AIRCRAFT NOISE ATTENUATION DISTRICT OVERLAY

1245.01	Purpose and Scope
1245.02	District Provisions
1245.03	Statutory Authority
1245.04	Findings of Fact
1245.05	Minneapolis-St. Paul International Airport Noise Compatibility Tables
1245.06	STC Ratings Required for Building Elements
1245.07	Plans and Specifications
1245.08	Enforcement

SECTION 1245.01 PURPOSE AND SCOPE:

This section is adopted for the purpose of:

- ⁸ A. Requiring new and redeveloped buildings within the City of Sunfish Lake to be constructed with material and in such a manner that aircraft noise is attenuated by the structure to an interior level which presents no adverse impact on the health, safety and general welfare of the residents, in accordance with the Metropolitan Council's Guidelines for Land Use Compatibility with Aircraft Noise (May 1998, as may be hereafter amended). These guidelines are part of the aviation chapter of the Metropolitan Development Guide.
- B. This Section shall apply to all construction requiring a building permit after the effective date of this ordinance exclusive of the following:
 1. Remodeling or rehabilitation of an existing residential building.
 2. Construction of an appurtenance to an existing residential building.
 3. Detached accessory structures
 4. Decks, patios, swimming pools, breezeways and similar outdoor uses.

SECTION 1245.02 DISTRICT PROVISIONS:

- A. The Aircraft Noise Attenuation Overlay District shall be applied to and superimposed as an overlay upon all zoning districts as contained herein as existing or amended by this Section and Official Zoning Map. The regulations and requirements imposed by the Aircraft Noise Attenuation Overlay District shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

- B. Any application for a City of Sunfish Lake building or occupancy permit pertaining to land located in an Aircraft Noise Zone must demonstrate compliance with the provisions of this ordinance prior to the issuance of such permit(s).
- C. The following Aircraft Noise Zones area hereby established as part of the Sunfish Lake Zoning Ordinance and Official Zoning Map as existing or amended by this Section.

Aircraft Noise Zone IV

SECTION 1245.03 STATUTORY AUTHORITY:

This ordinance is adopted pursuant to Minn. Stat. Sec. 473.192 (Supp. 1987). "Metropolitan Area Aircraft Noise Attenuation Act."

SECTION 1245.04 FINDINGS OF FACT:

The City of Sunfish Lake finds that development within certain areas of the City is impacted by aircraft noise; that certain uses of land are inappropriate in areas of high aircraft noise; that some structures do not adequately attenuate aircraft noise resulting in negative impacts on the health, safety and welfare of the residents or inhabitants of the structures; that, though proper construction methods, the means exist to attenuate aircraft noise to interior levels which alleviate such negative impacts; and that the requirements of this ordinance are necessary to promote and preserve the health, safety and welfare of the citizens of Sunfish Lake.

SECTION 1245.05 MINNEAPOLIS-ST. PAUL INTERNATIONAL AIRPORT NOISE COMPATIBILITY TABLES:

- A. Noise reduction level, in dBA, standard required to meet or exceed for new development and major redevelopment as defined by the Metropolitan Council in the Aviation Chapter of the Metropolitan Development Guide.

⁸ Land Use Type	Aircraft Noise Zone IV (65-70 Leq)
Residential	
Single Family/Multiplex with individual entrance	20 dBA
Multiplex/Apartment with shared entrances	20 dBA
Mobile Home	20 dBA
Educational/Medical	
Schools, Churches, hospitals, nursing homes	20 dBA
Cultural, Entertainment, Recreational	15 dBA
Office, Commercial Retail	Consistent
Services	
Transportation-Passenger Facilities	Consistent
Transient Lodging	15 dBA
Other medical health an educational services	Consistent
Other Services	Consistent
Industrial, Communication, Utility	Consistent
Agricultural Land, Water Area, Resource Extraction	Consistent

- B. Noise reduction level standard, in dBA required to meet or exceed for infill development and reconstruction or additions to existing structures defined by the Metropolitan Council in the Aviation Chapter of the Metropolitan Development Guide. All construction or reconstruction requiring a building permit and located within an Aircraft Noise Zone, except as provided for in Section 1245.01.B, shall be constructed in such a manner that the applicable noise level reduction requirements of the Noise Compatibility Tables are met or exceeded.

⁸ Land Use Type	Aircraft Noise Zone IV (65-70 Leq)
Residential	
Single Family/Multiplex with individual entrance	20 dBA
Multiplex/Apartment with shared entrances	20 dBA
Mobile Home	20 dBA
Educational/Medical	
Schools, Churches, hospitals, nursing homes	20 dBA
Cultural, Entertainment, Recreational	15 dBA
Office, Commercial Retail	Consistent
Services	
Transportation-Passenger Facilities	Consistent
Transient Lodging	15 dBA
Other medical health an educational services	Consistent
Other Services	Consistent
Industrial, Communication, Utility	Consistent
Agricultural Land, Water Area, Resource Extraction	Consistent

- C. Where a particular structure contains different land uses, the more stringent requirements shall apply, except where it is architecturally possible to achieve the appropriate noise reduction level for each different use, and the uses are acoustically separated by a wall or partition with a minimum STC of 25.

SECTION 1245.06 STC RATINGS REQUIRED FOR BUILDING ELEMENTS:

⁸ A.

Specified Noise Level Reduction dBA	Required STC Rating Need For Compliance (all values +/- 2 STC)			
	Roof/Ceiling	Walls	Windows	Doors
20	40	40	30	20
25	45	45	35	25
30	50	50	40	30
35	55	55	45	35
40	60	60	50	40

B. STC laboratory tests of construction materials and assemblies must be conducted according to the requirements of the American Society of Testing and Materials (ASTM E90 or ASTM E336).

SECTION 1245.07 PLANS AND SPECIFICATIONS:

⁸ A. All applicants for a building or occupancy permit shall include with the application all plans, specifications or other information required by this Ordinance. The plans and specifications shall describe in sufficient detail all pertinent features of the building, building materials, heating and ventilation systems, including but not limited to the STC ratings of roof/ceilings, walls, windows, and doors and other pertinent data as may be requested by the City Building Official to demonstrate conformance with the applicable noise reduction level requirements as specified in Sections 1245.06. The plans and specifications shall demonstrate compliance with the following standards:

1. All mechanical ventilation systems shall provide the minimum air circulation and fresh-air supply requirements as provided in the Uniform Building Code for the proposed occupancy, without the need to open any exterior doors or windows.
2. The perimeter of all exterior door and window frames shall be sealed airtight to the exterior wall construction.
3. Fireplaces shall be equipped with well-fitted chimney cap devices.

4. All ventilation ducts, except range hoods, connecting interior space to outdoors shall be provided with a bend such that no direct line of sight exists from exterior to interior through the vent duct.
 5. Doors and windows shall be constructed so that they are close-fitting. Weather-stripping seals shall be incorporated to eliminate all edge caps.
 6. All penetration through exterior walls by pipes, ducts conduits and the like shall be caulked airtight to the exterior construction.
 - ⁸ 7. The Building Official may require that submitted plans and specifications be certified by a Recognized Acoustical Specialist for compliance with this Ordinance.
- ⁸ B. Within 30 days of receipt of appropriate plans and specifications, the Building Official shall approve or reject the plans based upon the ability of the proposed materials and construction techniques to adequately attenuate noise.
- ⁸ 1. The Building Official shall approve said plans and specifications if:
 - a. The plans adequately document the use of construction assembly that meets or exceeds the STC ratings required by Section 1245.07.A, or
 - b. The plans and specifications have been certified by a Recognized Acoustical Specialist as achieving the interior noise level reduction required by Section 1245.06.
 2. In the event that the submitted plans and specifications are rejected, the reasons for such rejection shall be submitted to the applicant in writing. No construction shall occur prior to approval of appropriate plans and specifications.
 - ⁸ 3. Construction done in accordance with the approved plans and specifications as determined by the Building Official shall be deemed to meet the noise attenuation requirements of this ordinance.

⁸ **SECTION 1245.08 ENFORCEMENT:**

The City of Sunfish Lake Building Official is authorized and directed to enforce the provisions of this ordinance pursuant to Section 1245.08.A.

A. Inspections.

- ⁸ 1. All construction or work for which a building permit is required shall be subject to inspections by the Building Official. Inspections of noise

attenuation work shall be performed during the required building construction inspections as specified by the City of Sunfish Lake Building Code.

- ⁸
2. If the Building Official finds that the construction of any building is not in accordance with approved plans, the Building Official may order such corrective action as may be necessary to meet noise attenuation requirements of this Ordinance,
 - a. In lieu of performing such corrective action, a building owner may submit a test report based upon field tests showing compliance with Section 1245.06. The field test shall be performed in accordance with the American Society for Testing Materials Standard E336-84, Part A.1.2.2. Outside to Inside (level Reduction).