

CHAPTER V

PLANNING AND LAND USE REGULATIONS

Section 500 - Subdivision Regulations

500.01. Purpose and interpretation. The city council being aware of the responsibility it has for the adoption of ordinances, rules and regulations designed for the protection of health, safety and general welfare of the city, deems it necessary to provide regulations for dividing and subdividing of property within the city so that new divisions and subdivisions will be integrated with the general plan of the city and contribute to an attractive, stable and wholesome community environment, adequate municipal services and safe streets. The city council, while recognizing that there are presently no public sewer or water facilities available within the city, nevertheless deems it necessary in this section to regulate divisions and subdivisions within the city in order that construction of such facilities in the future may be adequately planned. These regulations are the minimum requirements adopted for the protection of the public health, safety and general welfare.

500.03. Definitions. Subdivision 1. For the purpose of this section, the following terms, phrases, words and their derivations have the meanings given in this subsection.

Subd. 2. "Boulevard" means the portion of the right-of-way between the improved purpose of the street or road and the property line.

Subd. 3. "Cul-de-sac" means a permanent, terminal, minor street with only one outlet and having a terminus with a right-of-way diameter of 125 feet.

Subd. 4. "Division, large lot" means the division of a lot of record into two or more lots, each consisting of five acres, or more, including right-of-way, and each having 300 feet of frontage on a road or having access to a private street as defined herein.

Subd. 5. "Division, simple lot" means the division of a lot of record into no more than two lots, or a rural view lot subdivision regardless of the number of lots created, with each lot meeting or exceeding the minimum lot size, density, and road frontage or private street requirements. (Amended, Ord. No. 2005-01)

Subd. 6. "Division and rearrangement" means the division of one or more lots of record for the purpose of combining a portion or portions thereof to other lots of record, without creating additional lots.

Subd. 7. "Double frontage lots" mean those which have a front line abutting on one street and a rear line abutting on another street.

Subd. 8. "Easement" means a grant by an owner of land for a specific use of said land by the grantee.

Subd. 9. "Final plat" means the final map, drawing or chart on which the subdivider's plan of subdivision is presented to the city council for approval and which, if approved, will be filed with the county recorder.

Subd. 10. "Frontage" means the distance between the side lot lines of a lot measured along the boundary of the right-of-way designated to serve the lot by the city council.

Subd. 11. "Lot" means a parcel of land separated from other parcels by legal description and meeting the physical standards of this section.

Subd. 12. "Lot area" means the horizontal plane bounded by the lot lines.

Subd. 13. "Lot corner" means a lot bounded by the intersecting boundaries of two or more streets or roads.

Subd. 14. "Lot depth" means the average horizontal distance between the front lot line and the rear lot line.

Subd. 15. "Lot line" means a line defining the horizontal plane of a lot.

Subd. 16. "Lot line, front", means the line connecting the side lot line of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 17. "Lot line, rear", means that lot line which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot parallel to and at the maximum distance from the front lot line.

Subd. 18. "Lot line, side", means any lot line which is not a front lot line or a rear lot line.

Subd. 19. "Lot width" means the maximum horizontal distance between the side lot lines measured parallel to and 50 feet from the front lot line.

Subd. 20. "Minimum subdivision design standards" mean the guides, principles and specifications for the preparation of a subdivision plan indicating among other things, the minimum dimensions of the various elements set forth in the preliminary plat.

Subd. 21. "Outlot" means a parcel of land in a subdivision separated from the other parcels by a legal description which does not meet the physical standards of this section and which is unbuildable until such physical standards are met.

Subd. 22. "Owner" means any person having an interest in the land sought to be subdivided.

Subd. 23. "Pedestrian way" means the right-of-way across or within a block, for use by pedestrian traffic.

Subd. 24. "Preliminary plat" means the preliminary map, drawing or chart indicating the proposed plan of the subdivision to be submitted to the planning commission and city council for their consideration.

Subd. 25. "Property line" means the legal boundary of a lot.

Subd. 26. "Reserve strip" means a narrow strip of privately owned land which prevents access to a public street.

Subd. 27. "Right-of-way" means land designated by the city council for public vehicular and pedestrian traffic by easement, dedication, statutory user, common law dedication, or other instrument or legal right.

Subd. 28. "Road" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel. (Revised, 1992, Sec. 1)

Subd. 29. "Street" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel. (Revised, 1992, Sec. 1)

Subd. 30. "Street, collector" means a street which carries traffic from minor streets to through streets.

Subd. 31. "Street, minor" means a street of limited continuity used primarily for access to the abutting properties.

Subd. 32. "Street, private" means a street serving as vehicular access for more than one parcel of land in which the right-of-way underlying the street is not dedicated to the public, but is owned by one or more private parties. The construction and maintenance provisions of said private street shall be set forth in writing by the city council and recorded in the office of the Hennepin county recorder.

Subd. 33. "Street-width" means the shortest distance between the lines delineating the right-of-way of a street.

Subd. 34. "Subdivider" means any owner commencing proceedings under this section to effect a subdivision of land hereunder.

Subd. 35. "Subdivision" means the process of dividing a parcel of land and the land divided, and includes the following: (Amended, Ord. No. 2005-01)

- (a) The division of a parcel of land into two or more lots or parcels; (Amended, Ord. 2005-01)
- (b) The replat of platted land. (Amended, Ord. 2005-01)

Subd. 36. "Subdivision, rural view lot" means the division of a parcel of land in the Agriculture zoning district into one or more lots or parcels primarily for residential use. The resulting residential lots shall be referred to as "rural view lots." (Added, Ord. No. 2005-01)

500.05. Enforcement. Subdivision 1. Approval required. It is unlawful and punishable as provided herein to record any subdivision or division in the office of the county recorder unless said subdivision or division has received approval as provided herein.

Subd. 2. Permits not issued. The building inspector may not issue building permits for any structure on a lot or parcel in any unapproved subdivision or division.

Subd. 3. Improvements prohibited. The city council will not permit any public improvements or services to be installed or performed in any subdivision or division unless said subdivision or division is approved as provided herein.

Subd. 4. Unapproved conveyances. It is unlawful to make, file or record any conveyance of land to which this section is applicable if the land is described in the conveyance by an unapproved U.S.G.S. description or by reference to an unapproved registered land survey or to an unapproved plat. This provision does not apply to any conveyance if the land described therein:

- (a) was a separate parcel of record as of March 31, 1980, or
- (b) was the subject of a written, verified and recordable contract for deed entered into prior to March 31, 1980, or
- (c) is a division approved by the city council as hereinafter provided.

Subd. 5. Sales prohibited. It is unlawful to sell or offer for sale any parcel of land within the city until the requirements of this section have been met.

500.07. Divisions. Divisions, as defined herein, are governed by this section except as hereinafter modified by the provisions of subsections 500.09 through 500.31.

500.09. Approval procedure of simple lot divisions and division and rearrangement. Subdivision 1. Procedure for preliminary plans. Prior to preparation for the simple lot division and division and rearrangement the subdivider shall have a preliminary discussion in regard to the requirements of this section with the zoning administrator.

Subd. 2. Filing with city clerk-treasurer. To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

- (a) Nine copies of the subdivision.
- (b) A cash fee established by resolution of the city council.
- (c) An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3. Staff review. The city clerk-treasurer shall forward a copy of the plans to the city engineer and the city planner, directing the engineer and the planner to review the plans and prepare a written report relating to the conformance of said plans with this section, and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original plans and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4. Planning commission review. The planning commission must study the plans and the report of the engineer and the planner to determine whether such plans conform to this section and to sound engineering and planning principles. The planning commission must prepare a written report and submit it to the city council.

500.11. Application for a simple lot division or a division and rearrangement.

Subdivision 1. Identification and description. Required information includes:

- (a) Legal description of property according to the records in the county recorder's office;
- (b) Names and addresses of all owners, the subdivider, surveyor and designer of the plans;
- (c) Graphic scale;
- (d) North-point; and
- (e) Date of preparation.

Subd. 2. Existing conditions. Required information includes:

- (a) Boundary line of proposed subdivision, clearly indicated;
- (b) Existing zoning classification; and
- (c) Total approximate acreage.

Subd. 3. Optional information. Provision of the following information may be required by the zoning administrator:

- (a) Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.
- (b) An S.C.S. soil survey map including the particulate makeup, permeability slope and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4. Other information. Other required information includes:

- (a) Proposed protective covenants;
- (b) Source of water supply;
- (c) Provisions for sewage disposal, drainage and flood control; and
- (d) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

500.13. Approval of simple lot divisions and division and rearrangements. The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including, without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots. The city council's approval shall be in the form of a resolution which shall be filed in the office of the Hennepin county recorder.

500.15. Minimum design standards for simple lot divisions and division and rearrangement. Subdivision 1. Easements provided for utilities. Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements shall be subject to the approval of the engineer.

Subd. 2. Easements provided for drainage. Easements shall be provided along each water course, drainage channel or wetlands to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. Such easements shall be dedicated to the city by appropriate language in the owner's certificate.

Subd. 3. Lot frontage. All lots in a subdivision as defined herein shall have no less than 200 feet of frontage on a right-of-way. A subdivision lot fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and shall meet minimum width requirements at the building setback line.

Subd. 4. Lot size. Lot size requirements for divisions and subdivisions shall be governed by the zoning ordinance or section 705. All dimensions and lot area shall exclude right-of-way.

Subd. 5. Long lots prohibited. Lots platted with length greater than four times width shall be prohibited.

Subd. 6. Water courses. Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding, inadequate drainage, or ground water which interferes with water supply or sanitary sewer.

Subd. 7. Natural features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, marshes, historic areas or similar conditions, which if preserved will add attractiveness and stability to the proposed division or rearrangement.

Subd. 8. Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 9. Outlots. All outlots, as defined herein, are prohibited.

Subd. 10. Public access roads. A subdivision shall not be approved unless the council makes a finding that the existing public roads providing access to the land to be divided can adequately accommodate any additional traffic that the subdivision may generate. If the public roads providing access to the subdivision do not meet the minimum requirements in section 500.45 of this code, the required finding must be supported by a traffic study prepared by a licensed traffic engineer selected by the city. (Amended, Ord. No. 94-02, Sec. 1)

Subd. 11. Driveways. A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired. (Added, Ord. No. 2005-08, Sec 1)

500.17. Procedure for large lot divisions. Subdivision 1. Procedure for preliminary plans. Prior to preparation for the large lot divisions the subdivider must have a preliminary discussion in regard to the requirements of this section with the zoning administrator.

Subd. 2. Filing with clerk-treasurer. To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

- (a) Nine copies of the subdivision.
- (b) A cash fee established by resolution of the city council.
- (c) An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3. Staff review. The city clerk-treasurer shall forward a copy of the plans to the city engineer and the city planner, directing the engineer and the planner to review the plans and prepare a written report relating to the conformance of said plans with this section and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original plans and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4. Public hearing. If three lots or less are being divided the planning commission need not hold a public hearing, but if there are more than three lots included in the large lot division they must hold a public hearing. Notice of such hearing must be published in the official newspaper of the city at least ten days prior to the said planning commission hearing. The city clerk-treasurer shall mail notice of such hearing to all owners of property abutting on the property proposed to be divided.

Subd. 5. Planning commission review. The planning commission shall then hold this hearing (if necessary) and then shall study the plans and the report of the engineer and the planner to determine whether such plans conform to this section and to sound engineering and planning principles. The planning commission shall prepare a written report and submit it to the city council.

500.19. Application for a large lot division. Subdivision 1. Identification and description. Required information includes:

- (a) Legal description of property according to the records in the county recorder's office;
- (b) Names and addresses of all owners, the subdivider, surveyor and designer of the plans;
- (c) Graphic scale;
- (d) North-point; and
- (e) Date of preparation.

Subd. 2. Existing conditions; three lots or less. Required information includes:

- (a) Boundary line of proposed subdivision, clearly indicated.
- (b) Existing zoning classification.
- (c) Total approximate acreage.

Subd. 3. Optional information. The following information may be required by the zoning administrator:

- (a) Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.
- (b) An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4. Existing conditions; more than three lots.

- (a) Boundary line of proposed subdivision, clearly indicated.
- (b) Existing zoning classification.
- (c) Total approximate acreage.

- (d) Location, widths and names of all existing or previously platted streets and right-of-ways, showing type, width and condition of improvements, if any, railroad and utility right-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract and to a distance of 100 feet beyond the tract.
- (e) Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown.
- (f) Boundary lines of adjoining unsubdivided or subdivided land within 100 feet, which land must be identified by name and ownership.
- (g) Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines.
- (h) An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics together with classification and boundaries of soils within the proposed subdivision.

Subd. 5. Subdivision design features. Subdivision design features must be considered for only those large lot divisions of more than three lots. These include:

- (a) Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the use of such name is mandatory.
- (b) Location and widths of all proposed easements.
- (c) Typical cross-sections of proposed improvements upon streets, together with a plan for the disposal of surface and ground water, including storm sewers where required by sound engineering principles.
- (d) Approximate center line gradients of proposed streets.
- (e) Layout, numbers and preliminary dimensions of lots and blocks.

- (f) Where a subdivider owns property adjacent to that which is being proposed for subdividing, the city council may require, where appropriate, that the subdivider submit a preliminary plat of the remainder of subdivider's property showing its relationship to the future development. Where the areas concerned are of major size the city council may limit the extent of this area to be included in the preliminary plat.
- (g) Areas, other than streets and utility easements, intended to be dedicated or reserved for public use, including the size of such areas in acres.

Subd. 6. Other information. Other required information includes:

- (a) Proposed protective covenants.
- (b) Source of water supply.
- (c) Provisions for sewage disposal, drainage and flood control.
- (d) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

500.21. Approval of large lot division. The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots. The city council's approval shall be in the form of a resolution which shall be filed in the office of the Hennepin county recorder.

500.23. Final plat procedures. Subdivision 1. Three lots or less. This subsection does not apply to plats of three lots or less.

Subd. 2. More than three lots. On more than three lots the following apply:

- (a) The subdivider shall within 90 days following approval of the preliminary plan, submit to the clerk-treasurer an up-to-date certified abstract of title or registered property abstract and such other evidence as the city attorney may require showing title or control in the applicant.
- (b) The abstract of title or registered property abstract shall be referred to the city attorney for examination and report. The city attorney's report shall be made to the city council within 15 days of such referral.

500.25. Minimum design standards for large lot divisions of three lots or less. Subdivision 1. Easements provided for utilities. Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block, and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements shall be subject to the approval of the engineer.

Subd. 2. Easements provided for drainage. Easements shall be provided along each water course, drainage channel or wetlands to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. Such easements shall be dedicated to the city by appropriate language in the owner's certificate.

Subd. 3. Lot frontage. All lots in a large lot division as defined herein shall have no less than 300 feet of frontage on a road as defined. A large lot division parcel fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and shall meet minimum width requirements at the building setback line. (Amended, Ord. 89-F, 10/92)

Subd. 4. Lot size. Lot size requirements for divisions and subdivisions shall be governed by the zoning ordinance or section 705, or both. All dimensions and lot area may include right-of-way.

Subd. 5. Long lots. Lots platted with length greater than four times width shall be prohibited.

Subd. 6. Water courses. Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding, inadequate drainage, or ground water which interferes with water supply or sanitary sewer.

Subd. 7. Natural features. In the subdividing of any land, due regard must be shown for all natural features, such as tree growth, water courses, marshes, historic areas or similar conditions, which if preserved will add attractiveness and stability to the proposed division.

Subd. 8. Remnants. Remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 9. Outlots. Outlots, as defined herein, are prohibited.

Subd. 10. Public access roads. A subdivision shall not be approved unless the council makes a finding that the existing public roads providing access to the land to be divided can adequately accommodate any additional traffic that the subdivision may generate. If the public roads providing access to the subdivision do not meet the minimum requirements in section 500.45 of this code, the required finding must be supported by a traffic study prepared by a licensed traffic engineer selected by the city. (Amended, Ord. No. 94-02, Sec. 2)

Subd. 11. Driveways. A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired. (Added, Ord. No. 2005-08, Sec 2).

500.27. Minimum design standards for large lot divisions which result in three or more lots. Minimum design standards for large lot divisions are those set forth in subsections 500.43 through 500.57, except that as to subsection 500.57, subdivision 2, all dimensions and lot area may include right-of-way.

500.29. Required improvements on the site of large lot divisions resulting in three lots or less. Subdivision 1. Inspection at subdivider's expense. Required improvements to be installed under the provisions of this section must be inspected at the subdivider's expense during the course of construction. Such inspection shall be by the city engineer or an inspector appointed by the city council.

Subd. 2. Improvements completed prior to approval of final plat. Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of subsection 500.61 only if the engineer shall certify satisfaction that the existing improvements conform to applicable city standards.

Subd. 3. Reimbursements to city for fees incurred. The subdivider must reimburse the city for all engineering consulting fees, planning consulting fees, inspection fees and fees for legal services reasonably incurred by the city in processing a subdivision application under the terms of these regulations.

500.31. Applicability of certain sections. In large lot divisions resulting in more than three lots subsections 500.61 through 500.71 are applicable.

500.33. Approval procedure for preliminary plat. Subdivision 1. Preliminary discussions. Prior to preparation of a preliminary plat the subdivider shall have a preliminary discussion in regard to the requirements of this section with the zoning administrator for the city.

Subd. 2. Filing with city clerk-treasurer. To commence approval of a subdivision an owner shall file with the city clerk-treasurer:

- (a) Nine copies of the preliminary plat.

- (b) A cash fee established by resolution of the city council.
- (c) An executed agreement in which the owner agrees to pay all costs of engineering, planning, inspection and legal expenses incurred by the city in reviewing the subdivision.

Subd. 3. Staff review. The city clerk-treasurer shall forward a copy of the preliminary plat to the city engineer and the city planner, directing the engineer and the planner to review the preliminary plat and prepare a written report relating to the conformance of said preliminary plat to this section, and to sound engineering and planning principles. The reports of the engineer and the planner shall be forwarded to the city clerk-treasurer within 20 days of the filing of the original preliminary plat and the city clerk-treasurer shall place the request for approval on the agenda of the next regularly scheduled meeting of the planning commission.

Subd. 4. Public hearing. The city clerk-treasurer shall schedule a public hearing on the proposed preliminary plat, said public hearing to be held by the planning commission. Notice of such hearing shall be published in the official newspaper of the city at least 10 days prior to the said planning commission hearing. The city clerk-treasurer shall mail notice of such hearing to all owners of property abutting on the property proposed to be subdivided.

Subd. 5. Planning commission review. The planning commission shall hold the public hearing and shall study the preliminary plat and the report of the engineer and the planner to determine whether such plan conforms to this section and to sound engineering and planning principles. The planning commission shall prepare a written report and submit it to the city council.

500.35. Data required for preliminary plat. Subdivision 1. Map. The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivision maps shall be drawn at a scale of one inch equals 100 feet, unless otherwise required by the zoning administrator. The preliminary plat of the proposed subdivision shall contain or have attached thereto the information specified in this subsection.

Subd. 2. Identification and description. Required information includes:

- (a) Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the county;
- (b) Legal description of property according to the records in the county recorder's office;
- (c) Names and addresses of all owners, the subdivider, surveyor and designer of the plat;
- (d) Graphic scale;
- (e) North-point; and

- (f) Date of preparation.

Subd. 3. Existing conditions. Required information includes:

- (a) Boundary line of proposed subdivision, clearly indicated;
- (b) Existing zoning classifications;
- (c) Total approximate acreage;
- (d) Location, widths and names of all existing or previously platted streets and right-of-ways, showing type, width and condition of improvements, if any, railroad and utility right-of-way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 100 feet beyond the tract;
- (e) Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes and hydrants shall also be shown;
- (f) Boundary lines of adjoining unsubdivided or subdivided land within 100 feet identified by name and ownership;
- (g) Topographic data, including contours at vertical intervals of not more than two feet. Water courses, marshes, wooded areas, rock outcroppings, power transmission poles and lines, and other significant features shall be shown, to a distance of 100 feet beyond the property lines; and
- (h) An S.C.S. soil survey map including the particulate makeup, permeability, slope, and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed subdivision.

Subd. 4. Subdivision design features. Required information includes:

- (a) Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street heretofore used in the county or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the use of such name is mandatory;
- (b) Location and widths of all proposed easements;

- (c) Typical cross-sections of proposed improvements upon streets, together with a plan for the disposal of surface and ground water, including storm sewers where required by sound engineering principles;
- (d) Approximate center line gradients of proposed streets;
- (e) Layout, numbers and preliminary dimensions of lots and blocks;
- (f) Where a subdivider owns property adjacent to that which is being proposed for subdividing, the city council may require, where appropriate, that the subdivider submit a preliminary plat of the remainder of subdivider's property showing its relationship to the future development. Where the areas concerned are of major size the city council may limit the extent of this area to be included in the preliminary plat; and
- (g) Areas, other than streets and utility easements, intended to be dedicated or reserved for public use, including the size of such areas in acres.

Subd. 5. Other Information. Required information includes:

- (a) Proposed protective covenants;
- (b) Source of water supply;
- (c) Provisions for sewage disposal, drainage and flood control; and
- (d) If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.
- (e) Proposed location of driveways or accesses to each lot. (Added, Ord. No. 2005-08, Sec. 3)

500.37. Qualifications governing approval of preliminary plat. Subdivision 1. Planning commission report. The planning commission may recommend and the city council may require such changes or revisions as deemed necessary for the health, safety, general welfare and convenience of the city, including, without limitation, changes in street and intersection alignment, configuration and location of proposed lots, and enlargement or reduction of the size of lots.

Subd. 2. Soil tests. As a condition of approval, the council may, by resolution, require soil borings and percolation tests for each lot upon which the soil survey map fails to positively indicate sufficient suitable soils to meet on-site septic system requirements. The resolution of the city council approving the plat or division shall carry a legend identifying lots which cannot utilize standard on-site septic systems.

Subd. 3. Preliminary approval. Approval of a preliminary plat by the planning commission and the city council is tentative only, involving merely the general acceptability of the layout. Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, and sewage disposal, sidewalks, gas and electric utilities, grading, gradients and roadway widths and surfacing of streets.

Subd. 4. Submission of final plat. Approval of a preliminary plat shall be null and void unless within 90 days after receiving the last required approval of the plat by the city council, there shall be submitted to the city council a final plat or plats in accordance with the conditions upon which such approval was granted by the city council.

Subd. 5. Drainage; flooding. No plan will be approved for a subdivision which covers an area subject to periodic flooding or which contains drainage facilities for the streets and lots which are inadequate as measured by sound engineering standards.

Subd. 6. Preliminary plat not approved. If the preliminary plat is not approved by the city council, the reasons for such action shall be recorded in the proceedings of the city council and transmitted to the applicant.

500.39. Approval procedure for final plat. Subdivision 1. Filing with city clerk-treasurer. The subdivider shall within 90 days following approval of the preliminary plat, submit to the clerk-treasurer:

- (a) Five copies and a reproducible copy of the final plat. This final plat shall incorporate all changes required by the city council. Otherwise, it shall conform to the preliminary plat. The final plat may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop immediately.
- (b) An up-to-date certified abstract of title or registered property abstract and such other evidence as the city attorney may require showing title or control in the applicant.

Subd. 2. Final plat review. The city clerk-treasurer shall refer two copies of the final plat to the planning commission, one copy to the engineer, and one copy each to the telephone, power and other utility companies. The abstract of title or registered property abstract shall be referred to the city attorney for the city attorney's examination and report. The city attorney's report shall be made to the city council within 15 days of such referral. The procedure and timing for the reports of the planning commission and the engineer and action by the city council are the same as for the final approval of the preliminary plat except that no public hearing is required in processing the final plat.

Subd. 3. Plat approval. If the final plat is approved by the city council, the subdivider shall record it with the county recorder within 90 days after the date of approval; otherwise, the approval of the final plat shall be considered void.

Subd. 4. Recording. The subdivider shall, immediately upon recording, furnish the city clerk-treasurer with three copies of the final plat showing evidence of recording, one for the building inspector, the assessor, and the planning commission. One mylar shall be provided to the clerk-treasurer and one reproducible master (sepia) shall be provided to the engineer.

500.41. Data required with final plat. Subdivision 1. General. The final plat shall be prepared by a land surveyor who is registered in the state of Minnesota and shall conform to all state and county requirements, this section and the directives of the city council.

Subd. 2. Information to be shown on final plat:

- (a) Accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other important features (dimensions of lot lines shall be shown in feet and hundredths);
- (b) An identification system for all lots and blocks;
- (c) True angles and distances to the nearest established official monuments (not less than two) which shall be accurately described in the plat;
- (d) Municipal, city, county or section lines accurately tied to the lines of the subdivision by distances and angles;
- (e) Radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs;
- (f) Accurate location of all monuments;
- (g) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision with the purposes indicated therein. Conveyance of all land for public use, other than right-of-way shall be by deed, which deed shall accompany the final plat;
- (h) Certification by a registered surveyor in the form required by Minnesota Statutes, section 505.03;
- (i) Execution by all owners and encumbrancers of any interest in the land on the certificate required by Minnesota Statutes, section 505.03 and which certificate shall include a dedication of the utility easements and any other public areas in such form as shall be approved by the city attorney;
- (j) Certifications showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full;

<u>Classifications</u>	<u>Right-of-Way</u>	<u>Street</u>
Through Streets	Current county of state width specifications shall be required	
Collector Streets	66 feet	24 feet
Minor Streets	66 feet	24 feet
Cul-de-sacs	125 feet (diameter)	100 feet (diameter)

Subd. 2. Deflections. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius of not less than 100 feet.

Subd. 3. Grades. All center line gradients shall be at least 0.5% and shall not exceed the following:

<u>Classifications</u>	<u>Gradient (in percent)</u>
Through Streets	4%
Collector Streets	6%
Minor Streets	6%
Cul-de-sacs	4% (Revised 2/92)

Subd. 4. Minor streets. Minor streets must be so aligned that their use by through traffic will be discouraged.

Subd. 5. Frontage streets. Where a subdivision abuts or contains an existing or planned major through street or a railroad right-of-way, the city council may require a street approximately parallel to and on each side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. Such frontage streets shall be located at a distance from the major through streets or railroad right-of-way suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.

Subd. 6. Half streets. Where right-of-way is provided and streets are built along the boundaries of a plat, the full width right-of-way shall be provided and the full width of streets shall be constructed as provided herein. Half streets shall be prohibited.

Subd. 7. Reserve strips. Reserve strips controlling access to streets are prohibited.

Subd. 8. Hardship to owners of adjoining property avoided. Street arrangements may not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

500.47. Intersections. Subdivision 1. Angle of intersection. The angle formed by the intersecting of streets may not be less than 60 degrees with 90 degrees intersection preferred.

Subd. 2. Size of intersection. Intersections of more than four corners are prohibited.

Subd. 3. Corner radii. Roadways of streets intersections shall be rounded by a radius of not less than 50 feet. Corners at the entrances to cul-de-sacs shall be rounded by a radius of not less than 25 feet.

500.49. Drainage. A complete and adequate drainage system for the subdivision must be designed, and must include a storm sewer system or a system of open ditches, culverts, pipes, and catch basins, or both systems. The system or systems must be approved by the engineer and designed in conformity with standards as may from time to time be adopted by resolution of the city council.

500.51. Easements. Subdivision 1. Provided for utilities. Easements at least 20 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be so dedicated to the public by appropriate language in the owner's certificate. They shall have continuity of alignment from block to block and at deflection points easements for pole-line anchors shall be provided where necessary. The location of all easements is subject to the approval of the engineer.

Subd. 2. Provided for drainage. Easements must be provided along each water course, drainage channel or wet lands to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff and storage in the installation and maintenance of storm sewers as required by sound engineering principles. The easements must be dedicated to the city by appropriate language in the owner's certificate.

500.53. Street names. Names of new streets may not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street, in which event it shall bear the name of the existing or platted street so in alignment.

500.55. Blocks. Subdivision 1. Factors governing dimensions. Block length and width or acreage within bounding streets must be such as to accommodate the size of lots required in the area pursuant to the terms of this section or the terms of the city zoning code and to provide for convenient access, circulation control, and safety of street traffic.

Subd. 2. Arrangement. A block must be so designed as to provide two tiers of lots, unless it adjoins a railroad or major thoroughfare and unless topographic conditions necessitate a single tier of lots.

500.57. Lots. Subdivision 1. Location. Lots may have no less than 200 feet of frontage on a street or road, except lots fronting on the terminus of a cul-de-sac shall have no less than 50 feet of frontage, and must meet minimum width requirements at the building setback line.

Subd. 2. Size. Lot size requirements for divisions and subdivisions shall be governed by the zoning code or section 705, or both. All dimensions and lot area shall exclude right-of-way.

Subd. 3. Long lots. Lots platted with length greater than four times width shall be prohibited.

Subd. 4. Water courses. Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding, inadequate drainage or ground water which interferes with water supply or sanitary sewer.

Subd. 5. Natural features. In the subdividing of any land, due regard shall be shown for all natural features such as tree growth, water courses, marshes, historic areas or similar conditions which if preserved will add attractiveness and stability to the proposed development.

Subd. 6. Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots.

Subd. 7. Outlots. All outlots, as defined herein, are prohibited.

Subd. 8. Driveways. A subdivision shall not be approved if any lot will be served by more than one driveway or access unless the applicant demonstrates that additional driveways or accesses are necessary for use of the lot and not merely convenient or desired. (Added, Ord. No. 2005-08, Sec. 5)

500.59. Public sites and open spaces. Where the official map designates land for future public use and such land lies, in whole or in part, within the proposed subdivision or division, and such land is not yet dedicated to the appropriate public body, such land shall be reserved and no action taken toward approval of the subdivision or division for a period not to exceed six months after final action as required hereunder, to allow the appropriate public body the opportunity to consider and take action to acquire such land in accordance with Minnesota Statutes, section 462.359.

500.61. Required improvements on the site. Subdivision 1. Improvements listed and described. Prior to the approval of a final plat by the city council, the subdivider shall have agreed in the manner set forth in subsection 500.65 to install the following improvements on the site in conformity with construction plans approved by the engineer and in conformity with all applicable standards and ordinances of the city.

Subd. 2. Monuments. Monuments of a permanent character, approved by the county surveyor, shall be placed in locations on the boundary of the subdivision and within it as required.

Subd. 3. Street improvements. All streets within subdivisions shall be constructed with adequate grading, base and asphalt surfacing in accordance with the Independence street specifications, a copy of which is set forth in appendix III hereto.

Subd. 4. Street name signs. Street name signs, which conform to current municipal, county or state of Minnesota highway standards, shall be placed at all street intersections within or abutting the subdivision, as required by the city council upon recommendation of the city engineer.

Subd. 5. Stop signs. Stop signs, which conform to current state of Minnesota highway standards, shall be placed on all streets intersecting a through street or collector street, as required by the city council upon recommendation of the city engineer.

Subd. 6. Drainage facilities. Such storm sewers and drainage facilities shall be constructed upon dedicated easements as will conform to the drainage plans required by the city council upon recommendation of the city engineer for the drainage of surface and excess ground waters.

500.63. Payment for installation of improvements. The required improvements to be furnished and installed by the subdivider, which are listed and described in subsection 500.61 are to be furnished and installed at the sole expense of the subdivider and at no expense to the city.

500.65. Required agreements and bonds. Subdivision 1. Agreement. Before a final plat is approved by the city council, the owner and subdivider of the land covered by said plat shall execute and submit to the city council an agreement approved by the city attorney, to make and install all improvements required to be installed under the provisions of this section, in accordance with the plans and specifications therefor to be approved by the city engineer.

Subd. 2. Bond. The agreement shall be accompanied by a performance bond or other financial guarantee to be approved by the city attorney, in an amount equal to one and one-half times the city engineer's estimated costs of said improvements. The performance bond or financial guarantee shall be conditioned upon:

- (a) The making and installing of the improvements required under the terms of this section within the time limit approved by the city council.
- (b) Completion of the work undertaken by the subdivider in accordance with the development contract.
- (c) The payment by the owner or subdivider to the city of all expenses of the city for the approval of plans and specifications of the improvements required under the terms of this section and the inspection of construction by the city engineer. If a cash escrow agreement is submitted, such agreement shall provide that payments therefrom for the improvements shall be made only on the joint order of the subdivider and the city, and the agreement shall further provide that in the event the required improvements are not completed within the time period, all amounts held under the escrow agreement shall be turned over and delivered to the city and applied by the city to the cost of the required improvements. If the funds available are not sufficient to complete the required improvements, the necessary additional cost shall be assessed against the subdivision. Any balance remaining in escrow fund after such improvements have been made shall be returned to the owner or subdivider.

500.67. Inspection at subdivider's expense. All required improvements to be installed under the provisions of this section shall be inspected at the subdivider's expense during the course of construction. Such inspection shall be by the city engineer or an inspector appointed by the city council.

500.69. Construction plans. Construction plans for the required improvements conforming in all respects with the standards of the engineer and this code of the city, shall be prepared at the subdivider's expense by a professional engineer who is registered in the state of Minnesota, and said plans shall contain engineer's seal. Such plans together with the quantities of construction items shall be submitted to the engineer for approval and for an estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required in subsection 500.65. The tracings of the plans approved by the engineer plus two prints shall be furnished to the city to be filed by the city clerk-treasurer as a city record.

500.71. Improvements completed prior to approval of final plat. Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements of subsection 500.61 only if the engineer shall certify satisfaction that the existing improvements conform to applicable city standards.

500.73. Reimbursement to city for fees incurred. The subdivider shall reimburse the city for all engineering consulting fees, planning consulting fees, inspection fees and fees for legal services reasonably incurred by the city in processing a subdivision application under the terms of this section.

500.75. Standards for variances. The planning commission may recommend and the city council may grant variances from the literal provisions of this section in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Any person requesting a variance shall appear at all planning commission meetings and city council meetings where such application is considered and provide to the planning commission and the city council such maps, drawings, plans, records and other information necessary to make a determination on the application. It is the responsibility of the applicant to demonstrate that all of the following standards for variance have been met. Undue hardship can be found on the bases of the following:

- (a) Because of the particular physical surroundings, shape, or topographic conditions of the specific parcels of land involved, a particular hardship to the owner would result if the strict letter of this section were carried out.
- (b) The conditions upon which the application for variance is based are unique to the parcel of land for which the variance is sought and are not common to other properties within the city.

- (c) The hardship is related to the requirements of these regulations and has not been created by any persons presently or formerly having an interest in the parcel of land.
- (d) The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.

500.77. Conditions and restrictions. The planning commission may recommend and the city council may impose such conditions and restrictions in the granting of variances which will insure compliance with the provisions of this section, will further and protect the spirit and intent of this section and will provide protection to the public.

500.79. Application required. Application for any variance shall be made in writing by the subdivider at the time the preliminary plat is considered by the planning commission. Said application shall set forth all facts relied upon by the applicant in requesting the variance. Any variance granted shall be passed in resolution form setting forth the reasons which justify the variance and entered on the minutes of the city council meeting.

500.81. Copies of plats. Copies of all such plats of subdivision, after the same have been submitted and approved as provided in this section, shall be filed with the county recorder and kept by the city clerk-treasurer among the city records.

500.83. Public lands. Subdivision 1. Purpose. In order to preserve areas of natural beauty such as marshes, streams and ponds; and in order to establish public parks, playgrounds, and open spaces, the provisions set forth in this subsection shall be applicable.

Subd. 2. Dedication of public lands. In every plat, "division, large lot" (as defined by section 500.03, subdivision 4) "division, simple lot" (as defined by section 500.03, subdivision 5), and subdivision of land allowing development for residential, commercial or industrial uses, land lying within such plat, "division, large lot", "division, simple lot" or other subdivision, shall be dedicated by the owners thereof to the general public for lake access, park and playground purposes, public open space or trails, in accordance with the city's fee schedule. (Amended, Ord. No. 93-03, Sec. 1; 98-06, Sec. 1; Ord. No. 2005-01)

The city may determine the location and configuration of any land dedicated, taking into consideration its suitability for its intended purposes and how it will best serve the public and future need of the community for such purposes. Where the owner provides for public use, neighborhood park amenities such as, but not limited to, tennis courts, ballfields, trails, open space or other recreational facilities, the city will credit the amount of such land to be dedicated or the cash contribution in lieu of such dedication by an amount equivalent to the costs of the facilities provided.

In accordance with the city's fee schedule, the city shall have the option to require cash contribution in lieu of dedicated land or to require a part of the land and the balance of the land value in cash. Any money so paid to the city shall be placed in a special fund and used only for the acquisition of land for parks and playgrounds or the development of existing park and playground sites or debt retirement in connection with land previously acquired for parks and playgrounds, and interest on the aforementioned special fund may be used for financing recreational programs within or outside the city which will benefit the citizens of the city. (Amended, Ord. No. 2005-01)

Prior to the dedication, transfer or conveyance of any real property or interest therein to the city as provided herein, the subdivider shall deliver to the city an opinion addressed to the city by an attorney, and in a form acceptable to the city, as to the condition of the title of such property or in lieu of a title opinion, a title insurance policy insuring the condition of the title of the property or interest therein in the city. The condition of the title of any real property or any interest therein to be dedicated, transferred or conveyed as may be provided herein by subdivider to city shall vest in city good and marketable title, free and clear of any mortgages, liens, encumbrances, or assessments.

Rearrangements or combinations of lots which do not result in any increase in the number of buildable lots shall not be subject to the fees imposed by this subdivision. When a plat, "division, large lot", "division, simple lot", or other subdivision of land includes a parcel on which the developer's homestead is located, the land dedication requirements or fees imposed by this subdivision shall not be applied to the parcel on which said homestead is located. (Revised 7/90) (Amended, Ord. 93-03, Sec. 1; 98-06, Sec. 1; Ord. No. 2005-01)

Section 505 - Management of Shoreland and Flood Plain Areas
(Deleted in its entirety, Ord. 2009-05)

Section 505 – Shoreland Management Ordinance
(Added, Ord. 2009-05)

505.01. Shoreland overlay district – purpose and authorization. The city recognizes the consequences to the public health, safety and general welfare from the indiscriminate use of the shorelands of public waters. The purpose of this district is to control the density and location of development in the shorelands of public waters of the city in order to preserve and enhance the quality of surface waters, preserve the economic and natural environmental characteristics of shorelands, and provide for the wise use of public waters and related land resources in the city. This section 505 is adopted in compliance with the Shoreland Development Act, Minnesota Statutes, sections 103F.201 et seq. and the regulations promulgated thereunder. It is intended to be in conformance with state requirements and to establish minimum standards for development within the shoreland overlay district.

505.03. Designation of the shoreland district. The shoreland district for the city shall include all land within the following distances of protected waters: (i) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; or (ii) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The shoreland district shall be shown on the official zoning map of the city.

505.05. Definitions. For the purposes of this section 505, words and terms shall have the following meanings, unless another meaning is clear from the context. Unless otherwise specified, all distances are to be measured horizontally.

Subd. 1. “Accessory use or structure” has the meaning assigned to it in section 510.05, subdivision 2 of this code.

Subd. 2. “Bluff” means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (a) part or 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% or greater; and
- (d) the slope drains toward the waterbody.

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

Subd. 3. “Bluff impact zone” means a bluff and land located within 20 feet from the top of a bluff.

Subd. 4. “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.

Subd. 5. “Building height” has the meaning assigned to it in section 510.05, subdivision 10 of this code.

Subd. 6. “Building line” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which no structure may extend.

Subd. 7. “Commercial use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subd. 8. “Commissioner” means the commissioner of the Minnesota Department of Natural Resources.

Subd. 9. “Conditional use” has the meaning assigned to it in section 510.05, subdivision 15 of this code.

Subd. 10. “Deck” means 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 feet above ground.

Subd. 11. “Dwelling site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Subd. 12. “Dwelling unit” has the meaning assigned to it in section 510.05, subdivision 20 of this code.

Subd. 13. “Extraction” has the meaning assigned to it in section 510.05, subdivision 24 of this code.

Subd. 14. “Feedlot”. A building or use of land intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of the zoning code, open lots used for the feeding and rearing of poultry (poultry ranges) are considered to be feedlots. Pastures are not considered feedlots under this zoning code.

Subd. 15. “Forest land conversion” means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subd. 16. “Guest house” has the meaning assigned to it in section 510.05, subdivision 37 of this code.

Subd. 17. “Hardship” means (1) the property in question cannot be put to reasonable use under the conditions allowed by the official controls; (2) the plight of the landowner is due to circumstances unique to landowner’s property, not created by the landowner; and (3) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

Subd. 18. “Height of building” has the meaning assigned it in section 510.05, subdivision 10 of this code.

Subd. 19. “Individual sewage treatment system” has the meaning assigned it in section 710.05, subdivision 9 of this code.

Subd. 20. “Industrial use” means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subd. 21. “Intensive vegetation clearing” means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subd. 22. “Lot” has the meaning assigned to it in section 510.05, subdivision 46 of this code.

Subd. 23. “Lot width” has the meaning assigned to it in section 510.05, subdivision 55 of this code.

Subd. 24. “Nonconforming use” has the meaning assigned to it in section 510.05, subdivision 80 of this code.

Subd. 25. “Ordinary high water mark” has the meaning assigned to it in section 510.05, subdivision 59 of this code.

Subd. 26. “Public waters” has the meaning assigned to it in Minnesota Statutes, section 103G.005, subdivisions 15 and 15a.

Subd. 27. “Sanitary system” has the meaning assigned to “sanitary sewer” in section 710.05, subdivision 25 of this code.

Subd. 28. “Setback area” has the meaning assigned to it in section 510.05, subdivision 72 of this code.

Subd. 29. “Sewage treatment system” means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as regulated in section 710 of this code.

Subd. 30. “Sewer system” has the meaning assigned to “public wastewater treatment system” in section 710.05, subdivision 23 of this code.

Subd. 31. “Shore impact zone” means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

Subd. 32. “Shoreland” means land located within 1,000 feet from the ordinary high water level of a lake, pond, or flowage, or land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Subd. 33. “Steep slope” means 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 section 505. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Subd. 34. “Structure” has the meaning assigned to it in section 510.05, subdivision 79 of this code.

Subd. 35. “Subdivision” has the meaning assigned to it in section 500.03, subdivision 35 of this code.

Subd. 36. “Surface water-oriented commercial use” means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business.

Subd. 37. “Toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18%.

Subd. 38. “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18%.

Subd. 39. “Variance” means any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical.

Subd. 40. “Water-oriented accessory structure or facility” means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably need to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Subd. 41. “Wetland” has the meaning assigned to it in Minnesota Statutes, section 103G.005, subdivision 19.

505.07. Water bodies included in the Shoreland Overlay District. In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification.

(a) The regulations of the shoreland overlay district shall apply to all lands within 1,000 feet of the ordinary high water level of the following public waters:

<u>NAME OF LAKE</u>	<u>CLASSIFICATION</u>	<u>DNR PROTECTED WATERS INVENTORY ID#</u>
Haughey	NE	27-187
Independence	RD	27-176
Ox Yoke	NE	27-178
Rebecca	NE	27-192
Robina	RD	27-188
Sarah	RD	27-191
Irene	RD	27-189

NE – Natural Environment
RD – Recreational Development

(b) The regulations of the shoreland overlay district shall apply to land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. This applies to the following water courses:

- A – Crow River
- T – Pioneer Creek
- T – Painter Creek
- T – Unnamed tributary flowing from Robina Lake
- T – Unnamed tributary flowing into south end of Lake Sarah

A = agricultural
T = tributary

505.09. Permitted uses. Within the shoreland overlay district, permitted uses include uses allowed in the underlying zoning district as indicated on the official zoning map of the city, with the exception of feedlots of 10 or more animal units, which shall be treated as a conditional use as described in section 505.11. Permitted structures must comply with shoreland zoning provisions pursuant to section 505.13.

505.11. Conditional uses.

- (a) Allowable conditional uses within the shoreland overlay district are limited to those that meet or exceed the following conditions, and shall be permitted only by conditional use permit issued pursuant to section 520.09, et seq. of this code:
 - (1) grading of any property within the shoreland overlay district which disturbs land more than 50% of the total area of the parcel; or
 - (2) feedlots with 10 or more animal units. For feedlots with less than 10 animal units, please reference the provisions in section 505.23, subdivision 7 of this code. Animal units are defined in section 510.05, subdivision 5 of this code.
- (b) Applicants proposing a conditional use within the shoreland district must provide a plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation; and soil types. The following conditions shall apply within shoreland areas after a thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site is 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; and
- (c) The city council, upon consideration of the criteria listed above and the purposes of this section 505, shall attach such other conditions to the issuance of the conditional use permit as deemed necessary to fulfill the purposes of this section 505. Such conditions may include, but are not limited to, the following:
 - (1) increased setbacks from the ordinary high water level;
 - (2) limitations on the natural vegetation to be removed or a requirement that additional vegetation be planted; and
 - (3) special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

505.13. Zoning provisions. Subdivision 1. General. The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply.

Subd. 2. Lot standards.

	Unsewered Areas			Sewered Areas		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft	200 ft	200 ft	125 ft	100 ft	100 ft
Structure setback from ordinary high water mark	150 ft	100 ft	100 ft	150 ft	100 ft	100 ft
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft	75 ft	75 ft

- (a) Commercial and industrial uses located on public waters which do not have water oriented needs shall be set back from the ordinary high water level twice the distance indicated above or shall be substantially screened from view from the water by topography or vegetation, assuming summer leaf-on conditions.
- (b) Notwithstanding anything herein to the contrary, on undeveloped single family residential lots where both adjacent lots are developed with existing principal structures, a new residential structure may be located the average setback of the adjacent structures from the ordinary high water level or reference lot standards table, whichever is greater, provided that all other requirements of this section 505 are met, and the building site is not within a shore or bluff impact zone.

Subd. 3. Bluff setbacks. Regardless of classification of the waterbody, structures must be set back a minimum of 30 feet from the top of a bluff. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

Subd. 4. Elevation of lowest floor.

- (a) Lakes, ponds and flowages. The elevation of the lowest floor shall be placed for lakes, ponds and flowages by an evaluation of available flood information and consistent with statewide standards and criteria for management of flood plain areas of Minnesota (Minn. Regs. NR 87(e)(1)). If there is no established floodplain elevation, and/or no floodplain mapping is available, elevation of lowest floor shall be determined by a level at least three feet above the highest known water level, or three feet above the ordinary high water elevation, whichever is higher. In those instances where sufficient data on known high water levels are not available, the ordinary high water mark shall be used.
- (b) Rivers and streams. The elevation for the lowest floor shall be placed for rivers and streams, by an evaluation of available flood information and consistent with statewide standards and criteria for management of flood plain areas of Minnesota (Minn. Regs. NR 87(e)(1)).

Subd. 5. Water-oriented accessory structures. Water-oriented accessory structures are allowed, subject to the following conditions:

- (a) only permitted in residential districts;
- (b) not designated or used for human habitation and which do not contain sanitary facilities;
- (c) not exceeding 10 feet in height, with the exception of detached decks, which must not exceed eight feet above grade at any point;
- (d) set back a minimum of 10 feet from the ordinary high water level;
- (e) does not exceed 120 square feet in size and set back in accordance with provisions set forth in section 500.05 of this code; and
- (f) must be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of topography, color, increased setbacks or vegetation, assuming summer leaf-on conditions.

Subd. 6. 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 are subject to the following conditions:

- (a) must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

- (b) landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Larger landings may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (c) no canopies or roofs;
- (d) may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (e) must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (f) facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (a) to (e) are complied with in addition to the requirements of Minnesota Regulations, chapter 1430.

505.15. Substandard lots. Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:

- (a) such use is permitted in the zoning district;
- (b) the lot of record is in separate ownership from abutting lands, and can meet or exceed 60% of the lot area and setback requirements of this section; and
- (c) all requirements of section 705 of this code regarding individual sewage treatment systems are complied with.

505.17. Subdivisions. No land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

505.19. Sewage treatment. Subdivision 1. Connections to publicly-owned sewer systems must be made and used when available.

Subd. 2. All on-site sewage treatment systems shall be designed, installed and maintained in accordance with section 705 and must be set back from the ordinary high water level in accordance with the setbacks contained in section 505.13 of this code. All existing on-site sewage treatment systems in the shoreland district shall comply with section 705 of this code.

Subd. 3. Nonconforming sewage treatment systems.

- (a) A sewage treatment system not meeting the requirements of this section 505 must be upgraded, at minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- (b) Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, 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 groundwater than required by the MPCA's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

505.21. Water supply. Subdivision 1. Domestic supply. Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health and Minnesota Pollution Control Agency standards for water quality.

Subd. 2. Public supply. Connections to public or municipal water supplies must be made and used where available.

Subd. 3. Private wells. Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood-proofed. No private well shall be located closer than three feet to the outside basement wall of a dwelling. The outside basement footing shall be continuous across the opening of the well alcove. No well shall be located closer than 15 feet to a property line. Private wells shall be located in accordance with the standards of the Minnesota health department standards MHD 217 "Location of Wells", (c)(1).

Subd. 4. Permit. No person, firm, or corporation shall install, or extend any private well without first obtaining a permit therefor from the zoning administrator of the city.

- (a) Application for permits shall be made in writing upon printed blanks or forms furnished by the zoning administrator and shall be signed by the applicant.
- (b) Each application for a permit shall include: (i) a file copy of the state report; (ii) correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place; (iii) a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings, sewage treatment facilities and property lines; (iv) a complete plan of the water supply system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended; (v) the name of the person, firm or corporation who is to install the system; (vi) any further information as required by the zoning administrator.

505.23. Shoreland alteration. Subdivision 1. Roads and parking areas. Within the shoreland overlay district, roads and parking areas shall be located and constructed to retard the runoff of surface waters in accordance with the following:

- (a) Roads and parking areas shall meet the setback standards for structures established in section 505.13 of this code, but in no event closer than 50 feet to the ordinary high water level; and
- (b) Vegetation or other natural materials shall be used to screen parking areas from views from public waters.

Subd. 2. Alteration of vegetation or topography shall be regulated to prevent soil erosion, preserve shoreland aesthetics, preserve historic sites, prevent bank slumping, and protect fish and wildlife habitat. Vegetation alteration necessary for the construction of structures and individual sewage treatment systems or for the construction of roads and parking areas shall be exempt from the vegetation alteration standards of this subdivision but only if such construction is pursuant to a validly issued permit. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed, subject to the following standards:

- (a) Intensive vegetation clearing within the shore impact zone and bluff impact zone shall not be allowed, with the exception of invasive species as defined by the Minnesota DNR, such as buckthorn. Following such intensive clearing of invasive species, revegetation with non-invasive species will be required.
- (b) In the shore impact zone and bluff impact zone, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees shall be allowed to provide a view to the water from the principal dwelling and to accommodate the placement of 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) along tributary streams, existing shading of water surfaces is preserved; and
 - (3) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

Subd. 3. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters and must meet the following standards:

- (a) In addition to meeting impervious coverage limits, setbacks and other zoning standards presents elsewhere in this code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

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

Subd. 4. Grading, filling and excavation.

- (a) Grading, filling and excavation necessary for the construction of structures, individual sewage treatment systems, private roads, or driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filling permit under this section 505 but shall be accomplished in accordance with the provisions of the city code, section 508.21.
- (b) public roads and parking areas are regulated by section 505.23 subdivision 1 of this code.
- (c) Notwithstanding items (a) and (b) above, a grading and filling permit will be required for:
 - (1) the movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

- (d) the following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
- (1) Filling or grading of wetlands shall be permitted only in compliance with applicable state law;
 - (2) The smallest amount of bare ground is exposed for as short a time as feasible.
 - (3) Temporary ground cover such as mulch is used and permanent ground cover such as sod is established.
 - (4) Methods to prevent erosion and trap sediment are employed.
 - (5) Fill is stabilized to accepted engineering standards.
 - (6) Any alterations below the ordinary high water level must first be authorized by the commissioner under Minnesota Statutes, section 103G;
 - (7) Placement of natural rock riprap and retaining walls, where allowed shall comply with regulations adopted pursuant to Minnesota Statutes, section 103G.245. Natural looking riprap shall only be used for the correction of an established erosion problem that cannot be controlled through the use of native vegetation, slope stabilization using mulch, biomat, or similar bioengineered means.
- (e) Connections to public waters. Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the zoning administrator before construction is begun. Such permit may be obtained only after the commissioner of natural resources has issued a permit to work in the beds of protected waters.

Subd. 5. Steep slopes. No structure, individual sewage treatment system, road, driveway or other improvement may be constructed on a steep slope prior to evaluation by city staff of such improvement with respect to soil erosion and visibility from public waters. The zoning administrator may require Best Management Practices to prevent soil erosion or to preserve existing vegetative screening.

Subd. 6. Stormwater management.

- (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters wetlands and public waters that are designated on the protected waters inventory maps prepared under Minnesota Statutes, section 103G.201. Development shall be planned and constructed in a manner which 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 shall be used to retain sediment on the site.
- (b) When development density, topographic features, and soil and vegetation conditions are not sufficient to handle stormwater runoff adequately using natural features and vegetation, various types of Best Management Practices such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subd. 7. Agriculture and excavation standards.

- (a) Agricultural uses including general excavation, farming, grazing, nurseries, horticulture, truck farming, wild crop harvesting, and feedlots with less than five animal units shall be permitted if steep slopes, bluff impact zones, and shore impact zones are maintained in permanent vegetation. The shore impact zone for parcels with permitted agricultural use shall be the area within a line parallel to and 50 feet from the ordinary high water level. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- (b) Feedlots with between five and nine animal units shall be permitted subject the provisions of subdivision 7(a) above, in addition to a manure management plan that must be approved by the city through an administrative permit. Feedlots with 10 or more animal units require a conditional use permit.
- (c) All mining and excavation uses shall be conducted in accordance with the requirements of sections 828.59 and 828.63 of this code. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters.

Subd. 8. Alteration of course, current or cross-section. Any work which will change or diminish the course, current or cross-section of a protected water or wetland shall be approved by the commissioner of natural resources, and such approval shall be construed to mean the issuance by the commissioner of natural resources of a permit under the procedures of Minnesota Statutes, section 105.42 and other related statutes.

505.25. Cluster developments. Subdivision 1. Cluster developments are allowed as a conditional use in the rural residential zoning district, described in section 530.05, subdivision 6 of this code and the official zoning map. Any cluster developments proposed in the shoreland zone must meet the conditional use provisions as outlined in section 505.11 of this code.

Subd. 2. The applicant for a cluster development in the shoreland district must submit the following documents prior to final action being taken on the application request:

- (a) A site plan in conformance with section 520.09, subdivision 2 of this code, which also shows surface water features, existing and proposed structures and other facilities, and land alterations.
- (b) Deed restrictions, covenants, permanent easements or other instruments that:
 - (1) properly address future vegetative and topographic alterations, construction of additional buildings, and beaching of watercraft; and
 - (2) ensure the long-term preservation and maintenance of open space in accordance with the criteria specified in section 530.05, subdivision 6(b) of this code; and
 - (3) Those additional documents as requested by the city of Independence which are necessary to explain how the cluster development will be designed and will function.

505.27. Nonconforming uses. Any structure or use lawfully existing upon the effective date of this ordinance is a nonconforming use. A nonconforming use may be continued subject to the conditions outlined in Section 515.07 of this code.

505.29. Development permits required. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a permit subject to the requirements of the zoning code and the building code. No mining, dredging, filling, grading, paving, excavation, or drilling operations shall be commenced until a permit has been obtained from the city.

505.31. Enforcement. This section 505 is enforced by the zoning administrator in accordance with the procedures of the zoning code. The zoning administrator shall review all development permit applications to determine whether the proposed use lies in the flood plain or shoreland district. Permit applications for uses to be located in the shoreland district shall not be granted unless they comply with provisions of this section 505. The zoning administrator shall determine that all federal and state permits have been obtained by the applicant prior to granting any city permit. Failure to obtain a federal or state permit shall constitute grounds for denial of a city permit.

505.33. Variances. Variances from the requirements of this section 505 may only be approved in compliance with the requirements of sections 520.19 et seq. of this code provided, however, that economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this section. A variance will not be granted for projects which are attempting to circumvent the general purposes and intent of this section 505. No variance may be granted which would allow any use that is prohibited in the zoning district in which the property is located or on any property which does not have a conforming individual sewage treatment system. Conditions may be imposed in the granting of a variance to ensure compliance with this section 505 and to protect adjacent properties and the public interest, including requiring that a non-conforming individual sewage treatment system be made conforming. The city may take into consideration seasonal and weather requirements when considering variance requests.

505.35. Notice to commissioner.

- (a) Copies of all notices regarding any public hearings to consider variances, conditional use permit, zoning amendment, plat or other subdivision of property or other approval authorized or required by this section 505 affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative. Any notice required to be sent to the commissioner shall be postmarked at least 10 days prior to the hearing. A copy of notice to consider a plat or other subdivision of property shall include a copy of the proposed plat or subdivision.
- (b) A copy of all approved zoning amendments, subdivisions, variances and conditional use permits affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days after final action or approval. When a variance has been approved despite the commissioner's recommendation of denial, the copy of the final action required by this paragraph shall be accompanied by a summary of the public record and testimony regarding the matter and the findings of fact and conclusions which support the issuance of the variance.

Section 506 - Floodplain Ordinance
(Added, Ord. No. 95-02, Sec. 1)
(Repealed Ord. 95-02 in its entirety,
Replaced by Ord. 2004-05)

506.01. The regulations in section 505 of the Independence city code relating to the management of floodplain areas are hereby superseded in all respects by this new section 506 relating to flood plain regulations. All regulations in section 505 relating to management of shoreland shall remain in full force and effect.

506.03. Statutory authorization, findings of fact and purpose Subdivision 1. The Minnesota legislature in Minnesota Statutes, chapter 103F.101 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Subd. 2. The flood hazard areas of the city of Independence are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

Subd. 3. This section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota department of natural resources.

Subd. 4. This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

Subd. 5. It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described in subdivision 2 by provisions contained herein.

506.05. General provisions. Subdivision 1. This section shall apply to all lands within the jurisdiction of the city of Independence shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general flood plain districts.

Subd. 2. Establishment of official zoning map. The official zoning map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this section. The attached material shall include the Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, All Jurisdictions and the Flood Insurance Rate Map panels numbered 27053C0109 E, 27053C0117 E, 27053C0119 E, 27053C0128 E, 27053C0129 E, 27053C0134 E, 27053C0135 E, 27053C0136 E, 27053C0137 E, 27053C0138 E, 27053C0139 E, 27053C0141 E, 27053C0142 E, 27053C0143 E, 27053C0144 E, 27053C0257 E, 27053C0276 E, 27053C0280 E, and 27053C0285 E for the City of Independence, dated September 2, 2004, as developed by the Federal Emergency Management Agency. The official zoning map shall be on file in the office of the city administrator-clerk and the zoning administrator.

Subd. 3. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the city council and shall not be deemed a limitation or repeal of any other powers granted by state law.

Subd. 4. The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the zoning administrator, the board of adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board and to submit technical evidence.

Subd. 5. It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other sections inconsistent with this section are hereby repealed to the extent of the inconsistency only.

Subd. 6. This section does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This section shall not create liability on the part of the city of Independence or any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

Subd. 7. If any clause, provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.

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

Subd. 1. "Accessory use or structure" means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Subd. 2. "Basement" means any area of a structure, including crawl spaces, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

Subd. 3. "Conditional use" means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in the zoning ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

Subd. 4. "Equal degree of encroachment" means a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Subd. 5. "Flood" means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Subd. 6. "Flood frequency" means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 7. "Flood fringe" means that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the flood insurance study for the city of Independence.

Subd. 8. "Flood plain" means the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

Subd. 9. "Flood-proofing" means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Subd. 10. "Floodway" means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

Subd. 11. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

Subd. 12. "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Subd. 13. "Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Subd. 14. "Principal use or structure" means all uses or structures that are not accessory uses or structures.

Subd. 15. "Reach" means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Subd. 16. "Recreational vehicle" means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

Subd. 17. "Regional flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the flood insurance study.

Subd. 18. "Regulatory flood protection elevation" means an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Subd. 19. "Structure" means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in subsection 506.21 of this section and other similar items.

Subd. 20. "Substantial damage" means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

Subd. 21. "Substantial improvement". Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (b) any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this section, "historic structure" shall be as defined in Code of Federal Regulations, Part 59.1.

Subd. 22. "Variance" means a modification of a specific permitted development standard required in an official control, including this section, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

506.09. Establishment of zoning districts. Subdivision 1. The following zoning districts are hereby established:

- (a) Floodway district. The floodway district shall include those areas designated as floodway on the flood boundary and floodway map adopted in subsection 506.05.
- (b) Flood fringe district. The flood fringe district shall include those areas shown on the Flood Insurance Rate Map as adopted in section 506.05 as being within Zone AE, Zone AO, or Zone AH but being located outside of the floodway.
- (c) General flood plain district. The general flood plain district shall include those areas designated as Zone A or Zones AE, Zone AO, or Zone AH without a floodway on the Flood Insurance Rate Map adopted in section 506.05.

Subd. 2. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or conditional uses herein, shall be prohibited.

Subd. 3.

- (a) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this section;
- (b) Modifications, additions, structural alterations, normal maintenance and repair or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section; and
- (c) As-built elevations for elevated or flood proof structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this section.

506.11. Floodway district (FW) Subdivision 1. Permitted uses. The following shall be permitted uses within the floodway district:

- (a) general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting;
- (b) industrial-commercial loading areas, parking areas, and airport landing strips;
- (c) private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails; and

- (d) residential lawns, gardens, parking areas, and play areas.

Subd. 2. The following standards shall apply for floodway permitted uses:

- (a) the use shall have a low flood damage potential;
- (b) the use shall be permissible in the underlying zoning district; and
- (c) the use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

Subd 3. Conditional uses. The following shall be uses allowed only by conditional use permit within the floodway district:

- (a) structures accessory to the uses listed as permitted or conditional uses;
- (b) extraction and storage of sand, gravel, and other materials;
- (c) marinas, boat rentals, docks, piers, wharves, and water control structures;
- (d) railroads, streets, bridges, utility transmission lines, and pipelines;
- (e) storage yards for equipment, machinery, or materials;
- (f) recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of subsection 506.21 of this section; and
- (g) structural works for flood control, such as levees, dikes and flood walls, constructed to any height where the intent is to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

Subd. 4. The following standards shall apply for floodway conditional uses:

- (a) No filling is allowed within the floodway;
- (b) No structure, temporary or permanent, deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;
- (c) All floodway conditional uses shall be subject to the procedures and standards contained in subsection 506.15 of this section;

- (d) The floodway conditional use shall be permissible in the underlying zoning district; and
- (e) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan. As an alternative, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the city council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the county recorder.

Subd. 5. The following standards shall apply to all accessory structures:

- (a) Accessory structures shall not be designed for human habitation;
- (b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, so far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures; and
- (c) Accessory structures shall structurally dry flood proof in accordance with the FP-1 or FP-2 flood proofing classifications in the state building code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:
 - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
 - (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.

- (3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

Subd. 6. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.

Subd. 7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

Subd. 8. A levee, dike or flood wall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

506.13. Flood fringe district (FF). Subdivision 1. Permitted uses. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning district(s).

Subd. 2. The following standards shall apply for flood fringe permitted uses:

- (a) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon;
- (b) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with subsection 506.13;
- (c) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with this section;
- (d) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation; and

- (e) The provisions of subsections 506.13 and 506.15 of this section shall also apply to uses within the flood fringe district.

Subd. 3. Conditional uses. Any structure that is not elevated on fill or flood proofed in accordance with this section or any use of land that does not comply with the standards in this section shall only be allowable as a conditional use. An application for a conditional use permit shall be subject to the standards and criteria and evaluation procedures specified in subsection 506.15.

Subd. 4. The following standards shall apply for flood fringe conditional uses:

- (a) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if the enclosed area is above-grade on at least one side of the structure, it is designed to internally flood and is constructed with flood resistant materials and it is used solely for parking of vehicles, building access or storage. The alternative elevation methods are subject to the following additional standards:
 - (1) The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding; and
 - (2) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate the following:
 - (a) The minimum area of "automatic" openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot subject to flooding unless registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

- (b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the state building code and shall be used solely for building access, parking of vehicles or storage;
- (b) Basements shall be subject to the following:
 - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - (2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with this section.
- (c) All areas of non residential structures, including basements to be placed below the regulatory flood protection elevation, shall be flood proofed in accordance with the structurally dry flood proofing classifications in the state building code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the state building code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted; and
- (d) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city council.

Subd. 5. The following additional standards shall apply for all flood fringe uses:

- (a) Any activities that impact the storage volume of the flood plain shall be prohibited unless compensatory flood plain mitigation is provided at a one-to-one ratio by volume and it is demonstrated that the obstruction will not impact the elevation of the regional flood.
- (b) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist;

- (c) Commercial accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation only if there exists a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four upon occurrence of the regional flood;
- (d) Measures shall be taken to minimize interference with normal manufacturing and industrial operations, especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations, subject to requirements set out above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas;
- (e) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The federal emergency management agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested;
- (f) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map; and
- (g) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

506.15. General flood plain district. Subdivision 1. Permissible uses. All uses permitted in the floodway district shall be permitted uses within the general flood plain district. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to this section.

Subd. 2. The following procedures shall be used for floodway and flood fringe determinations within the general flood plain district.

- (a) Upon receipt of an application for a conditional use permit for a use within the general flood plain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe district:

- (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information;
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type; and
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development;
- (b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective department of natural resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
- (1) Estimate the peak discharge of the regional flood;
 - (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas; and
 - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries; and
- (c) The zoning administrator shall present the technical evaluation and findings of the designated engineer or expert to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The city council, prior to official action, may submit the application and all supporting data and analyses to FEMA or the Minnesota department of natural resources for review and comment. Once the floodway and flood fringe boundaries have been determined, the city council shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of this section.

506.17. Subdivisions. Subdivision 1. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this section and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labelled on all required subdivision drawings and platting documents.

Subd. 2. In the general flood plain district, applicants shall provide the information required in subsection 506.15 of this section to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.

Subd. 3. FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

506.19. Public utilities, railroads, roads, and bridges. The following shall apply to public utilities, railroads, roads, and bridges with the floodway, flood fringe and general flood plain districts:

Subd. 1. All public utilities and facilities, such as gas, electrical, sewer, and water supply systems, to be located in the flood plain shall be flood-proofed in accordance with the state building code or elevated to above the regulatory flood protection elevation.

Subd. 2. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with subsections 506.11 and 506.13 of this section. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

Subd. 3. Where public utilities are not provided, on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

506.21. Manufactured homes and manufactured home parks and placement of recreational vehicles. Subdivision 1. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by subsection 506.17 of this section.

Subd. 2. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with subsection 506.13 of this section. If vehicular road access for pre-existing manufactured home parks is not provided, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the city council.

Subd. 3. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

Subd. 4. Recreational vehicles that do not meet the exemption criteria specified in subdivision 5 below shall be subject to the provisions of this section and as specifically spelled out in this section.

Subd. 5. Recreational vehicles are exempt from the provisions of this section if they are placed in any of the areas listed in subdivision 6 below and further meet the following criteria:

- (a) Have current licenses required for highway use;
- (b) Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the recreational vehicle has no permanent structural type additions attached to it; and
- (c) The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

Subd. 6. The following areas are exempted for placement of recreational vehicles:

- (a) individual lots or parcels of record;
- (b) existing commercial recreational vehicle parks or campgrounds; and
- (c) existing condominium type associations.

Subd. 7. Recreational vehicles exempted in subdivision 5 lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in subsection 506.13 of this section. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

Subd. 8. New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

- (a) Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with subsection 506.13 of this section. No fill placed in the floodway to meet the requirements of this section shall increase flood stages of the 100-year or regional flood; and
- (b) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of subsection 506.15 of this section:
 - (1) The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation; and
 - (2) All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with subsection 506.13 of this section.

506.23. Administration. Subdivision 1. A zoning administrator or other official designated by the city council shall administer and enforce this section. If the zoning administrator finds a violation of the provisions of this section, the zoning administrator shall notify the person responsible for such violation.

Subd. 2. A permit issued by the zoning administrator in conformity with the provisions of this section shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

Subd. 3. Application for a permit shall be made in duplicate to the zoning administrator on forms furnished by the zoning administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

Subd. 4. Prior to granting a permit or processing an application for a conditional use permit or variance, the zoning administrator shall determine that the applicant has obtained all necessary state and federal permits.

Subd. 5. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the zoning administrator stating that the use of the building or land conforms to the requirements of this section.

Subd. 6. Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this section, and punishable as provided in section 520.31 of this section.

Subd. 7. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Flood proofing measure shall be certified by a registered professional engineer or registered architect.

Subd. 8. The zoning administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The zoning administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

Subd. 9. The zoning administrator shall notify, in riverside situations, adjacent communities and the commissioner of the department of natural resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statutes, chapter 103G, this shall suffice as adequate notice to the commissioner of natural resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

Subd. 10. Notification must be provided to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the zoning administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

Subd. 11. The board of adjustment shall hear requests for variances and appeals from the decisions of the zoning administrator regarding this section as in the case of such appeals involving section 520. The board of adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the board of adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this section, any other applicable zoning regulations, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- (a) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Subd. 12. The board of adjustment shall submit by mail to the commissioner of natural resources a copy of the application for a proposed variance sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting variances shall be forwarded by mail to the commissioner of natural resources within ten days of such action.

Subd. 13. The planning commission shall hear and decide applications for conditional use permits under this section as in the case of such applications under section 520, except that the commissioner of the Minnesota department of natural resources must receive ten-days notice of any hearing. In passing upon conditional use applications, the planning commission shall consider all relevant factors specified in other sections of this section, and:

- (a) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

- (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (e) The importance of the services provided by the proposed facility to the community.
- (f) The requirements of the facility for a waterfront location.
- (g) The availability of alternative locations not subject to flooding for the proposed use.
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (l) Such other factors which are relevant to the purposes of this section.

Subd. 14. Upon consideration of the factors listed above and the purpose of this section, the planning commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Flood proofing measures, in accordance with the state building code and this section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

Subd. 15. A structure or the use of a structure or premises which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may continue to be used as in the case of a non-conforming use under subsection 515.07 of this section. Historic structures, as defined in subsection 506.07 of this section, shall be subject to the provisions of subdivisions 13 and 14 above.

- (a) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in subsections (b) and (d) below.
- (b) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must meet the standards of subsections 506.11 or 506.13 of this section for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.
- (c) If any nonconforming use or structure is substantially damaged, as defined in this section, it shall not be reconstructed except in conformity with the provisions of this section. The applicable provisions for establishing new uses or new structures in subsections 506.11, 506.13 or 506.15 will apply depending upon whether the use or structure is in the floodway, flood fringe or general flood plain district, respectively.
- (d) If a substantial improvement occurs, as defined in this section, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by (b) above) and the existing nonconforming building must meet the requirements of subsections 506.11 or 506.13 of this section for new structures, depending upon whether the structure is in the floodway or flood fringe district, respectively.

Subd. 16. The flood plain designation on the official zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Amendments shall be processed as in the case of zoning amendments under section 520. All amendments to this section, including amendments to the official zoning map, must be submitted to and approved by the commissioner of the Minnesota department of natural resources prior to adoption. Changes in the official zoning map must meet the requirements of FEMA. The commissioner of the Minnesota department of natural resources must be given ten-days written notice of all hearings to consider an amendment to this section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

Section 508 – Erosion and Sediment Control

(Added, Ord. No. 97-01, Sec. 1,
Amended, Ord. No. 2012-09, Sec.1)

508.01. Purpose. During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches, and the dredging of lakes. In addition, clearing and grading during construction causes the loss of native vegetation necessary for terrestrial and aquatic habitat and for a healthy living environment for citizens of the City of Independence. The purpose of this Ordinance is to safeguard persons, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth within the City of Independence.

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

Subd. 1. BMP Manual: The manual titled *Protecting Water Quality in Urban Areas (Best management Practices for Minnesota)* prepared by the Minnesota Pollution Control Agency, Division of Water Quality, Latest Edition.

Subd. 2. Certified Contractor: An individual who has received training in the State of Minnesota and is knowledgeable in the area of grading, drainage, erosion and sediment control practices.

Subd. 3. Clearing: Any activity which removes the vegetative surface cover.

Subd. 4. Designated Official: The City administrative official authorized by the City Council to administer this ordinance.

Subd.5. Drainage Way: Any channel that conveys surface runoff throughout the site.

Subd. 6. Erosion Control: Any measures that prevent erosion.

Subd. 7. Grading, Drainage, and Erosion Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Subd. 8. Grading: Excavation or fill of material, including the resulting conditions thereof.

Subd. 9. Perimeter Control: A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

Subd. 10. Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.

Subd. 11. Sediment Control: Any measures that prevent eroded sediment from leaving the site.

Subd. 12. Site: A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

Subd. 13. Grading Permit: A permit issued by the municipality for which the purpose is construction or alteration of ground.

Subd. 14. Stabilization: The use of practices that prevent exposed soil from eroding.

Subd. 15. Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Subd. 16. Watercourse: 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.

Subd. 17. Waterway: A channel that directs surface runoff to a watercourse, or to the public storm drain.

508.03. Applicability. The section shall be applicable to all subdivision, site plan, building permit and grading permit applications, unless eligible for an exemption or granted a waiver from the City.

508.04. Exemptions. Notwithstanding the provisions of this ordinance, the following activities are exempt from this ordinance and permit requirements:

- a) Agricultural activities, including nurseries.
- b) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
- c) An excavation below finished grade for basements and footings of a building, retaining wall, or other structure authorized by a valid building permit.

- d) Excavation for cemetery graves.
- e) Land disturbing activities that disturb less than one acre of land and are not located within the Shoreland Overlay District.
- f) The filling or mining of soil where the volume is less than 100 cubic yards and are not located within the Shoreland Overlay District.

508.05. Permits. No land owner or land operator shall receive any building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Ordinance prior to commencing the proposed activity. The permit application must be accompanied by the following in order that the permit application be considered: a Grading, Drainage, and Erosion Control Plan, Stormwater Management Plan (when required), and a permit review fee.

Subd. 1. Each application shall include the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm, and shall be accompanied by the appropriate permit escrow.

Subd. 2. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Grading, Drainage, and Erosion Control Plan, and that a Certified Contractor shall be on site on all days where construction or grading activity takes place.

Subd. 3. Combined With Other Permits:

Separate grading permit applications will not be required when combined with other approved permits from the City, provided that all other provisions of this ordinance are met. Therefore, separate grading permits will not be required for: approved building permits, approved development plans, approved mining permits, and other approved permits as determined by the City.

Subd. 4. Security:

The applicant shall file with the City of Independence a letter of credit or other improvement security in an amount deemed sufficient by the City of Independence to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City of Independence for engineering and inspection costs and to cover the cost of failure or repair of improvements installed on the site. The amount of the security shall be determined by the City. For commercial development, the security amount shall not be less than 150% of the approved estimated cost of performing said work. The estimated cost shall be determined by the City.

Subd. 5. Review and Approval:

- a) The City of Independence will review each application for a site development permit to determine its conformance with the provisions of this Ordinance. Within sixty (60) days after receiving an application, the City shall, in writing:
 - 1. Approve the permit application; or
 - 2. Approve the permit application subject to reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 - 3. Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
- b) Failure of the City of Independence to act on original or revised applications within sixty (60) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Independence.

Subd. 6. Permits issued under this Section shall be valid for the period during which the proposed land disturbing or filling activities and soil storage takes place or is scheduled to take place.

508.06. Grading, Drainage, and Erosion Control Plan Requirements. The Plan shall meet the criteria set forth in the most recent version of the Standard Specifications for Developers.

508.07. Modifications to the Plan:

Subd. 1. Major amendments of the Grading, Drainage, and Erosion Control Plan shall be submitted to the City of Independence and shall be processed and approved, or disapproved, in the same manner as the original plans.

Subd. 2. Field modifications of a minor nature may be authorized by the Designated Official by written authorization to the permittee.

508.08. Design Requirements. Grading, erosion and sediment control practices shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Designated Official. The design shall conform to the most recent version of the Standard Specifications and as specified herein:

Subd. 1. Clearing and Grading:

- a) Clearing and grading of natural resources protection areas, including Shoreland Overlay District, wetlands or wetland buffers shall not be permitted, except when in compliance all other City Ordinances.
- b) Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used, to the satisfaction of the Designated Official.
- c) Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the City Engineer.
- d) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- e) Cut and fill slopes shall be no greater than 3:1, except as approved by the Designated Official to meet other community or environmental objectives.

Subd. 2. Erosion Control:

- a) Exposed soil (including stockpiles) must be stabilized according to the following schedule:

<u>Slope</u>	<u>Time (days of inactivity)</u>
Steeper than 3:1	7 days
3:1 to 10:1	14 days
Flatter than 10:1	21 days

- b) If vegetative erosion control methods, such as seeding, have not become established within thirty (30) days, the Designated Official may require that the site be reseeded, or that a non-vegetative option be employed.
- c) On steep slopes or in drainage ways, special techniques shall be used to ensure stabilization.
- d) At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
- e) Best management practices shall be employed to prevent the blowing of dust or sediment from the site.
- f) Best management practices that divert upland runoff past disturbed slopes shall be employed.

Subd. 3. Sediment Controls:

- a) Sediment controls shall be provided and maintained per the Standard Specifications. All control measures shall be installed prior to commencement of any upstream construction activities.
- b) Where possible, detention basins shall be designed in a manner that allows adaptation to provide long term stormwater management. Detention basins must be cleaned after permanent erosion control measures are in place or final stabilization has been established. The design of the detention basins shall be per the Standard Specifications.
- c) Adjacent properties shall be protected by the use of a vegetated buffer strip where applicable, in combination with perimeter controls.
- d) Soil stockpiles must be stabilized or covered at the end of each work day unless a perimeter control is in place.

Subd. 4. Waterways and Watercourses:

- a) When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided, and all necessary approvals obtained from Department of Natural Resources.
- b) When in-channel work is conducted, the channel shall be stabilized before, during and after work.
- c) All on-site stormwater conveyance channels shall be designed to accommodate the design flows and velocities.
- d) Stabilization adequate to prevent erosion must be provided at the outlets of all pipes.

Subd. 5. Construction Site Access:

- a) A temporary access designed in compliance with the Standard Specifications shall be provided at all sites.
- b) Other measures may be required at the discretion of the City Engineer in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

Subd. 6. Other:

- a) Solid waste and hazardous waste controls shall be installed as per the Standard Specifications and guidelines as established within the NPDES general permit for Construction Activity.
- b) Dewatering and basin draining shall be performed in conformance with the guidelines as established within the NPDES general permit for Construction Activity.
- c) Concrete washout areas shall be constructed in conformance with the guidelines as established within the NPDES general permit for Construction Activity. Concrete washout areas will be required for all construction sites where on-site concrete washout is proposed.
- d) For sites requiring a NPDES general permit for construction activity, the applicant shall submit the Stormwater Pollution Prevention Plan and permit application to the City of Independence for review.

508.09. Inspection. The Designated Official shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Grading, Drainage, and Erosion Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Independence shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the City of Independence at least two (2) working days before the following:

- Subd. 1. Start of Construction.
- Subd. 2. Erosion and sediment control measures are in place and stabilized.
- Subd. 3. Site Clearing has been completed.
- Subd. 4. Rough Grading has been completed.
- Subd. 5. Final Grading has been completed.
- Subd. 6. Close of the Construction Season.
- Subd. 7. Final Landscaping.

508.10. The purpose of the inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures.

508.11. After final stabilization of the site has been established, the Designated Official shall inspect the site for compliance with the approved Grading, Drainage, and Erosion Control Plans.

508.12. Violations. Any activity that is commenced or conducted contrary to the Ordinance or the conditions of the permit may be restrained or otherwise abated in a manner provided by law.

- a) Notice of Violation. When the City determines that an activity is not being carried out in accordance with the requirements of the Ordinance, it shall issue a written notice of violation to the owner of the property. The notice of violation shall include:
 - 1. The name and address of the owner or applicant
 - 2. The address or location of the property where the violation is occurring.

3. A statement specifying the nature of the violation
4. A description of the remedial measures necessary to bring the development activity into compliance with this Ordinance and a time schedule for the remedial action.

b) Stop Work Orders. Site operators receiving a notice of violation will be required to halt all construction activities. The “Stop Work Order” will be in effect until the City confirms that the applicant is in compliance and the violation has been satisfactorily addressed. Failure to address a Notice of Violation can result in a civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Ordinance.

508.13. Violation and Penalties:

Subd. 1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance.

Subd. 2. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this ordinance is committed, continued or permitted, shall constitute a separate offense.

Subd. 3. In addition to the other penalties authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Subd. 4. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal or state law or City Ordinances and it is within the discretion of the City of Independence to seek cumulative remedies.

508.14. Compatibility With Other Permit and Ordinance Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other Ordinance, rule or regulation, statute, or other provision of law.

508.15. Severability. The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

Section 509 – Stormwater Management
(Added, Ordinance No. 2012-07, Sec. 1,
Amended Ordinance No. 2012-09, Sec. 2)

509.01. Purpose. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, erosion, and sediment transport and deposition, and water-borne pollutants. The purpose of this ordinance is to protect and safeguard the general health, safety, and welfare of the public by regulating stormwater runoff and to protect local water resources from degradation.

509.02. Definitions. Subdivision 1. For the purposes of this section, the following terms shall mean:

Subd. 2. Accelerated Erosion: Erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Subd. 3. Applicant: A property owner or agent of a property owner who has filed an application for a permit.

Subd. 4. Building: Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

Subd. 5. Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Subd. 6. Dedication: The deliberate appropriation of property by its owner for general public use.

Subd. 7. Developer: A person who undertakes land disturbance activities.

Subd. 8 . Drainage Easement: A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Subd. 9. Fee-in-Lieu: A payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

Subd. 10. Grading, Drainage, and Erosion Control Plan: A set of plans prepared by or under the direction of a licensed professional engineer that depicts existing and proposed grading, temporary and permanent drainage facilities, and indicates the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction.

Subd. 11. Impervious Cover: Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc).

Subd. 12. Land Disturbing Activity: Any activity, which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity, which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Subd. 13. Nonpoint Source Pollution: Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Subd. 14. 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-wide basis.

Subd. 15. On-Site Management: A stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Subd. 16. Recharge: The replenishment of underground water reserves.

Subd. 17. Site Development Permit: The permit issued by the municipality for which the purpose is construction or alteration of ground.

Subd. 18. Stop-Work Order: An order issued which requires that all construction activity on a site be stopped.

Subd. 19. Stormwater Management: The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Subd. 20. Stormwater Management Plan: The hydrologic analysis report and drainage area map(s) that provides the pre-development and post-development hydrologic site conditions.

Subd. 21. Stormwater Runoff: Flow on the surface of the ground, resulting from precipitation.

Subd. 22. Wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

509.03. Applicability. Subdivision 1. This section shall be applicable to all subdivision, site plan, building permit or grading permit, unless eligible for an exemption or granted a waiver by the City. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the stormwater management plan, or a waiver of the approval requirements, has been obtained with the provisions of this ordinance.

Subd. 2. Exemptions. The provisions of this ordinance do not apply to:

- a) The plowing, tilling, planting, or harvesting of agricultural, horticultural, or silvicultural crops.
- b) Additions or modifications to existing single family structures.
- c) Construction of single family structures that disturbs less than one acre of land.
- d) Site development of lots for which a stormwater management plan was approved as part of a larger common development plan.
- e) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.

Subd. 3. Waivers. Every applicant shall provide for stormwater management as required by this ordinance, unless a written request is filed to waive this requirement. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this ordinance upon making a finding that compliance with the ordinance would cause an unnecessary hardship and the waiver of such requirement will not adversely affect the objectives of this ordinance. Requests to waive the stormwater management requirements shall be submitted to the City for approval.

Subd. 4. In instances where meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site, the City may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the City that the waiver will not result in the following impacts to downstream waterways:

- a) Deterioration of existing culverts and other structures.
- b) Increase in stormwater runoff rates and volume, soil erosion, siltation, stream temperature, or nonpoint source pollution.
- c) Accelerated streambank or streambed erosion or siltation.
- d) Increased threat of flood damage to public health, life, property.

Subd. 5. Where compliance with minimum requirements for on-site stormwater management is waived, the applicant will satisfy the minimum requirements by meeting one of the mitigation measures selected by the City. Mitigation measures may include, but are not limited to, the following:

- a) The creation of a stormwater management facility or other drainage improvements on previously developed properties, public or private, that currently lack stormwater management facilities designed and constructed in accordance with the purposes and standards of this ordinance.
- b) Monetary contributions (Fee-in-Lieu) to fund stormwater management activities that are designed to service multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
 1. Where the City waives all or part of the minimum stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided downstream of the proposed development, the applicant shall be required to pay a fee in an amount as determined by the City.
 2. When an applicant obtains a waiver of the required stormwater management, the monetary contribution required shall be in accordance with the adopted fee schedule. All of the monetary contributions shall be credited to an appropriate capital improvements program project, and shall be made by the developer prior to the issuance of any building permit for the development.
- c) Dedication of land. In lieu of a monetary contribution, an applicant may obtain a waiver of the required stormwater management by entering into an agreement with the City for the granting of an easement or the dedication of land by the applicant, to be used for the construction of an off-site stormwater management facility. The agreement shall be entered into by the applicant and the City prior to the recording of plats or, if no record plat is required, prior to the issuance of the building permit.

509.04. Storm Water Management Plan. Subdivision 1. It is the policy of the City to require development and redevelopment to control stormwater quantity and quality through a management approach of detention, infiltration basins, or other approved BMP's. Detention and infiltration basins, whether on-site or regional in nature, shall be designed to incorporate all requirements of the Minnesota NPDES/SDS General Stormwater Permit for Construction Activity (MN R100001).

Subd. 2. The Storm Water Management Plan shall be in conformance with the requirements of the approved local Water Management Plan for the City, as amended.

Subd. 3. Facilities shall be designed in accordance with the approved local Water Management Plan and Standard Specifications for the City, as amended.

Subd. 4. Rate control and water quality standards apply to all new development.

Subd. 5. Volume control standards apply to New Development where there are Hydrologic Soil Group A and B soils. The volume of the first one inch of runoff from the new impervious area shall be infiltrated.

Subd. 6. Phosphorous loading reduction. Facilities shall be designed to reduce phosphorous loading at down gradient site boundaries such that there is no net increase in pollutant loads as a result of development.

509.05. Wetland Management Standards. Subdivision 1. The City finds that wetlands serve a variety of beneficial functions and values. Wetlands maintain water quality, reduce flooding and erosion, provide food and habitat for wildlife, provide open space, and are an integral part of the city's environment. Wetlands are important physical, educational, ecological, aesthetic, recreational, and economic assets to the City. They are critical to the city's supply of clean drinking water, stormwater management, and other aspects of health, safety, and general welfare. Regulating wetlands and the land uses around them is therefore in the public interest.

Subd. 2. In order to protect wetlands, this chapter incorporates by reference the Minnesota Wetland Conservation Act of 1991 (hereinafter referred to as the WCA) and any future amendments adopted by the legislature.

Subd. 3. Wetland Function and Value Assessment. The city has found that wetlands vary significantly in the degree that they have been altered. Wetlands exhibit great variations in their overall quality. Therefore, the city has determined that it is necessary and beneficial to protect wetlands based on the needs for their existing quality. A wetland function and value assessment shall be required in accordance with the provisions of the approved local Water Management Plan for the City, as amended. Function and value assessments shall be required when any of the following activities are proposed:

- a) Subdivision
- b) Any projects with wetland impacts as defined by the WCA (Minnesota Rules 8420).
- c) Wetland excavation greater than 0.5 acres.

Subd. 4. Wetland Buffer Strips. In addition to having regulations that affect the physical impacts within wetland areas, regulatory agencies require the City to address potential non-point source impacts from future development with the establishment of buffer strip standards to complement the existing stormwater standards. A buffer strip is an upland area left in, or restored to, its natural state (non-turf grass) that surrounds a wetland or stormwater pond and reduces negative impacts to wetlands from adjacent development. Buffer strips are necessary because:

- a) Drainage swales, ditches, storm sewers and culverts typically collect street and front yard drainage and direct the drainage to an appropriately sized pond for pre-treatment prior to discharge to a wetland or water body. Back yard drainage typically reaches wetlands or water bodies without any pretreatment thereby allowing lawn and garden chemicals, sediments, pet wastes, fertilizer, and other types of contaminants to directly impact the receiving water body.
- b) To promote water quality by maintaining the ability of wetlands to recharge groundwater and receive the discharge of groundwater, to retain sediment and toxins, and to filter nutrients from surface water runoff before it discharges into receiving waters, thus avoiding the contamination and eutrophication of these water features.
- c) To provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the city.
- d) To preserve the natural character of the landscape through the restoration of wetland ecosystems.

Wetland buffers are unmowed areas adjacent to wetlands that contain non-invasive vegetation, preferably dense native vegetation. Buffers filter pollutants before they can enter the wetland, reduce erosion, protect vegetation diversity and wildlife habitat, and minimize human impacts to the wetlands. Buffers are required around all wetlands within new subdivisions, with the width dependant upon relative susceptibility.

1. Design standards. Buffer strips shall be designed in accordance with the approved local Water Management Plan and Standard Specifications for the City, as amended.
2. Buffer Monuments. Buffers shall be adequately marked with approved signage at maximum 200 foot spacing.
3. Minimum buffer widths. Minimum widths are shown in Table 1 below.

Table 1
Wetland Management Standards

Standard	Management Class			
	Preserve	Manage 1	Manage 2	Manage 3
Bounce (10-year)	Existing	Existing plus 0.5 feet	Existing plus 1 feet	No limit
Inundation Period (1&2-year)	Existing	Existing plus 1 day	Existing plus 2 days	Existing plus 7 days
Inundation Period (10-year)	Existing	Existing plus 7 days	Existing plus 14 days	Existing plus 21 days
Runout Control	No change	No change	0 to 1 feet above existing	0 to 4 feet above existing
Stormwater Treatment	Sediment and Nutrient	Sediment and Nutrient	Sediment	Sediment
Buffer Width	35 feet	25 feet	20 feet	20 feet

509.06. Inspection and Maintenance. Subdivision 1. All stormwater management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes, and to be structurally sound. It shall be the responsibility of the applicant to obtain or provide any necessary easements or other property interests to allow for inspection and maintenance purposes.

During the application process, the City shall determine who the responsible party will be for the ownership and maintenance of all stormwater management facilities. The City may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this ordinance and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. The City may assign the responsibility to a responsible party.

The responsible party shall enter into an agreement with the City that documents all responsibilities for operation and maintenance of all stormwater treatment facilities. Such responsibility shall be documented in a maintenance plan and executed through a maintenance agreement. The maintenance agreement shall be executed and recorded against the property.

Subd. 2. Maintenance Agreement. The maintenance agreement shall be in a form approved by the City and shall at a minimum:

- a) Designate the owner or responsible party, which shall be permanently responsible for maintenance of the structural or non structural measures.
- b) Pass responsibility for such maintenance to successors in title.
- c) Grant the City and its representatives the right of entry for the purposes of inspecting all stormwater treatment facilities at reasonable times and in a reasonable manner. This includes the right to enter a property when the City has a reasonable basis to believe that a violation of this division or maintenance agreement is occurring or has occurred and to enter when necessary for the abatement of a public nuisance or correction and enforcement of a violation of this division or agreement.
- d) Allow the City to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party. The agreement shall permit the City to certify the costs of the maintenance/correction to the taxes for the subject property.

- e) Include a maintenance plan that contains, but is not limited to the following:
 - 1. Identification of all structural stormwater treatment facilities.
 - 2. A schedule for regular inspection, monitoring, and maintenance for each facility. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to quantity, temperature and quantity of runoff.
 - 3. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each facility.
- f) Identify a schedule and format for reporting compliance with the maintenance plan to the City.

509.07. Security. The applicant shall file with the City of Independence a letter of credit or other improvement security in an amount deemed sufficient by the City of Independence to cover all costs of improvements, landscaping, and maintenance of improvements for such period as specified by the City of Independence for engineering and inspection costs and to cover the cost of failure or repair of improvements installed on the site. The amount of the security shall be determined by the City. For commercial development, the security amount shall not be less than 150% of the approved estimated cost of performing said work. The estimated cost shall be determined by the City.

509.08. Enforcement:

Subd. 1. Stop-Work Order and Revocation of Permit. In the event that any person holding a site development permit violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.

Subd. 2. Violations and Penalties

- a) No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Section.
- b) Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and each day during which any continued or permitted, shall constitute a separate offense.
- c) In addition to the other penalties authorized by this Section, any person, partnership, or corporation convicted of violating any of the provisions of this Section shall be required to bear the expense of such restoration.
- d) The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal or state law or other City ordinances and it is within the discretion of the City to seek cumulative remedies.

509.09. Compatibility with Other Requirements. This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence

509.10. Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Section.

Independence City Code

510.01

Section 510 - Zoning Code

(See Appendix I hereto)