

City of Elysian Zoning Ordinance

Section 1.0 Statutory Authorization and Policy

Subd. A. Statutory Authorization This ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 462 and Chapter 103F, Minnesota Regulations, parts 6120.2500-6120.3900, the Elysian City Council ordains zoning and shoreland regulations,

Subd. B. Intent & Purpose This ordinance is adopted for the purpose of:

1. Protecting the public health, safety, morals, comfort, convenience, preservation of natural areas and general welfare.
2. Promoting orderly development of the residential, commercial, industrial, recreational, shoreland and public areas.
3. Providing adequate light, air and convenience of access to property.
4. Providing for the compatibility of different uses and the most appropriate use of land throughout the City.
5. Preventing overcrowding of land and undue concentration of structures by regulating use of land and buildings and the bulk of building in relation to the land and structures surrounding them.
6. Preventing the pollution of lakes or alteration of shoreline caused by inappropriate or environmentally harmful development or use of lake from property.
7. Preventing water pollution and shoreland alteration.
8. Enhancement of surface water quality and conservation of economic and natural environmental values of shorelands.
9. Providing for sagacious use of waters, water related land resources and all land within the city.

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Section 2.0 General Provisions

Subd. A. Jurisdiction The provisions of this ordinance shall apply to all property and shorelands of public water bodies located within the corporate limits of the City of Elysian. A body of water created by a private user where there was no previous shoreland is exempt from the Shoreland provisions of this ordinance.

Subd. B. Interpretation of Zoning Ordinance Provisions of this ordinance shall be held to be minimum requirements for promotion of public health, safety, morals and welfare.

Subd. C. Abrogation and Greater Restrictions. Where the conditions of this ordinance are comparable with conditions imposed by any other federal, state or county law, ordinance, statute or regulation, the regulations which are more restrictive shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

Subd. D. Conformance to Ordinance. No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used except for purposes permitted in the district in which the building or land is located.

Subd. E. Maintenance of Minimum Requirements.No lot area, yard or other open space existing on or after the effective date of this ordinance shall be reduced below the minimum required for it by this ordinance and no lot area, yard or other open space that is required by this ordinance for one use shall be used as the required lot area, yard or other open space for another use.

Subd. F. Severability. Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Subd. G. Prohibited Uses (Uses Not Provided for Within Zoning Districts)
Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the City Council, Planning Commission, or property owner may request a study by the City to determine if the use is acceptable and, if so, what zoning would be most appropriate and the determination as to conditions and standards relating to development of the use. The City of Elysian Planning Commission, upon receipt of the staff study may initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the district or the city.

Subd. H Required Application Information
The property owner or applicant for any zoning request shall be required to provide all information and documentation required under this ordinance in order to process

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their request. Information including but not limited to a property survey conducted by a registered land surveyor may be required.

Subd. I Boundary Survey Required

All new lots created after the effective date of this ordinance will be required to submit a Certificate of Survey in both a paper and electronic format. The electronic format may be in either a CAD or GIS format. In addition, when the owner of an existing lot of record proposes a construction project and the new addition or structure is to be located at or beyond the property setbacks, the owner must be able to locate the property corner pins, or if not, the owner must provide an updated boundary survey so the City can verify property boundary lines.

Subd. J Residential Construction Timing Requirements

The principal use structure shall be constructed prior to or at the same time that any accessory use structures are constructed for all residential developments. Accessory structures shall not be constructed on a lot before the principal use structure. Accessory use structures shall not be used as living quarters while a principal use structure is being constructed.

Subd. K. Dimensional Regulations. Regulations hereinafter set forth in this section qualify or supplement the district regulations appearing elsewhere in this ordinance.

1. Chimneys, church steeples, towers, aeriels, flagpoles and similar objects not used for human occupancy are not subject to the building height limitations of this ordinance.
2. Architectural features, such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than twenty-four inches (24") into a required yard.
3. If there are buildings on abutting lots. Where more than fifty percent (50%) of the linear frontage along the same side of a street within the same block contains exiting buildings having setbacks from the street less than the required minimum specified by the zoning district in which the buildings are located, any new building may be setback a distance equal to the average setback of the existing buildings. However, in no instances, shall any building be required to be located more than the minimum setback specified by the zoning district.
4. An open unenclosed porch or paved terrace no higher than twelve inches (12") above ground level may project into a front yard for a distance not exceeding ten (10) feet. An unenclosed vestibule containing not more than forty (40) square feet may project into a front yard for a distance not to exceed four (4) feet.
5. Minimum yard requirements for fences can be reduced or eliminated upon written agreement by affected property owners; however, no written agreement is necessary to construct fences in the yard areas of adjoining commercial or industrial lots.

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Section 3.0 Rules & Definitions

Subd. A. Rules

1. For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular.
2. The word “person” shall include a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
3. The word “shall” is mandatory and not discretionary.
4. The word “may” is permissive
5. The word “lot” shall include the words “plot”, “piece”, and “parcel”.
6. The words “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.

Subd. B. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distance, unless otherwise specified, shall be measured horizontally.

Accessory structure or facility. An uninhabited structure, or portion of a structure which is clearly subordinate to the use of the principal building, on the same lot and customarily incidental thereto, including but not limited to garages, sheds, storage structures, or swimming pools.

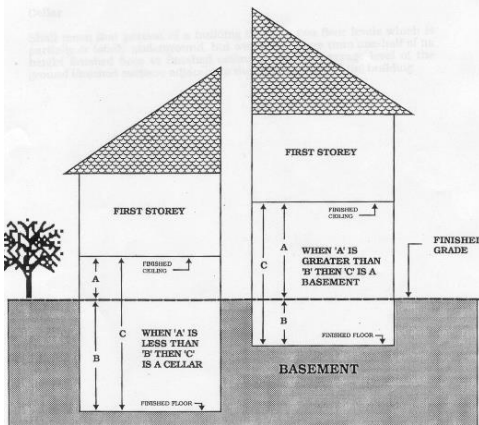
Agriculture The science and art of the cultivation of the soil and the breeding and raising of livestock

Alley. A public or private way not more than 30 feet wide affording only secondary means of access to abutting property.

Annexation. The act of attaching unincorporated land lying contiguous to municipal corporation.

Apartment. A room or suite of rooms in a multi-family or multi-use building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit.

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Basement. That portion of a building between two floor levels which is partially underground, but which has at least one-half of its height from finished floor to ceiling above grade (the average level of ground at the finished surface) adjacent to the building (see diagram). When 'A' is greater than 'B', Then 'C' is a basement.

Bed & Breakfast (B&B). A building, other than a hotel or boarding house, where a single-family dwelling with furnished bedrooms provides sleeping accommodations for pay to guests for transient occupancy and at which meals may be served to these guests and meeting the regulations outlined in Section 15, subd. O.

Block. A tract of land bordered on all sides by streets or by one or more streets and a railroad right-of-way, stream, river or unsubdivided acreage or subdivision.

Bluff. "Bluff" means a topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

1. Part or all of the feature is located in a shoreland area;
2. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinance high water level averages 30 percent or greater; and
4. The slope must drain toward the waterbody.

Bluff Impact Zone. A bluff and land located within 20 feet from the top of a bluff.

Boarding House. A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for five or more persons, but not exceeding 20 persons.

Boathouse. A structure designed and used solely for the storage of boats or boating equipment.

Building. Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind.

Building Line. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

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Building Setback. The minimum horizontal distance permitted between the building and the lot line, ordinary high water line or other line of demarcation used in a setback requirement.

Buildable Area (or Building Envelope) The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance (setbacks, coverages, etc.) have been met, in which a building may be constructed.

Cemetery. Land used or intended to be used for the burial of the human dead and dedicated as a “cemetery” for such purposes.

Church or Synagogue. The term includes the following: church, synagogue, rectory, parish house or similar building incidental to the particular use which is maintained and operated by an organized group of people for religious purposes.

Clinic. A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention but who are not provided with board or room nor kept overnight on the premises.

Club. A non-profit association of persons who are bona fide members, paying regular dues and are organized for some common purpose, but not including a group organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial service.

Commercial Use. The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

Commission. The Planning Commission of the City of Elysian, MN.

Comprehensive Plan. A document or series of documents for guiding the future development of a city. It incorporates the study and analysis of existing physical, economic, environmental, and social conditions and projections of what the future conditions are likely to be in the next several years, and uses these along with citizen input to create goals for the community.

Conditional Use. Means a land use or development that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exists, the user or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Convalescent, Nursing or Rest Home. Any building or groups of buildings providing personal assistance or nursing care for those dependent upon the services by reason of age or physical or mental impairment, but not for the treatment of contagious diseases, addicts or mental illnesses.

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Convenience Store. A retail establishment providing groceries and other daily household necessities in a location which is primarily intended to serve the immediate neighborhood, and *may* be part of or attached to a gas station.

Corner Lot. A lot abutting, and at the intersection, of two (2) or more streets. A corner lot can be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

Cultural Resource. Includes buildings, landscapes, archeological sites, ethnographic resources, objects and documents, structures and districts that embody a rich heritage of human experiences and cultural identities.

Curb Level. The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one (1) street, the curb level shall be the average of the levels of the curbs at the center of the front of each street.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three (3) feet above the ground.

Density. The number of families, persons, or housing units per unit of land.

Drive-In (Drive-through, Drive-up Window) Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building, includes but is not limited to restaurants and banks

Duplex, Triplex and Quad. A dwelling structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

Dwelling. Any building or portion thereof designed or used primarily as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer coach, boarding or rooming house, hotel or motel.

Dwelling Site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling Unit. Any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

Environmental Impact Statement. A fact finding report required by the National Environmental Policy Act before a government may authorize a proposed project, program, law, or any other major activity requiring a federal governmental authorization.

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Easement A negotiated interest in the land of another which allows the easement holder specified uses or rights without actual ownership of the land; including but not limited to utility placement & maintenance, access, and surface drainage, which has been legally described in a registered deed.

Extractive Use. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Family. A person living alone, or two or more persons related by blood marriage or adoption living together as a housekeeping unit and occupying a single dwelling unit or a group of not more than four persons who are not related by blood, marriage, or adoption living together as a housekeeping unit by joint agreement and occupying a single dwelling unit on a non-profit cost sharing basis, regardless of the ownership of the unit amongst the four or fewer persons.

Filling Station (Service Station or Gas Station). Any building or premises used principally for the dispensing, sale or offering for at retail of automobile fuels or oils, but which may also include a convenience store.

Floodplain. Area indicated as floodplain on FIRM maps (Flood Insurance Rate Map) as authorized by FEMA (Federal Emergency Management Agency)

Floor Area. The sum of the floors horizontal areas of the several floors of a building measured from the exterior face of the wall including basements and attached buildings.

Forest Land Conversion. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Garage, Private. An accessory use situated on the same lot of the principal use and designed for the private storage of motor vehicles owned by the occupant of a principal use. When a private garage is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

Garage, Public. Any premises used for the storage or care of motor driven vehicles except private garages.

Grandfather Clause. See Non-conformity

Guest Cottage. A structure used as a dwelling unit that may contain sleeping spaces, kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

Hardship/Undue hardship. As used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the

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variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. (as defined in Minnesota Statutes, Chapter 462.)

Height of Building. “Height of building” means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

Home Occupation. An occupation carried on by an occupant of a dwelling as an accessory activity to the main residential use of the building and meeting the following restrictions:

1. Not more than one person shall be employed other than residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or an accessory building.
3. Floor area devoted to the occupation shall not exceed 25% of the total ground area occupied by buildings on the lot.
4. The occupation shall not be objectionable to adjacent residences due to noise, hours of operation, traffic, electrical interferences, etc.
5. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except that a one by one-and-a-half foot sign that is attached to a building shall be allowed.

Hospital. An institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient department, training facilities, central service facilities and staff offices what are an integral part of the facility.

Hotel. A building occupied as a temporary abiding place of individuals who are lodged with or without meals in which there are sleeping rooms.

Impervious Coverage. A structure or a surface that has been compacted or covered with a layer of material so that is highly resistant to infiltration by water. It may include surfaces such as compacted sand, lime rock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Industrial Use. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

Infrastructure. Public support structures such as roads, street lighting, water and sewer lines.

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Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

Interim Use Permit. A permit that is approved by the City Council allowing a use or activity for a limited period of time that reasonably utilizes the property in a manner not permitted in the zoning district, or, allows a use or activity that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future.

Junk Yards (Auto Salvage Yard). An open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to storage of unlicensed autos, scrap iron and other metals, paper, rages, rubber, tires and bottles, not including recycling centers or collection points pawn shops, antique shops, used furniture and household equipment stores, used cars in operable conditions or salvaged materials, incidental to manufacturing operations. An auto salvage yard includes an area where one (1) or more unlicensed or inoperable vehicles remain for 30 days or longer

Kenel. Any structure or premises on which four or more dogs over four (4) months of age are kept for sale, breeding, profit, etc.

Landscaping. Any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which are designed to enhance the visual amenity of a property and/or provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

Land Use. A term used to indicate the utilization of any piece of land.

Land Use Plan. The proposed or projected utilization of land, it is usually presented in a map form. That indicates the desired residential, commercial, industrial, agricultural, and other uses.

Loading Space. A space on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise, material, or people, and which abuts upon a street, alley or other appropriate means of access.

Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditors plat or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.

Lot-Corner. See Corner Lot

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through

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lots, all sides of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under *Yards* in this section. If the lot abuts public waters, the lake or stream side shall be considered the lot front.

Lot Interior. A lot other than a corner lot with only one frontage on a street other than an alley.

Lot Lines. The lines bounding a lot.

Lot Through. A lot other than a corner lot with frontage on more than one street other than an alley. Through lots may also be referred to as DOUBLE FRONTAGE LOTS.

Lot Measurements.

1. DEPTH of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points on the side lot lines in the rear.
2. WIDTH of a lot shall be the shortest distance between lot lines measured at the midpoint of the building line.
3. AREA of a lot shall be computed from the area contained in horizontal plane defined by the lot lines.

Lot of Record. A lot which is a part of a subdivision, the map of which has been recorded in the office of the County Register of Deeds or a lot described by metes and bounds, the description of which has been recorded in said office, prior to the effective date of this ordinance.

Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical system contained therein; except that the term includes any structure which meets all the requirement and with respect to which the manufacturer file a certification required by the secretary of the U.S. Department of Housing and Urban Development and complies with the standard established under Minnesota Statute 327.31, subdivision 6. (see mobile home)

Manufactured Home Park. A contiguous parcel of land under single ownership that has been planned and improved for the placement of manufactured homes.

Manufactured Home Subdivision. A contiguous parcel of land which has been subdivided and improved and is intended for the sale of individual lots on which mobile homes may be placed.

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Massage. Any method of applying pressure on, or friction against, or rubbing, stroking, kneading, tapping or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, appliance or device with or without such supplemental aids as rubbing alcohol, liniment, antiseptic oil, powder, cream, lotion, ointment or other similar preparation.

Metes and Bounds. A method of property description by means of their direction and distance from an easily identifiable point.

Mobile Home. A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. (see manufactured home)

Motel. A series of attached or detached sleeping or living units for the lodging of transient guests, offered to the public for compensation and with convenient access of off-street parking spaces for the exclusive use of the guest or occupants.

Multi-family Dwelling. A structure which includes separate dwelling units for two or more families

Nonconformity. Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized. This is sometimes referred to as a “grandfather clause”.

Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

Ordinance. A legislative enactment of a county or city.

Overlay Zone. A set of zoning requirements that are described in the zoning ordinance text, are mapped, and subsequently imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones, or whichever is stricter.

Ordinary High Water Level (O-H-W). The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Park. Any public or private land available for recreational, educational, cultural, or aesthetic use, passive or active.

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Parking Spaces. A land area of not less than two hundred (200) square feet, exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley. Truck loading and unloading space shall not be included in such an area.

Performance Standards. Measurable minimum standards that deal with the effect uses may have on the surrounding area. These standards may include, but are not limited to, effects of smoke, noise, toxic emission, water pollutants, glare, vibration, shade, radioactivity, electrical disturbances, heat, odors, and traffic generation.

Permanent Foundation. A permanent perimeter foundation below frost depth and in conformance with the Minnesota State Building Code.

Person. Any individual, firm partnership, corporation, company association, joint stock association or body politic; including any trustee, receiver, assignee, or other similar representative thereof.

Planned Unit Development. A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages where the kind, location, size, and form of structures must be pre-approved by the planning commission and deemed compatible with the intentions of the Comprehensive Plan. The purpose of the PUD is to allow for the provision of common open spaces through clustering, density increases and a mix of structure types and land uses, when combined with innovative design techniques and a greater oversight of site design by the Planning Commission.

Plat. A map representing a subdivision of a parcel of land into lots, blocks, and streets or other divisions and dedications.

Public Waters. Any waters as defined in Minnesota Statutes 103.G.005.

Preliminary Plat. An initial drawing for the purpose of receiving approval from the Planning Commission for a proposed subdivision, which indicates the general layout of streets and alleys, lots, blocks, and restrictive covenants to be applicable to the subdivision.

Recreational Vehicles. Will include campers, travel trailers or other trailers under 20 feet in length, boats and personal watercraft.

Replacement Value. The cost of replacing a structure, at the time of destruction, which is similar to the original structure in size, design materials and construction.

Resolution. A formal statement of opinion or determination adopted by the governmental body. It is less formal and binding than an ordinance.

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School. Any school, public or private, having regular sessions with regularly employed instructors teach subjects that are fundamental and essential for a general academic education and in accordance with the applicable statutes of the State of Minnesota.

Screen. The use of a fence, wall, vegetation, or other device or means, in order to conceal something from view.

Semi-Public Use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

Setback. The minimum horizontal distance between a structure, sewage treatment system or other facility and a road, street, highway, ordinary high water level, sewage treatment system, top of a bluff, property line or other specified point of demarcation.

Sewer System. Pipelines or conduits, pumping stations ,force main and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland Zone. An overlay zone that is located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage, the limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the DNR commissioner.

Sign. A name, identification, description, display or illustration on which is affixed to, or painted, or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization idea or business.

Sign, Banner or Pennant. A sign usually of cloth, paper, plastic or other non-rigid material with no enclosing framework that is fastened or otherwise attached to support structures spanning horizontally and overhanging an area and generally temporary in nature.

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Sign, Billboard or Off-Premise. Signs that direct attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

Sign, Bulletin. An accessory sign which announces goods or services available through the use of changeable letters.

Sign, Free-Standing. A sign advertising the business or service located on the same lot as the sign and which is placed in the ground and not affixed to any part of any structure.

Sign, Nameplate or Identification. A sign which bears the name and/or address of the occupants of the building.

Sign, Nonconforming. A sign which does not conform to the newly enacted requirements of this Ordinance.

Sign, Portable. A sign which is not permanently attached to the ground or any structure and so designed as to be movable from one location to another.

Sign, Projecting. Any sign, all or any part of which extends over public property more than twelve (12") inches.

Sign, Roof. Any sign erected upon or projecting above the roofline of a structure to which it is affixed.

Sign Area. That area within the marginal lines of the surface which bears the advertisement, or in the case of messages, figure or symbols attached directly to any part of the building, that area which is included in the smallest rectangle which can be made to circumscribe the message, figure or symbol displayed thereon. The stipulated maximum sign area for a freestanding sign refers to a single facing .

Sign, Temporary. A sign which is erected or displayed for a limited period of time .

Sign, Wall. Any sign which is affixed to a wall of any building.

Significant Historic Site. Any archeological site, standing structure or other property that meets that criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Single-Family (one family) Dwelling. A structure which is intended for dwelling use by only one family.

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Site Plan. A scale drawing showing proposed uses and structures for a parcel of land as required by applicable regulations. It includes lot lines, lot area, streets, parking spaces, private roadways, walkways, topographic features, reserved open space, buildings, and other structures, major landscape features, and the location of proposed utility easements. It is more detailed than a plat and may include density and statistical data.

Site Plan Review. The process whereby the planning commission and staff or an appointed site plan review team, review the site plan or a development to assure that they meet the stated purposes and standards of zoning and other regulations, provide for the necessary public facilities such as roads and schools, and protect and preserve desirable features and adjacent properties through the appropriate location of structures and the uses of landscaping.

Steep Slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more that are not bluffs.

Story. That portion of a building, other than a basement, including between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Street. A publicly dedicated right-of-way more than 30 feet in width serving as the principal means of access to abutting property. The term "street" shall include avenue, drive, circle, boulevard, parkway, highway, road, thoroughfare or any other similar term.

Structure. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

Subdivision. Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

Subdivision Regulations. Local ordinances that regulate the conversion of undivided land into building lots for residential or other purposes, and also establishes requirements for streets, utilities, and site design.

Surface Water Oriented Commercial Use. 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. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

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Therapeutic Massage Enterprise. A place of business providing massage services to the public for consideration. The term does not include a hospital, sanitarium, rest home, nursing home, boarding home or other institution for the hospitalization or care of other human beings duly licensed under the provisions of Minnesota Statutes, Chapter 144.

Therapeutic Massage Therapist. A person who practices or administers massage to the public for consideration.

Toe of the Bluff. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a 5-foot segment, measured on the ground, with an average slope exceeding 18 percent.

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

Townhouse. A multiple family dwelling, which maintains private ingress and egress, attached to its own foundation, contains no independent dwellings above or below it and is attached to other similar dwellings by a common wall.

Variance. The provision for varying the Zoning regulations as they apply to specific properties where an unusual hardship on the land exists, but may be granted only upon the specific grounds set forth in State regulations, Chapter 462 or as amended.. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances usually deal with measurable physical requirements such as height, bulk, or building setbacks and are based upon a finding that such relaxation will not be contrary to public interest. Variances are not granted for use.

Water Oriented Accessory Structure or Facility. 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 needs 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.

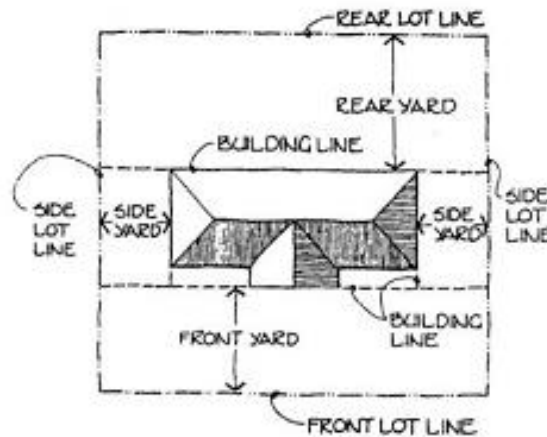
Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Yard. Any space in the same lot with a building open and unobstructed from the ground to the sky (see diagram below).

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Yard, Front. An unoccupied open space on the same plot with a building, extending the full width of the lot and situated between the street line and front of the building projected to the sidelines of the lot (see diagram below).

Yard, Rear. An unoccupied open space, except for accessory buildings, on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot (see diagram below).



Yard, Side. An unoccupied open space on the same lot with a building between the building and side lot line and extending from the front yard to the rear yard (see diagram above).

Zoning Administrator. The person duly appointed by the City Council and charged with the enforcement of this Ordinance or their authorized representative .

Zoning Map. The map or maps incorporated as part of this ordinance as part hereof designating the Zoning Districts.

Zoning Ordinance. The local law adopted by the governing body to serve orderly development according to specific standards established for the public welfare and to implement a comprehensive plan.

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Section 4.0 Ordinance Administration

Subd. A Penalties for Zoning Ordinance Violations

Any person, firm or corporation who violates any of the provisions of this zoning ordinance shall be charged with a misdemeanor, and upon conviction hereof, be subject to a fine and/or imprisonment as specified in Minnesota Statutes, chapter 609, or as amended. Each day that a violation is permitted to exist shall constitute a separate offense. The City may seek an injunction to stop any violation of this ordinance.

Subd. B Zoning Administrator

The City Council shall appoint a zoning administrator. The Zoning Administrator may delegate the enforcement of this Ordinance to any administrative official of the City and supporting staff if deemed necessary.

The Zoning Administrator responsibilities shall include:

1. Issue building permits, establish and maintain records thereof.
2. Inspection of buildings and land use to determine compliance with the terms of this ordinance.
3. Maintain permanent and current records of the ordinance, including but not limited to all maps, amendments, conditional uses, variances, appeals, and applications for actions listed above.
4. Notify, in writing any person responsible for violating a provision of this Ordinance, indicating the nature of the violation and ordering the action necessary to correct it.

The zoning administrator is responsible for the administration and enforcement of this ordinance.

Subd. C Board of Adjustment and Appeals

The City Council is hereby appointed as the Board of Adjustment and Appeals, who has the following powers and duties with respect to the Zoning Ordinance.

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.
2. To hear requests for variances from the literal provision of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variance only when it is demonstrated that such action will be in keeping with the spirit and intent of the ordinance.

Subd. D Appeals

Appeals to the Board of Adjustments concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the jurisdiction affected by any decision of the administrative official. The Board of Adjustments and Appeals shall make no decision on an appeal or petition until the planning commission has had reasonable opportunity, not

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to exceed sixty (60) days, to review and report to the Board of Appeals upon the appeal as petitioned.

1. Notices – The Board of Adjustments shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time with a 4/5 vote. At the hearing, any party may appear in person or by agent or attorney.

Subd. E Planning Commission

1. Establishment of a Planning Commission – A city planning commission for the City of Elysian has been established by City Ordinance as authorized by Minnesota Statutes, Section 462.345, Subdivision 1.
2. Planning Commission Duties – The number and members of the planning commission shall be set by the Council and is charged with the following duties;
 - a. Engage in land use planning activities;
 - b. No zoning ordinance or amendment shall be adopted by the City Council until a public hearing has been held by the Planning Commission upon notice;
 - c. Review and make recommendations on all requests for amendments to the zoning ordinance and conditional use permits; and
 - d. Hold public hearings on the above.

Subd. F Variances

A variance is an adjustment by the Board of Adjustment to the literal provisions of the Zoning Ordinance in cases where the literal provisions would cause hardship because of physical circumstances unique to an individual property. Variances are limited to height, bulk, density, and yard requirements. Variances should be the exception rather than the rule. Variances are handled as an appeal to the Board of Adjustment. The Department of Natural Resources must be informed of all variance requests in the Shoreland District or within the floodplain.

1. Variance Application – Application for a variance or appeal of the requirement, decision, or determination of an administrative officer shall be filed with the zoning administrator stating the difficulties claimed. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. The request shall be referred to the Board of Adjustment and Appeals for consideration.
2. Planning Agency Review – The Board of Adjustment and Appeals shall make no decision on an appeal or petition until the Planning Commission has had reasonable opportunity, not to exceed sixty (60) days, to review and report to the Board of Appeals upon the appeal or petition. **Note:** Under the statutory 60 day rule, the final decision on land use issues, including variances, needs to be made and communicated to the applicant within sixty (60) days of receiving a completed application. There are limited exceptions, but the city needs to be

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careful that the procedure followed under this Section does not result in automatic approval because more than sixty (60) days total was taken to act on the application.

3. Public Hearing Notice – When a variance application is received, the time and place for a public hearing before the Zoning Board of Adjustment shall be set. At least (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper for the City and as well as sent First class mail to property owners within three hundred fifty (350) feet of the subject property and to the Department of Natural Resources. Notice of such hearings shall be posted at the City Hall at least ten (10) days prior to the public hearing. The notice shall be deemed sufficient for the location or certification of ownership of said adjacent properties.
4. Making Decisions – The Board of Adjustments and Appeals shall, in no less than 60 days of acceptance of an application for a variance, make its order by a required majority deciding the matter and shall serve a copy of such order upon the appellant or petition by mail. If this order is not granted within the required 60 day period, the variance shall be granted automatically. A certified copy of a variance granted, including a legal description of the property involved, shall be filed with the county recorder.
5. Fees – To defray administrative costs for processing requests for variances, a fee shall be paid by the applicant. Such fees shall be established by the City Council.
6. Circumstances (Hardships) for Granting a Variance
 - a. the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls.
 - b. The plight of the landowner is due to circumstances unique to his property not created by the landowner.
 - c. The variance, if granted, will not alter the essential character of the locality.
 - d. Economic considerations alone shall not constitute undue hardship if reasonable use for the property exists under the terms of this ordinance.
 - e. When in harmony with the zoning ordinance, a variance for earth sheltered construction shall be granted.
 - f. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties.
 - g. A variance may not be granted for any use that is not permitted under the ordinance for the property in the zone where the affected persons land is located.
 - h. Undue hardship, as used in connection with the granting of a variance, includes direct sunlight for solar energy systems.

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Failure to meet the standards for hardship outlined in subdivision above shall result in denial of the variance request.

Subd. G Conditional Use

A conditional use listed in this ordinance may be permitted, enlarged, or altered in accordance with the standards and conditions of this Ordinance. In addition to those standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interests of the surrounding area or the City as a whole may be imposed.

1. Application – An application for a conditional use permit shall be filed with the Planning Commission. The application shall be accompanied by a site plan of the proposed use showing such information as may be necessary or desirable, including but not limited to, the following:
 - a. Site plan, drawn to scale, showing parcel and building dimensions.
 - b. Location of all buildings and their square footages.
 - c. Curb cuts, driveways, access roads, parking spaces, and off-street loading areas.
 - d. Water surface uses.
 - e. Existing topography
 - f. Finished grading and drainage plan.
 - g. Sanitary sewer and water plan with estimated use per day.
 - h. A map showing all principal land uses within three hundred fifty (350) feet of the parcel for which application is being made.
 - i. A boundary survey, if required (see Section 2, subd. I).
2. Public Hearing - A Public hearing on the granting of conditional use permits shall be held. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. The notice shall also be sent to the DNR commissioner or the commissioner's designated representative for those properties that are within the Shoreland district or the floodplain. The Planning Commission shall forward its recommendation to the City Council regarding approval, approval with conditions or denial.
3. Making Decisions – The City Council shall, in no fewer than 60 days of the official acceptance date of an application for a Conditional Use Permit, make its order by a required majority deciding the matter and shall serve a copy of such order upon the applicant. If this order is not granted within the required 60 day period, the conditional use permit shall be granted automatically.
4. Site Specific Considerations – Conditions recommended must be in addition to standards already set forth in this Ordinance. Conditions must also be

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reasonable and practical. The conditional use permit will run with the land and is not granted to specific land owners.

5. Types of Conditions – Include but are not limited to the following;
 - a. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control, and access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required with particular attention to economic, noise, glare, or other effects of the conditional use on adjoining properties and properties generally in the area.
 - c. Refuse and service areas
 - d. Utilities, with reference to locations, availability and compatibility.
 - e. Screening and buffering with reference to type, dimensions, and character.
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effort, and compatibility and harmony with properties in the district.
 - g. Required yards and other open spaces.
 - h. General compatibility with adjacent properties and other property in the area.
 - i. Increased setbacks from the ordinary high water level.
 - j. Limitations on the natural vegetation to be removed or the requirements that additional vegetation be planted.
 - k. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
 - l. Protection of steep slopes with conditions to prevent erosion and to preserve existing vegetative screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
6. Fees – To defray administrative costs for processing requests for conditional uses, a fee shall be paid by the applicant. Such fees shall be established by the City Council.
7. Filing - A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles of the county or counties in which the municipality is located for record. The conditional use permit shall include the legal description of the property included.

Subd. H Text Amendments and Zoning District Changes

The City Council may on its own motion, or on request of the Planning Commission, or on petition or appeal of the affected property owners to amend the text of this Ordinance and the Official Zoning Map.

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1. Planning Agency Review – An amendment not initiated by the planning commission shall be referred to the planning commission for study and report and may not be acted upon by the governing body until it has received the recommendation of the Planning Commission on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission. **Note:** Under the statutory 60 day rule, the final decision on land use issues, including zoning amendments, needs to be made and communicated to the applicant within sixty (60) days of receiving a completed application. There are limited exceptions, but the city needs to be careful that the procedure followed under this Section does not result in automatic approval because more than sixty (60) days total was taken to act on the application.
2. Notice – The Planning Commission shall give notice of the time and place of the public hearing. Notice shall be given not more than thirty (30) days nor less than ten (10) days in advance of the hearings by publishing a notice thereof at least once in a newspaper of general circulation and by notifying by mail, at least ten (10) days prior to the meeting, the property owners within three hundred-fifty (350) feet of the subject property (when an amendment involves changes in district boundaries affecting an area of five acres or less). County's tax records shall be deemed sufficient for the location or certification of township of said properties.
3. Approval of Amendment(s) – The City Council, upon receiving reports of the Planning Commission, and without further public hearing, may vote upon the adoption of any proposed amendment or it may refer it back to the Planning Commission for further consideration. In considering such recommendations, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire City and for the uses to which the property affected is being devoted at the time; and no change shall be recommended unless it is required for the public good. The amendment shall be effective only if a majority of all the members of the City Council concur in its passage.

Subd. I Interim Use Permits

An interim use may be permitted in accordance with the standards and conditions of this Ordinance and as specified in the permit. In addition to those standards and requirements expressly specified by this Ordinance, additional conditions considered necessary to protect the best interests of the surrounding area or the City as a whole may be imposed.

1. Purpose – To allow for a use or activity for a limited period of time that allows a property owner to reasonably utilize the property in a manner not permitted in the applicable zoning district, or, to allow a use of the property that is presently acceptable but not permitted within the zoning district, and, with anticipated development, may not be acceptable in the future.

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2. Procedure – The application for this permit, public hearing notice, and information requirements shall be the same as for a Conditional Use Permit, as provided for in Section 4, subd. G of this ordinance.
3. General Standards – An interim use shall comply with the following:
 - a. It will meet the standards of a conditional use permit set forth in Section 4, subd. G above;
 - b. It will conform to the zoning regulations of the respective zoning district and to all applicable performance standards;
 - c. It will terminate upon a tangible date or event, as specified in the permit and in the resolution approving said interim use permit;
 - d. It will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - e. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
4. Termination – An interim use permit shall terminate upon the occurrence of any of the following events:
 - a. The date specified in the permit;
 - b. A violation of the conditions under which the permit was issued;
 - c. A change in the City’s zoning regulations which renders the use as nonconforming, however, the City may provide a period of relief for up to one year, if warranted; or
 - d. The redevelopment of the use and property upon which it is located to permitted or conditional use as allowed within the respective zoning district.
5. No more than two interim use permits shall be granted to a single property at one time.

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Section 5.0. Establishment of Zones

Subd. A. Classification of Zones. The land areas of the city have been divided into zoning districts that vary in their regulation of land uses. Land use activities must conform to the specific zone regulations of the zoning district as well as the pertinent overall regulations found in other portions of this ordinance.

For the purpose of this ordinance, the following zones are hereby established:

- R1 - General Residential
- R2 - Multi-Family Residential
- C1- Central Business Commercial
- C2- Highway/Light Industrial Commercial
- C3- Neighborhood Commercial Service
- I - Industrial
- PUD- Planned Unit Developments
- S - Shoreland

Subd. B. Location of Zones. The boundaries for the zones listed in this ordinance are indicated on the zoning map, which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference.

Subd. C. Zoning Map. The zoning map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the zoning administrator.

Subd. D. Zone Boundaries. Unless otherwise specified, zone boundaries are section lines; subdivision lines; lot lines; center line of street or railroad rights-of-way; or such lines extended.

Subd. E. Annexed Territory. All territory which may hereafter be annexed to the City shall be initially zoned in as General Residential (R-1). Consideration of zoning other than in accordance with the land use plan should not be done without amending the land use plan. Such territory shall be subject to all provisions of this Ordinance and shall be conforming, including the hook-up to city sewer and water of all property on which a structure exists within one year of becoming a part of the city.

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Section 6.0. R1 – General Residential Zone

Subd. A. Purpose. The R1 district is intended to be comprised basically of present and future low density housing, augmented with compatible medium density housing and appropriate miscellaneous uses. These additional uses are conditional and are to be further regulated by applying conditional use standards.

Subd. B. Permitted Uses.

1. One and two family dwellings
2. State licensed foster homes or group homes serving six (6) or fewer mentally or physically challenged persons
3. Parks

Subd. C. Accessory Uses

1. Uses incidental to the Permitted Uses that are located on the same lot (for design standards, refer to Section 15, Subd. Q).

Subd. D. Conditional Uses.

1. Community/governmental buildings
2. Schools
3. Churches
4. Hospitals, sanitariums, nursing homes
5. Utility structures, such as lift stations and electrical substations
6. State licensed residential facilities serving from seven (7) through sixteen (16) mentally or physically challenged persons
7. Single-family Residential Planned Unit Developments (See Section 12.0 PUD standards)
8. Home occupations
9. Guest Cottages
10. Single Family Homes used as Bed & Breakfast (See Section 15.0, subsection O)

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Subd. E. R1 Standards

1. Front yard – minimum of twenty (20) feet
2. Side yards – minimum of eight (8) feet
3. Side yard, accessory building – minimum of three (3) feet
4. Rear yard, principal building – minimum of twenty (20) feet
5. Rear yard, accessory building – minimum of three (3) feet
6. Lot area – minimum of 7,500 square feet plus 2,000 more for two-family dwellings
7. Lot width – minimum of seventy five (75') feet
8. Lot depth – minimum of one hundred (100) feet
11. Building height – maximum of thirty-five (35) feet
12. Street frontage – minimum of twenty-five (25) feet on a street other than an alley

Subd. F. R1 Special Minimum Requirements

1. All dwellings shall have a minimum of nine hundred (900) square feet of usable floor space above grade, which includes basements as defined in Section 3, Subdivision B of this ordinance. In addition, all dwellings may not be less than thirty (30) feet in length or less than twenty (20) feet in width over that entire minimum length. These measurements shall not include overhangs or other projections.
2. All dwellings shall be served by municipal water and sanitary sewer.
3. All driveways and required off-street parking spaces shall be surfaced with concrete or bituminous.
4. All waste material, debris, refuse, garbage or materials not currently being used for construction on the property shall be stored in a totally closed structure, screened from eye-level view from public streets and properties or kept in covered trash containers.
5. All dwellings, except earth sheltered homes, shall have frost footings and a continuous permanent perimeter foundation in conformance with the State Building Code.

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6. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.
7. Metal Roofing Materials:
 - a. Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.
 - b. Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that:
 - i. have had a factory applied lifetime color coating system applied; and
 - ii. must conform to the standards adopted by the Minnesota State Residential Code.

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Section 7.0. R2 – Multi-Family Residential Zone

Sub. A. Purpose. The R2 district is created in order to preserve some land that can develop to serve the city's multi-family needs without creating incompatible situations. To protect this goal, permitted uses are few and conditional uses should be weighted in view of their impact with future multi-family development.

Subd. B. Permitted Uses.

1. Residential uses as permitted in the R1 Residential Zone
2. Multi-family housing up to four (4) units
3. Parks

Subd. C. Accessory Uses

1. Uses incidental to the Permitted Uses that are located on the same lot (for design standards, refer to Section 15, Subd. Q).

Subd. D. Conditional Uses.

1. Multi-family housing with five (5) or more units
2. Professional offices and low intensity service operations
3. Recreation facilities
4. Residential planned unit developments
5. Mixed Use (commercial & residential Planned Unit Developments)
6. State licensed residential facilities serving mentally or physically challenged persons
7. Utility structures
8. Nursing homes
9. Community and governmental buildings
10. Guest Cottages

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Subd. E. R2 Standards.

1. Front yard – minimum of twenty-five (25) feet
2. Side and rear yards – minimum of ten (10) feet except where a multi-family dwelling of three (3) units or more abuts to R1 zone, in which case the minimum will be thirty (30) feet
3. Lot area – minimum of 7,500 square feet plus 2,000 more for each dwelling unit over one (1)
4. Lot width – minimum of seventy-five (75) feet
5. Lot depth – minimum of one hundred (100) feet
6. Building height – maximum of forty-five (45) feet
7. Dwelling width – minimum of twenty (20) feet
8. Street frontage – minimum of twenty-five (25) feet on a street other than an alley
9. Screening – garbage pickup areas and other unsightly service features should be screened

Subd. F. Special Minimum Requirements.

1. All dwelling units shall have a minimum of eight hundred (800) square feet of usable floor space above grade. In addition, all dwellings may not be less than thirty (30) feet in length or less than twenty (20) feet in width over that entire minimum length. These measurements shall not include overhangs or other projections.
2. All driveways and required off-street parking spaces shall be surfaced with concrete or bituminous.
3. All waste material, debris, refuse, garbage or materials not currently being used for construction on the property shall be stored in a totally enclosed structure, screened from eye level view from public streets and adjacent properties or kept in covered trash containers.
4. All dwellings, except earth sheltered homes, shall have frost footings and a continuous perimeter permanent foundation which conforms to the State Building Code.
5. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the

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road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.

6. Metal Roofing Materials:

- a. Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.
- b. Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that:
 - i. have had a factory applied lifetime color coating system applied; and
 - ii. must conform to the standards adopted by the Minnesota State Residential Code.

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Section 8.0. Central Business Commercial District C-1

Subd. A Purpose:

The CENTRAL BUSINESS COMMERCIAL DISTRICT (C-1) is intended to allow for the continuation of the traditional commercial/residential mix, and physical development patterns in the existing downtown core.

Subd. B Permitted Uses

1. Retail, wholesale trades.
2. Personal services such as laundry, barber, shoe repair shop and photography studios.
3. Repair and maintenance services, such as jewelry and radio and television repair shops
4. Offices, professional services, such as medical and dental clinics, architects and attorneys offices, finance, insurance and real estate service.
5. Eating and drinking establishments.
6. Community/governmental buildings.
7. Public parks.
8. Schools and Churches

Subd. C Accessory Uses

1. Uses incidental to the Permitted Uses that are located on the same lot.

Subd. D Conditional Uses

1. Hotels
2. Auto Repair Shops
3. Lumber yards, and warehousing.
4. Utility structures.
5. Commercial planned unit developments
6. Amusement establishments, such as video arcades, pool halls, motion picture theaters and bowling alleys.
7. Second and third floor apartments not to exceed 5 units.
8. State licensed residential facilities serving mentally or physically challenged persons.

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9. Therapeutic Massage Enterprise.
10. Live & Work space on ground floor in commercial structures. The ground floor of a commercial structure may house both a commercial use and a residential use, provided:
 - a. The residential space comprises 50% or less of the useable floor space;
 - b. The residential use has a separate entrance as does the commercial use.
 - c. The front exterior of the structure maintains a full commercial appearance.

Subd. E. C-1 Standards

1. Height Regulations – No building hereafter erected or altered shall exceed four (4) stories or forty five (45) feet in height. Additional regulations pertaining to height are specified in Section 2 subdivision K.
2. Front Yard Regulations – none required
3. Side Yard Regulations – none required
4. Corner lot side setback - none required
5. Rear Yard Regulations - No building shall be located within twenty (20) feet of any rear lot line.
6. Transitional Yard Regulations – A transitional yard shall be provided anywhere the Commercial District abuts a residential District. The yard shall conform to the following requirements:
 - a. The dimensions of the required transitional yard on a property located in the commercial district shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.
 - b. The transitional yard shall extend the entire length of the abutting Residential District boundary
 - c. The transitional yard shall be at a minimum of a ten (10) foot width.
7. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.
8. Metal Roofing Materials:
 - a. Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.

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- b. Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have had a factory applied lifetime color coating system applied.

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Section 9.0 Highway Commercial C-2

Subd. A. Purpose:

The HIGHWAY COMMERCIAL DISTRICT (C-2) is meant to allow for the continuation and addition of new businesses into the community that are not appropriate in the downtown area, due to space requirements and/or design elements that are inconsistent with the historic or traditional downtown atmosphere.

Subd. B. Permitted Uses

1. Personal services such as laundry, barber, shoe repair shop and photography studios.
2. Repair and maintenance services, such as jewelry and radio and television repair shops
3. Offices, professional services, such as medical and dental clinics, architects and attorneys offices, finance, insurance and real estate service.
4. Eating and drinking establishments.
5. Community/governmental buildings.

Subd. C. Accessory Uses

1. Uses incidental to the Permitted Uses that are located on the same lot.

Subd. D. Conditional Uses

1. Fast food and drive-in establishments.
2. Hotels and motels with residences ancillary to the primary use and located in the primary commercial structure.
3. Car, farm equipment, and implement sales.
4. Light assembly production.
5. Gas stations and auto repair
6. Lumber yards, and warehousing.
7. Utility structures.
8. Commercial planned unit developments (including campground/resort facilities).
9. Amusement establishments, such as movie theaters, bowling alleys, and pool halls.
10. Therapeutic Massage Enterprise.

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Subd. E. C-2 Standards

1. Height Regulations – No building hereafter erected or altered shall exceed four (4) stories or forty five (45) feet in height.
2. Front Yard Regulations_- there shall be a minimum of thirty (30) feet , for a front yard setback.
3. Side Yard Regulations - no building shall be located within twenty (20) feet of any side lot line abutting any Residence District.
4. Rear Yard Regulations - No building shall be located within twenty (20) feet of any rear lot line.
5. Minimum setbacks from State and/or local bike trails – No building shall be located within fifty (50) feet from the trail centerline.
6. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.
7. Metal Roofing Materials:
 - a. Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.
 - b. Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have had a factory applied lifetime color coating system applied.

Subd. F. General Regulations

Additional General Regulations for the Commercial District are set forth in Performance Standards (Section 15.0) of this Ordinance.

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Section 10.0 Neighborhood Commercial Service C-3

Subd. A. Purpose:

The Neighborhood COMMERCIAL Service DISTRICT (C-3) is meant to allow for The development of limited scale commercial businesses that would provide goods and services needed to the surrounding neighborhood, but not necessarily intended for the entire community.

Subd.B. Permitted Uses

There are no permitted uses in the Neighborhood Commercial/Service District. All development proposals will be handled as Conditional Uses.

Subd.C. Conditional Uses

1. Retail and service establishments, such as bait and tackle and video rental.
2. Professional services (Doctor or Dentist offices etc.)
3. Gas stations and convenience stores. All elements of the site development shall be controlled within the conditional use permit, including the following:
 - a. Building design and construction.
 - b. Site layout and development.
 - c. Parking and traffic flow.
 - d. Fencing and screening.
 - e. Paving and drainage.
 - f. Signs and canopies.
 - g. Waste collection and storage devices.
 - h. Landscaping.

Subd. D. C-3 Standards

1. Maximum Lot Size – The *maximum* lot size allowed in the C-3 zone is 20,000 square feet
2. Front Yard Regulations_- there shall be a minimum of twenty (20) feet , for a front yard setback.
3. Side Yard Regulations - no building shall be located within ten (10) feet of any side lot line abutting any Residence District.
4. Rear Yard Regulations - No building shall be located within ten (10) feet of any rear lot line.

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5. Minimum setbacks from State and/or local bike trails – No building shall be located within fifty (50) feet from the trail centerline.
6. Minimum setbacks from State or County Highways – No building shall be located within 30 (30 feet) from State or County Highways.
7. Density – Any C-3 district must be separated by no less than 2,000 linear feet from another C-3 district.
8. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.
9. Metal Roofing Materials:
 - a. Galvanized corrugated S-type metal roofing materials are not permitted to be used on any structures.
 - b. Metal roof shingles are permitted. Standing seam metal roofing systems and ribbed roofing systems may also be allowed, but they must be the type of panels that have had a factory applied lifetime color coating system applied.

Subd. E. General Regulations

Additional General Regulations for the Commercial District are set forth in Section 15.0, Performance Standards, of this Ordinance.

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Section 11.0 Industrial District (I).

Subd. A Purpose.

The Industrial Zone (I) is intended to allow for areas in the city where industrial uses may occur.

Subd. B Permitted Uses.

1. Manufacturing, processing, packaging or assembly of products and materials.
2. Retail that is incidental to an industrial use.
3. Offices and office buildings.
4. Research Laboratories
5. Wholesaling
6. Warehouses
7. Utility Structures, such as lift stations & electrical substations

Subd. C Accessory Uses.

1. Uses incidental to the Permitted Uses that are located on the same lot.

Subd. D Conditional Uses.

1. All industries which have outside or open storage of parts, products, or fuels that exceed twenty-five percent (25%) of their building area.
2. Structures that exceed fifty (50) feet in height.
3. Public utility facilities
4. Adult uses as regulated by Section 15, Subdivision N of this ordinance.

Subd. E I Standards

- | | |
|---------------|--------------------|
| 1. Lot Area | 10,000 square feet |
| 2. Lot Width | 100 feet |
| 3. Front Yard | 50 feet |
| 4. Rear Yard | 20 feet |

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5. Side Yard, Interior Lot 15 feet

6. Side Yard, Corner Lot 25 feet

Subd. F Special Minimum Requirements.

1. Noise, odors, smoke and particulate matter may not exceed Minnesota Pollution Control Standards.
2. All fabrication, manufacturing, processing or production shall be undertaken within an enclosed building.
3. Screening from public streets and residential districts shall be provided for outdoor storage of materials, goods, parking and loading areas. The screening may consist of either a fence, compact hedge, berms or similar opaque materials. Screening shall be maintained by the property owner and replaced if plants die.
4. Every principal use is required to display its street address number, attached to the front of the building, so that the location can be identified easily from the road. If the building's distance from the road's curb or edge of driving surface exceeds 75', the address number shall be displayed at the end of the driveway.

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Section 12.0 **Planned Unit Developments (PUDs)**

Subd. A. Purpose: The purpose of the PUD is to allow for the provision of common open spaces through clustering, density increases and a mix of structure types and land uses, when combined with innovative design techniques and a greater oversight of site design by the Planning Commission.

Subd. B. Processing Planned Unit Developments. Planned unit developments must be processed as a conditional use. The following steps shall be taken when processing a PUD application:

Prior to the acceptance of an application for a conditional use permit, the applicant shall attend a PUD concept meeting with the Planning Commission and City Staff.

Subd. C. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action being taken on the application request.

1. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alteration, sewage treatment and water supply system lines and easements and topographic contours at two (2) foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.
2. A property owners association agreement (for residential PUDs) with mandatory membership and all in accordance with the requirements of Subdivision F of this section.
3. Deed restrictions, covenants, permanent easements or other instruments that: (1) properly address future vegetation and topographic alterations, construction of additional buildings, beaching of watercraft; and (2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Subdivision D of this section.
4. Those additional documents as requested by the zoning administrator that are necessary to explain how the PUD will be designed and will function.

Subd. D. Maintenance and Design Criteria

1. Maintenance and Administration Requirements
 - a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

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- b. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space.
- c. Development organization and functioning. Unless equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features.
 - i. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
 - ii. Each member must pay a pro rated share of the association's expenses and unpaid assessments can become liens on units or sites.
 - iii. Assessments must be adjustable to accommodate changing conditions.
 - iv. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.
- 2. Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria.
 - a. At least fifty percent (50%) of the total project area must be preserved as open space.
 - b. Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
 - c. Any areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries must be included in open space.
 - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites and by the general public.
 - e. Open space must not include commercial facilities or uses but may contain water-oriented accessory structures or facilities.
 - f. The appearance of open space areas, including topography, vegetation and allowable uses, must be preserved by the use of restrictive deed covenants,

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permanent easements, public dedication and acceptance or other equally effective permanent means.

3. Erosion Control and Storm Water Management. Erosion control and storm water management plans must be developed and the PUD must be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

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Section 13.0. Shoreland Overlay Zone

Subd. A. Shoreland Management Classification. 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. Protected waters in the city have been assigned a shoreland management classification.

The public waters of Elysian have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3000, and the Protected Waters Inventory Map for LeSueur County, Minnesota.

The shoreland area for the waterbodies listed below shall be defined in this ordinance and as shown on the Official Zoning Map.

These protected waters of the city have been classified by the Commission of Natural Resources as follows:

<u>Lake Name</u>	<u>DNR I.D. #</u>	<u>DNR Classification</u>
1. Lake Elysian	81-95	Recreational Development
2. Lake Frances ("Francis")	40-57	Recreational Development
3. Lake Tustin	40-61	Natural Environment
4. Rays Lake	40-56	Recreational Development

Subd. B. Purpose. The shorelands of the City of Elysian are hereby designated as a Shoreland Overlay District to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters.

Subd. C. Permitted Uses. All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Zone as indicated on the official zoning map of the city.

Subd. D. Conditional Uses. All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this shoreland zone as indicated on the official zoning map of the city.

Subd. E. Substandard Uses. Any uses of shorelands in existence prior to the date of enactment of this ordinance that are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this ordinance, are substandard uses. However, any structural alteration or addition to a use that will increase the substandard dimensions substantially shall not be allowed (refer to Section 14 for additional requirements for nonconformities).

Subd. F. Prohibited Uses. Any uses that are not permitted or conditional uses as regulated by the applicable zoning district underlying this shoreland zone as indicated on the official zoning map of the city.

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Subd. G. Shoreland Standards - General. The following standards shall apply to all shorelands of protected waters within the city. 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.

1. Shoreland Standards – Residential (R-1 & R-2)

a. Recreational Development Lakes (Elysian/Frances/Rays) – Sewered Areas

Single-Family

	Water frontage lots	Other lots
Lot Area.	20,000 sq. ft	15,000 sq. ft
Lot Width	At O-H-W: 75 feet	At front setback line: 90 feet
		75 feet

Duplex

	Water frontage lots	Other lots
Lot Area.	35,000 sq. ft.	26,000 sq. ft.
Lot Width	At O-H-W 135 feet	135 feet

Triplex

	Water frontage lots	Other lots
Lot Area.	50,000 sq. ft.	38,000 sq. ft.
Lot Width	At O-H-W 195 feet	190 feet

Quad

	Water frontage lots	Other lots
Lot Area.	65,000 sq. ft.	49,000 sq. ft.
Lot Width	At O-H-W 255 feet	245 feet

Setback From O-H-W 75 feet

Setback from Roads & Highway(measured from R-O-W Line) 50' from federal, state, county;
25' from municipal or private streets;
For riparian lots: all structures must be setback a minimum of 15' from municipal or private streets

Building Height Maximum 30 feet

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Lowest Floor Elevation	Minimum 3 feet above highest known water level
Lot Coverage	25% maximum
Bluff top setback	30 feet
Unplatted cemetery setback	50 feet

b. Natural Environment Lakes (Tustin) - Sewered Areas

Single

	Water frontage lots	Other lots
Lot Area.	40,000 sq. ft.	20,000 sq. ft.
Lot Width	125 feet	125 feet

Duplex

	Water frontage lots	Other lots
Lot Area.	70,000 sq. ft.	35,000 sq. ft.
Lot Width	225 feet	220 feet

Triplex

	Water frontage lots	Other lots
Lot Area.	100,000 sq. ft.	52,000 sq. ft.
Lot Width	325 feet	315 feet

Quad

	Water frontage lots	Other lots
Lot Area.	130,000 sq. ft.	65,000 sq. ft.
Lot Width	425 feet	410 feet

O-H-W Setback	150 feet
Setback from Roads & Highway Measured from R-O-W Line	50' from federal, state, county; 25' from municipal or private lots; For riparian lots: all structures must be setback a minimum of 15' from municipal or private streets

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Building Height	Maximum 30 feet
Lot Coverage	25% maximum
Bluff top setback	30 feet
Unplatted cemetery setback	50 feet

2. Additional Special Provisions– Residential (R-1 & R-2)

- a. Residential subdivisions with dwelling unit densities exceeding those in the tables above can only be allowed if designed and approved as residential planned unit developments under Section 12.0 of this ordinance. Only land above the ordinary high water level of public waters and land which is not designated as a bluff or as wetlands can be used to meet lot area standards and lot width standards must be met at both the ordinary high water level and at the building line.
- b. Subdivisions of duplexes, triplexes and quads on Natural Environment Lakes must also meet the following standards:
 - i. Each building must be set back at least 200 feet from the next ordinary high water level.
 - ii. Each building must have municipal sewage treatment and water systems.
 - iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
 - iv. No more than 25 percent of a lake’s shoreline can be duplex, triplex or quad developments.
- c. One guest cottage is allowed per lot in the shoreland overlay zone, under the following circumstances:
 - i. Lots must meet or exceed the following standards:

For Recreational Lakes

	Water frontage lots	Other lots
Lot Area.	35,000 sq. ft.	26,000 sq. ft.
Lot Width	At O-H-W 135 feet	135 feet

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For Natural Environment Lakes

	Water frontage lots	Other lots
Lot Area.	70,000 sq. ft.	35,000 sq. ft.
Lot Width	225 feet	220 feet

- ii. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
 - iii. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, setbacks or color, assuming summer leaf-on conditions.
3. Shoreland Standards - Commercial (C1, C2, C3), Industrial, Public, and Semi-Public Uses

Surface water-oriented commercial uses and industrial, public or semi-public 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. Those uses with water-oriented needs must meet the following standards.

- a. 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 or 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.
 - i. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 - ii. 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 ten (10) feet above the ground; and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

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- iii. 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.
- d. Commercial, Industrial, public, or semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public waters frontage, must be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions or must meet the following setback requirements from the O.H.W level:

300 feet on Natural Environment Lakes
150 feet on Recreational Development Lakes

- e. Commercial uses that provide transient, short-term lodging spaces, rooms, or land parcels and whose operations are essentially service-oriented, (for example, hotels, motels, resorts, recreational vehicle and camping parks) must be developed under the PUD process when located in the shoreland overlay zone.

Subd. H. Shoreland Standards - PUD. The following standards shall apply to all PUD's developed in the shoreland zone. 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.

1. Site "Suitable Area" Evaluation.

Proposed new or expansion to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Subdivision V of this section.

- a. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	<u>Sewered</u>
Recreational Development Lakes	267 ft.
Natural Environment Lakes	320 ft.

- b. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

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2. Residential and Commercial PUD Density Evaluation.

The procedures for determining the “base” density of a PUD and density increase multipliers are as follow. Allowable densities may be transferred from any tier further from the waterbody, but must not be transferred to any other tier closer.

a. Residential PUD “Base” Density Evaluation

The suitable area within each tier is divided by the single residential lot size standard for lakes; or for rivers, the single residential lot width standard time the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analysis herein and the design criteria in Subdivision F of this section.

b. Commercial PUD “Base” Density Evaluation

- i. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages or porches and basements, unless they are habitable.
- ii. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios *

Average Unit Floor Area (sq. ft.)	Recreational Development Lakes	Natural Environment Lakes
200	.020	.010
300	.024	.012
400	.028	.014
500	.032	.016
600	.038	.019
700	.042	.021
800	.046	.023
900	.050	.025
1000	.054	.027
1100	.058	.029
1200	.064	.032
1300	.068	.034
1400	.072	.036
1500	.075	.038

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- * For average unit floor areas less than shown, use the floor areas ratios listed for two hundred (200) square feet. For areas greater than shown, use the ratios listed for fifteen hundred (1500) square feet. For recreational camping areas, use the ratios listed at four hundred (400) square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for one thousand (1000) square feet.
- iii. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- iv. Divide the total floor area by tier computed in Item iii above by the average inside living area size determined in Item i above. This yields a base number of dwelling units and sites for each tier.
- v. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design criteria in Subd. H, section 3.

c. Density Increases Multipliers

- i. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in the city's zoning ordinance are met or exceeded and the design criteria in Subd. F of this section are satisfied. The allowable density increases in Item b below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty percent (50%) greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the local unit of government and the setback is at least twenty-five percent (25%) greater than the minimum setback.
- ii. Allowable dwelling unit or dwelling site density increased for residential or commercial planned unit developments:

<u>Density</u> <u>Evaluation Tiers</u>	<u>Maximum Density Increase</u> <u>Within Each Tier (Percent)</u>
First	50%
Second	100%
Third	200%
Fourth	200%
Fifth	200%

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3. Maintenance and Design Criteria

- a. Maintenance and Administration Requirements. All Planned Unit Developments are required to provide, in perpetuity, for the preservation and maintenance of open spaces (See Section 12, Planned Unit Developments for requirements). In addition, PUDs developed in the Shoreland Overlay Zone must also provide for the following protections:
 - i. Commercial uses prohibited (for residential PUDs)
 - ii. Vegetation and topographic alterations other than routine maintenance prohibited
 - iii. Construction of additional buildings or storage of vehicles and other materials prohibited
 - iv. Uncontrolled beaching of watercraft prohibited
- b. Open Space Requirements. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least fifty percent (50%) of the shore impact zone must be preserved in its natural state.
- c. Erosion Control & Storm Water Management. Erosion control and storm water management plans must be developed and the PUD must be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed twenty-five percent (25%) of the tier area.
- d. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards.
 - i. Planned unit developments must be connected to publicly owned water supply and sewer systems.
 - ii. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features and maximum height.
 - iii. Setbacks from the ordinary high water level must be increased in accordance with Subd. H, section 3, (Maintenance & Design Criteria) of this section for developments with density increases.

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- iv. Shore recreation facilities, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth of groundwater and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units of sites located in other tiers.
- v. Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- vi. Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized.
- vii. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in the city zoning ordinance and are centralized.

Subd. I Additional Shoreland Provisions – All Land Uses

The following shall apply to all uses within the Shoreland Overlay Zone

- 1. Roads, Driveways and Parking Areas.
Roads and parking areas shall be located to retard the run-off of surface waters and nutrients in accordance with the following criteria.
 - a. Roads, driveways and parking areas shall be designated to make use of existing topography and vegetative screening to the greatest extent possible.
 - b. Roads and parking areas shall meet the setback requirements established for structures in this section of the ordinance.
 - c. In no instance shall these impervious surfaces be placed closer than fifty (50) feet from the ordinary high water mark. This provision does not pertain to boat ramps.

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- d. In no instance shall these impervious surfaces be placed in bluff impact zones or shore impact zones.
- e. Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of this ordinance must be met.
- f. Natural vegetation or other natural materials shall be used to screen parking areas when viewed from the water.

2. Exceptions to Structure Setback Requirements.

- a. Setback requirements from the ordinary high water mark shall not apply to piers and docks. Location of piers and docks shall be controlled by applicable state and local regulations.
- b. On underdeveloped shoreland lots that have two (2) adjacent structures on both such adjacent lots, any new residential structure may be set back the average setback of the adjacent structures from the ordinary high water mark or fifty (50) feet, whichever is greater, provided all other provisions of the shoreland are complied with and it is not located in a shore or bluff impact zone.

3. Water-Oriented Accessory Structures.

Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 10, Subdivision G, of this ordinance if the water-oriented accessory structure complies with the following provisions.

- a. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks must not exceed eight (8) feet above grade at any point.
- b. The setback of the structure or facility from the ordinary high water level must be at least ten (10) feet.
- c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
- d. The roof may be used as a deck with safety rails but must not be enclosed or used as a storage area.
- e. The structure or facility must not be designated or used for human habitation and must not contain water supply or sewage treatment facilities.

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- f. As an alternative for recreational development waterbodies, water-oriented accessory structures used solely for water craft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configurations of the shoreland.
4. Stairways, Lifts and Landing.

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements.

 - a. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties.
 - b. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties and public open space recreational properties.
 - c. Canopies or roofs are not allowed on stairways, lifts or landings.
 - d. Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground provided they are designed and built in a manner that ensures control of soil erosion.
 - e. Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions whenever practical.
 - f. Facilities such as ramps, lifts or mobility paths for physically challenged persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) and (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
5. Shoreland Alteration.

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

 - a. Removal of natural vegetation shall be restricted to prevent erosion into protected waters, to consume nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation in the shoreland zone shall be subject to the following provisions.

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- i. Selective removal of natural vegetation is allowed, provided sufficient vegetation cover remains to screen cars, dwellings and other structures when viewed from the water.
 - ii. Clear cutting of natural vegetation is prohibited.
 - iii. Natural vegetation shall be restored insofar as feasible immediately after any construction project is completed to retard surface run-off and soil erosion. The zoning administrator shall approve a restoration plan prior to removal of natural vegetation for any construction project.
 - iv. Planting and/or cultivation of any species of non-sterile aquatic plants) i.e. purple loosestrife) is prohibited.
 - v. Provision of this section shall not apply to permitted uses, which normally require the removal of natural vegetation. This includes the installation of public utility lines and roads.
- b. Grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is toward a protected water or a watercourse leading to a protected water must be authorized by a permit from the zoning administrator. The permit may be granted subject to the conditions that:
- i. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 - ii. Temporary ground cover, such as mulch, is used until permanent ground cover, such as sod, is established.
 - iii. Methods to prevent erosion and trap sediment are employed.
 - iv. Fill is stabilized to accepted engineering standards.
- c. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal building site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:
- i. The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

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- ii. Along rivers, existing shading of water surfaces if preserved.
 - iii. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.
 - iv. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.
 - v. Methods to minimize soil erosion and to trap sediments before they reach any surface water features must be used.
 - vi. Altered areas must be stabilized to accept erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
 - vii. Fill or excavated material must not be placed in bluff impact zones.
 - viii. Any alterations below the ordinary high water level of public waters must be authorized by the DNR commissioner under Minnesota Statutes, Section 103G.
 - ix. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - x. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the rip rap is within ten (10) feet of the ordinary high water level and the height of the rip rap above the ordinary high water level does not exceed three (3) feet.
 - xi. Grading and filling shall be allowed in such instances that the slope of the land is away from the water body.
- d. Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the zoning administrator before construction begins. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit to work in the beds of protected waters.
- i. 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 constructed to mean the issuance by the commissioner of a permit under

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the procedures of Minnesota Statutes, Section 103G and other related statutes.

- ii. Private use of property dedicated to the public for the purpose of constructing docks, moorings or keeping boats shall be prohibited in the shoreland zone.
6. Bluff Impact Zones.
Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
7. Wetland Evaluation.
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.
 - a. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - i. Sediment and pollutant trapping
 - ii. Storage of surface run-off to prevent or reduce flood damage
 - iii. Fish and wildlife habitat
 - iv. Recreational use
 - v. Shoreline or bank stabilization
 - vi. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others
 - NOTE:
This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.
 - b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
 - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.

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- d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
 - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 - g. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater.
 - h. Fill or excavated material must not be placed in bluff impact zones.
 - i. Any alterations below the ordinary high water level of public waters must first be authorized by the DNR commissioner under Minnesota Statutes, Section 103G.
 - j. Alterations of topography must be only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - k. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the rip rap is within ten (10) feet of the ordinary high water level and the height of the rip rap above the ordinary high water level does not exceed three (3) feet.
 - l. Evaluation must also include a determination if the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.
8. Sewage Treatment.
Any premises intended for human occupancy shall be provided with an adequate method of sewage treatment to be maintained in accordance with acceptable practices. Municipal sewage collection and treatment facilities shall be used.
9. Water Supply.
Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health standards for water quality. Public or municipal water supplies shall be used.

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10. Permits Required

A permit is required for the construction of buildings or building additions, related activities such as construction of decks, signs, and fences, all construction activities of steep slopes, and grading and filling when:

- a. More than ten (10) cubic yards of material on steep slopes, within shore or bluff impact zones will be moved; and/or
- b. More than fifty (50) cubic yards of material outside of steep slopes, shore or bluff impact zones will be moved.

Application for a permit shall be made to the zoning administrator on the forms provided. The application shall include the necessary information needed for determination of whether the site is suitable for the intended use.

11. Department of Natural Resources Notification

Notice of all public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the DNR commissioner or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/ plats must include copies of the subdivision/plat.

A copy of approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the DNR commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

12. Parks & Historic Sites

The development of parks and historic sites within the shoreland overlay zone require a Conditional Use Permit.

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Section 14.0. Nonconformities

Subd. A. Non-Conforming Uses and Structures. All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and the following regulations subject to alterations and additions, repair after damage, discontinuance of use and intensification of use;

1. Construction on Non-Conforming Lots of Record

- a. Lots of record in the office of the county recorder on the date of enactment of this ordinance that do not meet the requirements of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district; the lot has been in separate ownership from abutting lands at all times since it became substandard; was created compliant with official controls in effect at the time; and sewage treatment and setback requirements of this ordinance are met.
- b. In shoreland, a nonconforming single lot of record may be allowed as a building site without variances from lot size requirements, provided that:
 - i. All structure setback distances can be met; and
 - ii. The impervious surface coverage does not exceed 25% of the lot;
- c. A variance from setback requirements must be obtained before any use or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider constraints of the lot and shall deny the variance if warranted.
- d. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this ordinance, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this ordinance as much as possible.
- e. In evaluating all variances, building permits, conditional use permits, interim use permits, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surface coverage, increasing setbacks, vegetative buffers, connection to city utilities, and other conservation-designed actions.

2. Additions/Expansion to Non-Conforming Structures

- a. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height and other requirements of

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- this ordinance. Any deviation from these requirements must be authorized by a variance.
- b. In the case of a non-conforming structure, which has been partially or fully demolished, that structure may be rebuilt within footprint of the current building, only if the use is allowed in that zone.
 - c. In shoreland, when a nonconforming structure with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable, and, reasonable conditions are placed upon the building permit to mitigate created impacts on the adjacent property or water body.
 - d. Pertaining to setbacks from ordinary high water level only; deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.
 - i. The structure existed on the date the structure setbacks were established.
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - iii. The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive.
 - iv. The deck is constructed primarily of wood and is not roofed or screened.
3. Non-Conforming Uses
All non-conforming structures and uses shall not be expanded, but may be continued, including repairs and maintenance, unless:
- a. The nonconformity or occupancy is discontinued for a period of more than one (1) year; or
 - b. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its estimated market value at the time of damage, as indicated in the County Assessor's records, and no building permit has been applied for within 180 days of when the property is damaged. In this case, Elysian may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

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Section 15.0. Performance Standards.

Subd. A Purpose.

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

Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

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

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

Subd. C. Sanitary Sewage Facilities. All sanitary sewage facilities shall be connected to community sewer facilities. No tiles, sump pumps, roof gutters or other storm water collection device shall be connected to the community sanitary sewage facilities.

Subd. D. Storm Water Management. The following general and specific standards shall apply to storm water management within the city.

1. When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water run-off before discharge to public waters.
2. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, run-off velocities, erosion potential and reduce and delay run-off volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

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3. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water run-off using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
4. Impervious surface coverage of lot must not exceed 50% of the lot area. **See Also Shoreland Overlay Zone** for additional impervious surface standards.
5. When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
6. Newly constructed storm water outfalls to public waters must provide for filtering or settling or suspended solids and skimming of surface debris before discharge.

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

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

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

Subd. H. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity at any point or electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator or such disturbance.

Subd. I. Signs. The following regulations shall apply to all signs and all use districts.

1. General Provisions. The following regulations shall apply to all signs and all use districts.
 - a. All signs and sign structures shall be properly maintained and shall be constructed of sufficiently permanent materials so that they shall not succumb

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- to deterioration from weathering. Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced or otherwise altered, shall be repainted, repaired, replaced or removed as necessary.
- b. When electrical signs are installed, the installation shall be subject to the State's Electrical Code. Overhead electrical wiring is not allowed.
 - c. No signs other than governmental signs shall be erected or temporarily placed within any street right-of-way or upon public lands or easements or other right-of-ways without City Council approval.
 - d. No sign or sign structure shall be erected or maintained if it prevents free ingress or egress from any door, window, or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
 - e. Temporary signs are allowed for special business events such as business openings and closings, change in management, district wide shopping events or other special occasions for a total of 30 days within any calendar year.
 - f. Sign structures not used for signage for 12 consecutive months shall be removed. Removal of such signs and structures shall be completed within 10 days of notification and shall be at the owner's expense.
 - g. The City may grant a permit to locate signs or decorations on, over or within the right-of-way for a specified period of time.
 - h. Any sign that obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic control device is not permitted.
 - i. Any sign that moves or rotates except electronic reader board signs, approved time and temperature informational signs and barber poles is not permitted. All displays shall be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair the vision of any driver.
 - j. Roof signs, including signs that project over the eave line are not permitted.
 - k. No sign shall be erected, placed or maintained on rocks, fences, or trees.
 - l. No sign shall be erected that will interfere with any electric light, power, telephone wires or the supports thereof.
 - m. No sign shall contain more than 2 surface areas or facings facing the public right-of-way.
2. Permitted Signs. The following signs are allowed without a permit in all zoning districts but shall comply with all other applicable provisions of this ordinance.

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- a. **Public Signs:** Signs of public, noncommercial nature including safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historic points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.
- b. **Integral Signs:** Names on buildings, date of construction, commemorative tablet and the like, which are of permanent construction and which are an integral part of the building or structure.
- c. **Political Signs:** Signs or posters announcing candidates seeking political office or issues to be voted upon at a public election. Such signs must contain the name and address of person(s) responsible for such signs and that person(s) shall be responsible for its removal. These signs shall be erected no more than 60 days before any election and removed 7 days after the general election for which they are intended. The City shall have the right to remove and destroy signs after the 7 day removal limit.
- d. **Construction Signs:** A non-illuminated sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended. Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within 2 weeks after the project is completed. One sign shall be permitted for each street the project abuts. No sign may exceed 32 square feet in a multi-family residential, commercial, or industrial district and 12 square feet in a single family residential district.
- e. **Individual Property Sale, Lease or Rental Sign:** An on-premise sign announcing the name of the owner, manager, Realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered. Such signs are limited to 6 square feet in residential districts and 32 square feet in commercial districts. Signs must be removed within 10 days after the sale or rental of property and shall be located on the property exclusive of the public right-of-way.
- f. **Rummage Sale Signs:** Signs advertising a rummage sale not exceeding 4 square feet located on private property which conform to the applicable provisions of this ordinance and are removed at the termination of the sale.
- g. **Real Estate Development Project Signs:** For the purpose of selling or promoting a development project of up to 25 acres, one sign not to exceed 32 square feet of advertising surface may be erected on the project site. For projects over 25 acres, one or two signs not to exceed 32 square feet of advertising surface per sign may be erected. Such sign shall not remain after 95% of the project is developed. If such signs are lighted, they shall be

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illuminated only during those hours when the model homes or other development units are open for conducting business.

- h. Church Directional Signs: Provided that they are no greater than 12 square feet.
- i. Decorative Lighting: Decorative lighting is permitted provided that it meets all other requirements of this ordinance.

3. Permitted Signs in Residential Districts.

- a. Professional name plate wall signs not exceeding 2 square feet in area.
- b. Memorial signs or tablets, names of buildings and date of erection when cut into masonry surface or when constructed of bronze or other incombustible material.
- c. Political signs as regulated.
- d. Individual property sale, lease or rental signs as regulated.
- e. Construction signs as regulated.
- f. Bulletin boards or public information signs not over 32 square feet located only on the premises of public, charitable or religious institutions.
- g. Area Identification Signs. Area identification signs are intended for the identification of residential neighborhoods, subdivisions, and multi-family residential complexes; and, are also referred to as entrance monument signs.
 - i. Area identification signage shall be permitted for each multi-residential project or residential subdivision; for purposes of this section, residential subdivisions shall include platted phases of approved staged developments.
 - ii. The area identification signage shall be located at the entrance to the project or subdivision.
 - iii. A maximum of two area identification signs, not exceeding a total of 32 square feet in surface area, may be permitted per each project or subdivision. The typical use of two such signs is to create a gateway effect at opposite corners of the entrance to the project or subdivision. An area identification sign shall be located at least 20 feet from the front property lines, but in no case shall it be located in any side yard.
 - iv. When such signs are proposed and constructed by an individual or firm other than the individual or association who will be responsible for the maintenance, there shall be a covenant prepared by the proponent establishing responsibility for the maintenance of the sign or signs over the entire project or subdivision, to be approved by the city attorney, and to be recorded on the property title(s). Further, appropriate easements

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shall be provided for the approved signs on the property or properties where the signs are to be located; the easements shall be recorded prior to the issuance of the sign permit.

4. Permitted Signs in Commercial or Industrial Districts.
 - a. Number: One of each of the following signs is allowed per business: Wall Sign, Awning, and Canopy. When a building or business abuts two or more public streets, an additional sign located on each street building face is allowed.
 - b. Building Signs: Total building signage, including wall signs, canopies, awnings, projecting signs, and banners shall not exceed 20% of the building face that is facing a public street or 150 square feet whichever is greater.
 - c. Freestanding Signs: These signs shall not exceed 25 feet in height, measured from the ground to the top of the sign or sign pylon, whichever is greater and shall not exceed 90 square feet on any sign surface area. A freestanding sign shall be located in any required yard and meet the district setbacks for structures.
 - d. Awning and Canopy Signs: The gross surface of an awning or canopy sign shall not exceed 50 % of the gross surface area of the awning or canopy to which the sign is to be affixed and shall not project higher than the top of the awning or canopy or below the awning or canopy.
 - e. Projecting Signs: The total area of a projecting sign shall not exceed 36 square feet and shall be located at least 8 feet above the sidewalk. Such signs, if lighted, shall be lighted internally.
 - f. Banners and other Temporary On-Premise Signs:
 - i. Each individual establishment shall be allowed one banner or other temporary on-premise sign attached to a wall, fascia, canopy, awning, or other supports on the business lot.
 - ii. No individual banner or other temporary on-premise sign shall exceed 100 square feet in sign face area.
 - iii. All banners and other temporary on-premise signs shall be well maintained. Any damaged signs shall be immediately repaired, replaced, or removed.
 - iv. All banners and other temporary on-premise signs advertising an event shall be removed within three days following the event.
5. Signage Requiring Conditional Use Permits. The following signs are allowed in a commercial or industrial district pending the approval of a Conditional Use Permit:
 - a. Signs painted directly on building walls,

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- b. Spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light, revolving beacons, beamed lights or similar devices.
 - c. Sign Plan: When there is more than one business or use in a building or series of connected buildings, such as a retail mall, with more than one sign, the operator of each use may install a wall sign for their particular use, but a building sign plan must be submitted as part of the conditional use permit process.
6. Billboards or Off-Premise Signs. Billboards or off-premise signs are not permitted in the City of Elysian. Billboards existing within the City limits of Elysian as of March 13, 2006 shall be considered non-conforming uses, and the provisions specified below apply to such uses.
7. Non-conforming Uses. Non-conforming signs that are lawful prior to the adoption of the sign amendments shall be allowed to continue until such time that the use is abandoned, discontinued, or damaged more than 50% of its value. Such sign owners shall be allowed to undertake maintenance of non-conforming signs but shall not be allowed to expand the sign's size nor rebuild the sign if damaged.
8. Sign Maintenance.
- a. Construction: All signs must be constructed of high quality materials in a professional and workmanlike fashion.
 - b. Painting: The owner of any sign shall be required to have such sign properly maintained, including all parts and supports of the sign, unless such supports are galvanized or otherwise treated to prevent rust.
 - c. Area Around Signs: The owner or lessee of any sign or the owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of said sign.
9. Obsolete Signs: Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign may be found within 10 days after written notice from the Zoning Administrator.
10. Unsafe or Dangerous Signs: Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located within 10 days after written notification from the Zoning Administrator.

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Subd. J Parking Requirements.

1. Off-Street Parking Requirements. In all districts and in connection with all uses there shall be provided at the time any use or building is erected, enlarged, expanded or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements. For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. An off-street parking space and necessary access and maneuvering room may be estimated at two hundred (200) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the City.
 - a. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked and unparked without moving another.
 - b. Loading space shall not be construed as supplying off-street parking space.
 - c. When units or measurements used in determining the number of required parking spaces result in the requirement of a fractional space, one (1) additional space shall be required unless otherwise specified in this ordinance.
 - d. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
 - e. Floor area in the case of offices, merchandising or service types of uses shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients or tenants including areas occupied for fixtures and equipment used for display or sale of merchandise.
 - f. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve or on a lot not more than three hundred (300) feet from the principal use.
 - g. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table and the space so required shall be irrevocably reserved for such use.

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- h. In the case of any building structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar shall apply as determined by the Planning Commission.
- i. The location of required off-street parking facilities for other than dwellings shall be within the three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
- j. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two or more buildings or uses, provided collectively such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table. Where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney and shall be filed with the Zoning Administrator.
- k. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within three hundred feet or such building.
- l. Off-street parking space may be located within the required front yard of any Commercial or Industrial district, but no off-street parking shall be permitted in the required front yard of any Residential district except upon the driveway providing access to a garage, carport or parking area for a dwelling.
- m. Required parking spaces may be met by the use of shared parking areas by two or more adjacent businesses, upon approval of the Planning Commission and a written agreement between those businesses filed with the Zoning Administrator.
- n. The amount of required off-street parking space for new uses or building, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, except in (C-1) Central Business Commercial District and the (C-3) Neighborhood Commercial Service District, where any parking requirements shall be determined in the conditional use process. The space so required shall be irrevocably reserved for such use.

USE	REQUIRED PARKING SPACE
Single-family dwellings	Two (2) spaces per dwelling
Mobile Homes	Two (2) spaces per mobile home

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Multi-family dwellings	One and one-half (1 1/2) spaces per dwelling unit
Hotels, motels, boarding and rooming houses	One space (1) for each guest plus one space (1) for owner and/or for each employee on duty at peak time
Bowling alleys	Five spaces (5) per bowling lane
Banks, clinics, businesses, governmental and professional offices	Three spaces (3) plus one additional space (1) for every four hundred square feet in excess of one thousand square feet of gross floor area
Restaurants, bars, places of entertainment	One space (1) for each one hundred square feet of floor area plus one space (1) for each two employees
Churches, theaters, auditoriums, community center or places of public assembly	One space (1) for each four seats in the main assembly area
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales	One space (1) for each five hundred square feet of floor area
Beauty parlors and barber shops	Two spaces (2) for each barber or beauty shop chair
All retail stores, except as other specified	One space (1) for each one hundred square feet of floor area
Schools:	
Elementary	One space (1) for each employee
Secondary	Three spaces (3) for each employee plus additional spaces to allow for adequate parking for events held in the auditorium and/or gymnasium
Mortuaries or funeral homes	One space (1) for each fifty square feet of floor space in the slumber rooms, parlors or individual funeral service rooms
Service garages, automobile salesrooms, automobile repair body shops	One space (1) for each two of the maximum number of employees on duty at any one time plus one space (1) for each of the maximum number of salesmen on duty at any one time plus one space (1) each for the owner and/or manager on duty at any one time plus two spaces (2) for each stall in a body shop plus one space (1) for

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	each stall or service area or wash rack in a servicing or repair shop
Industrial establishments including manufacturing, research and testing labs, creameries, bottling works, printing and engraving shops, warehousing and storage buildings	Provide about each establishment an improved area which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or persons doing business therein. Such space shall not be less than one space (1) for each three employees computed on the basis of the greatest number of persons to be employed during one period during the day or night

2. Parking Lot Standards.

- a. Any parking lot including six or more parking spaces shall provide for a setback of no less than five feet from the lot line to the parking surface.
- b. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight (8) feet from said lot line shall be required.
- c. Any parking lot including twenty or more parking spaces shall provide for interior islands for plantings and/or shade trees, which shall be maintained by the owner of the parking lot.
- d. Parking lots shall be designed to avoid creating large open expanses.
- e. Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys and sidewalks.
- f. Vehicular traffic flow to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings.
- g. Adequate provision shall be made for vehicular ingress and egress.
- h. Provisions shall be made for a safe and convenient circulation pattern within any parking lot.
- i. Proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

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- j. A parking lot shall be lighted for vehicular and pedestrian safety. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" Residential District
- k. Parking lots shall be maintained in useable dustproof conditions and shall be kept graded and drained to dispose of surface water
- l. Necessary curbs or other protections against damage to adjoining properties streets and sidewalks shall be provided and maintained.
- m. Plans for the construction of any such parking lot must be approved by the Planning Commission before construction is started. No such land shall be used for parking until approved by the Planning Commission.

Subd. K Screening.

Screening shall be required where any business or industry (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.

All exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for sale, (2) materials and equipment presently being used for construction on the premises.

The screening required in this section may consist of a fence, trees, shrubs, and berms, but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the City Council may also be required in addition to or in lieu of fencing.

Subd. L Fencing.

For purposes of this Ordinance, a fence is defined as any partition, structure, wall or gate erected within the required yard.

All boundary line fences shall be setback a minimum of two (2') feet from the property line and entirely located upon the property of the person, firm or corporation constructing, or causing the construction, of such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. The Zoning Administrator may require the owner of the property upon which a fence now exists, or may require any applicant wishing to construct a fence to establish the boundary lines of this property by a survey thereof to be made by any Registered Land Surveyor.

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Fences shall not exceed six and one-half (6 1/2) feet in height in residential districts or eight and one-half (8 1/2) feet in height in commercial-industrial districts. Fences higher than these shall require a conditional use permit.

The finished side of the fence shall face neighboring properties.

Subd. M Landscaping.

In all districts where setbacks exist or are required, all developed uses shall provide a landscaped yard, which may include among other items grass, decorative stones, or shrubs and trees, along all streets. This yard shall be kept clear of all structures, storage, and off-street parking. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot: In all districts, all structures and areas requiring landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

Subd. N Accessory Buildings & Dwelling Units Prohibited.

No garage, tent, trailer, recreational vehicle, basement home or accessory building shall at any time be used as a residence.

Subd. O Bed & Breakfast.

A bed & breakfast use established in a home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential district and with the residential character of the neighborhoods involved.

1. The building must conform to Elysian's zoning ordinance, and, shoreland standards, if applicable.
2. The exterior appearance of the structure shall not be altered from its single family character.
3. The building must be occupied by the owner/operator of the bed & breakfast.
4. The business must obtain and keep current all state, county, and city permits, including, but not limited to, building codes, fire codes, and health codes.
5. A non-transferable conditional use permit must be issued to the property owner. This permit must be reissued after the first year of operation and every other year thereafter.
6. The owner of a bed & breakfast shall maintain a guest register showing the name, address, phone number, vehicle license number, and inclusive dates of

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visits of all guests. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of seven (7) consecutive days.

7. The business will not be objectionable to adjacent residents due to hours of operation, excessive traffic volumes, or noise.
8. A person who does not reside in the home shall not be employed to assist in the conduct of a bed & breakfast established in the home, except for those occupations that are typical for a single family residence homeowner to employ.
9. There shall be no separate or additional kitchen facility for the guests.
10. A fire escape plan shall be developed and graphically displayed in each guest room.
11. Off street parking must be provided for this use. Two (2) parking spaces for the owners of the B&B, and one (1) space for each guest room. Off street parking must also be provided for any recreational vehicles, campers, boats, trailers, and any other recreational vehicles guests may have in tow.
12. One half of the sleeping units contained in the building may be rented, but in no case shall the number of rental units exceed four (4).
13. A guest room shall not be located in a basement.
14. No more than one (1) sign shall be provided on the premises. The sign shall be made of natural materials and shall not exceed two (2) square feet in size.
15. No retail sales or rentals of merchandise, personal watercraft, motor powered boats or recreational materials, or services, other than that which is essential to the operation of the B&B is permitted.
16. Meals may be served to registered guests only.
17. Receptions, business meetings, or other home occupation activities shall not be permitted.
18. The Elysian City Council reserves the right to terminate the conditional use permit at any time the owner fails to adhere to the standards or conditions attached to the use permit.

Subd. P Therapeutic Massage

1. Findings. It is found and determined that:
 - a. Persons who have recognized and standardized training in therapeutic massage, health and hygiene provide a legitimate and necessary service to the general public;

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- b. Health and sanitation regulations governing therapeutic massage enterprises and massage therapists will minimize the risk of the spread of communicable diseases and promote health and sanitation;
 - c. Massage services provided by persons without recognized and standardized training in massage can endanger citizens by facilitating the spread of communicable diseases, by exposing citizens to unhealthy and unsanitary conditions, and by increasing the risk of personal injury.
 2. Exemptions. A therapeutic massage enterprise license or therapeutic massage therapist license is not required for the following persons and places:
 - a. Persons licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry, provided that the massage is administered in the regular course of the medical treatment and not provided as part of a separate and distinct massage business;
 - b. Persons licensed by the state as beauty culturists or barbers, provided the persons do not hold themselves out as giving massage treatments and provided that massage by beauty culturists is limited to the head, hand, neck and feet and the massage by barbers is limited to the head and neck;
 - c. Persons working solely under the direction and control of a person duly licensed by the state to practice medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry;
 - d. Places licensed or operating as a hospital, nursing home, hospice, sanitarium or group home established for hospitalization or medical care; and
 - e. Athletic coaches, directors and trainers employed by public or private schools.
 3. General Rule. The owner or operator of a licensed therapeutic massage enterprise may employ only licensed therapeutic massage therapists to provide massage services. The owner or operator of a licensed therapeutic massage enterprise need not be licensed as a therapeutic massage therapist unless that owner or operator personally provides massage services.
 4. Therapeutic Massage Enterprise License. The application for a therapeutic massage enterprise license must contain the following information:
 - a. Whether the applicant is an individual, corporation, partnership, or some other form of organization;
 - b. The legal description of the premises to be licensed together with a plan of the area showing dimensions, and building access points;
 - c. If the application is for premises either planned or under construction or undergoing renovation or alteration, the application must be accompanied by preliminary plans showing the design of the proposed premises. If the plans for design are on file with the building inspector, no plans need to be submitted. If the space housing the massage enterprise is to be leased and

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- improvements are needed to the building, the building owner must apply for and submit the Building Permit application; and
- d. Other information that the City Council may require.
5. Therapeutic Massage Therapist. An application for a therapeutic massage therapist license must contain the following information:
- a. The applicant's name and address;
 - b. The applicant's current employer;
 - c. The applicant's employers for the previous five years, including names, addresses, and employment dates;
 - d. The applicant's drivers license number, date of birth, and home telephone number;
 - e. If the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used;
 - f. Evidence that the applicant has current professional liability insurance for the practice of massage;
 - g. Has completed 500 hours of certified therapeutic massage training from a school that is recognized and approved by the American Massage Therapist Association, the Associated Bodywork and Massage Professionals, or other professional organization with written and enforceable code of ethics; and
 - h. Other information that the City Council may require.
6. Application and License Fees. The fees for a massage enterprise and therapist licenses are set by the City Council.
7. General License Restrictions.
- a. Posting. A therapeutic massage enterprise license must be posted in a conspicuous place on the premises for which it is issued.
 - b. Area. A therapeutic massage therapist license is effective only for the space specified in the approved license application. If the licensed space is enlarged or altered, the licensee must inform the City's Zoning Administrator. A licensed therapeutic massage therapist may perform massage therapy on patrons either on-site at a massage enterprise or off-site, at a patron's home for example.
 - c. Transfer. The license issued is for the person or the premises named on the approved license application. Transfer of a license from place to place or from person to person is not permitted.
 - d. Coverings. The therapist must require that the person who is receiving the massage will at all times have that person's breasts, buttocks, anus and genitals covered with non-transparent material or clothing. A therapist

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- performing massage must have the therapist's breasts, buttocks, anus and genitals covered with a non-transparent material or clothing.
8. Restrictions Regarding Sanitation and Health.
- a. A therapeutic massage enterprise must be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons.
 - i. The toilet room must be well ventilated by natural or mechanical methods and be enclosed with a door.
 - ii. The toilet room must be kept clean and in good repair and be fully and adequately illuminated.
 - iii. A hand sink must be provided with hot and cold running water under pressure, sanitary hand towels, and soap.
 - iv. The floors and walls must be easy to clean and sanitize and must be kept in a state of good repair at all times.
 - b. A therapeutic massage enterprise must provide single-service disposal paper or clean linens to cover the table, chair, furniture or area on which the patron receives the massage. If the table, chair or furniture on which a patron receives the massage is made of material impervious to moisture, such table, chair or furniture must be sanitized after each massage.
 - c. The therapeutic massage therapist must wash the therapist's hands and arms with water and soap, anti-bacterial scrubs, alcohol or other disinfectants prior to and following each massage service performed.
 - d. Rooms in a therapeutic massage enterprise must be fully and adequately illuminated.
 - e. Each massage room must be a minimum of 120 square feet in size, have closable door(s) that separates it/them from each other or from space not used for giving massage, and contain an enclosed changing room for visiting clients to change out of and back into their street clothes.
 - f. A therapeutic massage enterprise must have a janitor's closet that provides for the storage of cleaning and sanitizing supplies.
 - g. Therapeutic massage enterprises must provide adequate refuse receptacles that must be emptied as required by this code.
 - h. Therapeutic massage enterprises must be maintained in good repair and sanitary condition.
 - i. Therapeutic massage enterprises must take reasonable steps to prevent the spread of infections and communicable diseases on the licensed premises.
 - j. All other building code requirements must be complied with.
9. Inspection. Prior to the issuance of a conditional use permit for this use, the premises for which this use is being applied for shall be inspected by the City Building Inspector for compliance with all building and room standards.

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10. Hours of Operation. A licensed therapeutic massage enterprise may operate for business between the hours of 7:00 am and 9:00 pm.

11. This use will be a conditional use in the City's Commercial Districts.

12. Violations and Penalties. Any person who violates any provision of this Section shall be charged with a misdemeanor. A conviction of the misdemeanor will result in the revocation of the Conditional Use Permit.

Subd. Q. Accessory Structure Standards.

1. Attached Structures: An attached structure shall be considered an integral part of the principal building and shall comply with all requirements applying to the principal building.
2. Permitted Locations: Detached accessory structures are permitted in side yards and rear yards, provided that, such structures shall not be located closer than six (6') feet to the principal structure.
3. Prohibited Locations: No accessory structure shall be located in any of the following:
 - a. front yard;
 - b. within a drainage or utility easement;
 - c. below the ordinary high water mark of a public water or wetland;
 - d. within the setback requirements from the ordinary high water mark of any public water body.
4. Dimensional Limits: Attached and detached accessory structures are subject to the dimensional limits established below:
 - a. Maximum height: seventeen feet (17') and a maximum side wall height of a detached structure shall not exceed ten feet (10');
 - b. Total number of detached accessory buildings per lot: two (2); and
 - c. Accessory structure(s) total building area allowed per lot: 1,800 square feet.
5. Permit Requirements: A building permit must be secured from the Zoning Administrator prior to constructing or locating an accessory structure anywhere on the lot. Any accessory structure less than 120 square feet does not require a building permit.
6. Construction Timing: No accessory structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
7. Building Material Requirements: All accessory structures shall be constructed with a design and exterior material that is generally compatible with the overall character of the principal structure. It is not required that accessory structures be

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of the same material or same color as the primary structure, however, the material and color of the accessory structure shall be complementary to the primary structure.

Subd. R. External Solid Fuel Fired Heating Devices

1. Purpose – These regulations are intended to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the City of Elysian by regulating the air pollutants and fire hazards of external solid fuel-fired heating devices.
2. Applicability – These regulations apply to all outdoor fuel-fired boilers within the City of Elysian.
 - a. These regulations do not apply to grilling or exterior cooking devices for the preparation of food that use charcoal, wood, propane, or natural gas;
 - b. These regulations do not apply to stoves, furnaces, fireplaces, or other heating devices within a building used for human habitation;
 - c. These regulations do not apply to the use of propane, acetylene, natural gas, gasoline, or kerosene in a device intended for heating during construction or maintenance activities;
 - d. These regulations do not apply to campfires, a small outdoor fire intended for recreation or cooking.
3. Definitions
 - a. External solid fuel-fired heating device or boiler means a device designed for external solid fuel combustion so that usable heat is derived for the interior of a building and includes solid fuel-fired stove, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.
 - b. Stacks or chimneys means any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially the part of such a structure extending above a roof.
4. Requirements – No external solid fuel-fired heating devices designed and intended and/or used for the purpose of heating the principal structure or another accessory structure on the premises are allowed to be installed within the City of Elysian.

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5. Nonconforming Use

- a. At such time as the useful life of a nonconforming solid fuel-fired heating device has elapsed or would need to be repaired to function properly, the unit cannot be replaced and must be abandoned, not used, and removed from the property immediately.
- b. No pre-existing, nonconforming solid fuel-fired heating device shall hereafter be extended, enlarged, or expanded.

Subd. S Recreational Vehicles & District Standards

1. In Residential Districts, five (5) recreational vehicles shall be permitted to be parked in the yard. There shall be ten (10) feet required between the recreational vehicle and any other recreational vehicle or accessory structure. The recreational vehicle shall not be placed in such a manner that impedes pedestrian walkways or in any manner infringes on any driving lane line of sight. Any recreational vehicle parked in compliance with the provisions of the Elysian City Codes shall additionally be subject to any and all accessory building setback provisions.
2. A recreational vehicle shall not, at any time, be used as a primary housing unit. A recreational vehicle may serve as a temporary place of occupancy in only the following specific instances:
 - a. A recreational vehicle may be used to temporarily house non-paying guests of the primary residential homeowner between May 1st and September 30th. Any such temporary occupancy shall not exceed twenty one (21) days per season.
 - b. A recreational vehicle may be used to temporarily house non-paying guests of the primary residential homeowner for a total of four (4) days between October 1st and April 30th. Any occupancy shall not exceed four (4) days per season.
3. Recreational vehicles shall never be physically connected to any permanent or semi-permanent structures that would prevent the vehicle from being immediately towed or immediately moved from the parking space upon which it rests. In addition, all recreational vehicles shall be parked at least ten (10) feet away from any permanent or semi-permanent structures including other recreational vehicles. No decking of any type will ever be allowed.
4. The only permitted connections to a legally compliant recreational vehicle shall be one garden hose for fresh water and one extension cord for electrical power. Any and all collected septage within the vehicle must be disposed of at an approved dump station. No connection to the City's sewage collection system, or the City's Water Main System, or any private service lines or private wells is permitted.

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5. All recreational vehicles must be maintained in a clean, well-kept, orderly and operable condition. All recreational vehicles shall have license plates affixed thereto pursuant to Minnesota Law, current license and current registration.
6. In Commercial Districts, recreational vehicles may be parked along the street for up to twelve (12) hours within a twenty four (24) hour period.
7. The provisions of this ordinance are applicable to the owner of the recreational vehicle in question and the owner of the real estate upon which the recreational vehicle sits. Owners of the real estate upon which a recreational vehicle sits shall ensure that the recreational vehicle on their respective property is in full compliance with the terms and conditions of the City's Ordinances.
8. Any violation of this Section shall be deemed a misdemeanor pursuant to Minnesota Law.

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Section 16.0. Adult Use Performance Standards.

Subd. A. Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene material.

Subd. B. Definitions.

1. Adult Arcade - means any place to which the public is permitted or invited wherein coin operated, slug operated or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
2. Adult Bookstore, Adult Novelty Store or Adult Video Store - means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - a. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or;
 - b. instruments, devices or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ***Adult Bookstore, Adult Novelty Store, or Adult Video Store***. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ***Adult Bookstore, Adult Novelty Store, or Adult Video Store*** so long as one of its principal business purposes is the offering for sale or rental for consideration the

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specified materials which are characterized by the depiction of description of "specified sexual activities" or "specified anatomical areas."

3. Adult Cabaret - means a nightclub, bar, restaurant or similar commercial establishment that regularly features:
 - a. persons who appear in a state of nudity or semi-nude; or
 - b. live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
4. Adult Motel - means a hotel, motel or similar commercial establishment which:
 - a. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of description of "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right of way that advertises the availability of this type of photographic reproductions; or
 - b. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.
5. Adult Motion Picture Theater - means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
6. Adult Theater - means a theater, concern, hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."
7. Employee - means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a

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person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

8. Escort - means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
9. Escort Agency - means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
10. Establishment - means and includes any of the following:
 - a. the opening or commencement of any sexually oriented business as a new business;
 - b. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - c. the additions of any sexually oriented business to any other existing sexually oriented business; or
 - d. the relocation of any sexually oriented business.
11. Licensee - means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.
12. Nude Model Studio - means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed,
 - a. sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:
 - b. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

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- c. where in order to participate in a class, a student must enroll at least three days in advance of the class; and
 - d. where no more than one nude or semi-nude model is on the premises at any one time.
13. Nudity or a State of Nudity - means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.
14. Person - means an individual, proprietorship, partnership, corporation, association or other legal entity.
15. Semi-Nude or in a Semi-Nude Condition - means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female rear of the body which lies between two imaginary lines running parallel to the ground when a person is standing, the first or top of such line drawn at the top of the cleavage of the nates and the second or bottom line drawn at the lowest visible point of the cleavage or the lowest point of the curvature of the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above, and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suite or other wearing apparel provided the areola is not exposed in whole or in part.
16. Sexual Encounter Center - means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
17. Sexually Oriented Business - means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.
18. Specified Anatomical Areas mean:

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- a. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- b. less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

19. Specified Criminal Activity means any of the following offenses:

- a. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- b. for which:
 - i. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - ii. less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- c. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

20. Specified Sexual Activities means any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
- b. sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, masturbation or sodomy; or
- c. excretory functions as part of or in connection with any of the activities set forth in (a.) and (b.) above.

21. Substantial Enlargement of a sexually oriented business - means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on January 1, 2000.

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22. Transfer of Ownership or Control of a sexually oriented business means and includes any of the following:

- a. the sale, lease or sublease of the business; or
- b. the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- c. the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

Subd. C. Classification.

1. Sexually oriented businesses are classified as follows:

- a. adult arcades;
- b. adult bookstores, adult novelty stores or adult video stores;
- c. adult cabarets;
- d. adult motels;
- e. adult motion picture theaters;
- f. adult theaters;
- g. escort agencies;
- h. nude model studios; and
- i. sexual encounter centers.

Subd. D. License Required.

1. It is unlawful:

- a. for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Ordinance.
- b. for any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Ordinance.

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- c. for any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Ordinance.
2. An application for a license must be made on a form provided by the City.
3. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this Ordinance.
4. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.
5. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
 - a. If the applicant is:
 - i. an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen years of age.
 - ii. a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.
 - iii. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

The following documents are required:

- 1) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state (1) the sexually oriented business' fictitious name and (2) submit the required registration documents.
- 2) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Ordinance, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.
- 3) Whether the applicant, or a person residing with the applicant, has had a previous license under this Ordinance or other similar sexually oriented business ordinances from another city or county denied,

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suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Ordinance whose license has previously denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

- 4) Whether the applicant or a person residing with the applicant holds any other licenses under this Ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
 - 5) The single classification of license for which the applicant is filing.
 - 6) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.
 - 7) The applicant's mailing address and residential address.
 - 8) A recent photograph of the applicant(s).
 - 9) The applicant's driver's permit number, Social Security number, and/or his/her state or federally issued tax identification number.
 - 10) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6") inches.
 - 11) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.
- b. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth below.

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6. Before any applicant may be is used a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:
 - a. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - b. Age, date and place of birth;
 - c. Height, weight, hair and eye color;
 - d. Present residence address and telephone number;
 - e. Present business address and telephone number;
 - f. Date, issuing state, and number of driver's permit or other identification card information;
 - g. Social Security number; and
 - h. Proof that the individual is at least eighteen (18) years of age.

7. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
 - a. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 - b. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
 - c. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

Subd. E. Issuance of License.

1. Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to

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be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

- a. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - b. The applicant is under eighteen (18) years.
 - c. The applicant has been convicted of a "specified criminal activity" as defined in this Ordinance.
 - d. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by particular provisions of this Ordinance.
 - e. The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 4.0, Subd. D, of this ordinance.
2. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this Ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Subd. F below.
 3. Within thirty (30) days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
 - a. An applicant is under eighteen (18) years of age.
 - b. An applicant or a person with whom the applicant is residing is overdue in payment to the City of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business.

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- c. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - d. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months.
 - e. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Ordinance.
 - f. The premises to be used for the sexually oriented business has not been approved by the health department, fire department and the building official as being in compliance with applicable laws and ordinances.
 - g. The license fee required by this Ordinance has not been paid.
 - h. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.
4. The license, if granted, shall state on its face the name of the person or persons to the whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued as found in the classification section of this ordinance (Subd. C). All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
 5. The health department, fire department and the building official shall complete their certifications that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.
 6. A sexually oriented business license shall be issued for only one classification as found in Subd. C of this section.

Subd. F Fees.

1. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee, as set by the Council.
2. All license applications and fees shall be submitted to the Clerk-Administrator of the City.

Subd. G Inspection.

1. An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department or other City departments or agencies to inspect the premises of a sexually oriented business

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for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

2. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

Subd. H Expiration of License.

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Subd. E of this section. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) before the expiration date, the expiration of the license will not be affected.
2. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

Subd. I Suspension. The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

1. violated or is not in compliance with any section of this Ordinance;
2. refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
3. knowingly permitted gambling by any person on the sexually oriented business premises.

Subd. J Revocation.

1. The City shall revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.
2. The City shall revoke a license if it determines that:
 - a. a licensee gave false or misleading information in the material submitted during the application process.
 - b. a licensee has knowingly allowed possession, use or sale of controlled substances on the premises.
 - c. a licensee has knowingly allowed prostitution on the premises.

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- d. a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.
 - e. except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises.
 - f. a licensee is delinquent in payment to the City, County or State for any taxes or fees past due.
3. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
 4. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

Subd. K Transfer of License. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Subd. L Location of Sexually Oriented Businesses.

1. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than Industrial Zone (I), as defined and described in the City of Elysian, Minnesota zoning code.
2. A person commits an offense if the person operates or causes to be operated a sexually oriented business within 1,000 feet of:
 - a. a church, synagogue, mosque, temple or building, which is used primarily for religious worship and related religious activities.
 - b. a public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, prate schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, junior colleges and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

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- c. a boundary of a residential district as defined in the City of Elysian, Minnesota zoning code; a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the city that is under the control, operation or management of the city park and recreation authorities.
 - d. the property line of a lot devoted to a residential use as defined in the City of Elysian, Minnesota zoning code.
 - e. an entertainment business, which is oriented primarily toward children or family entertainment.
 - f. a licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State of Minnesota.
3. A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.
 4. A person commits a misdemeanor if that person causes or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.
 5. For the purpose of #2 above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in #2. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.
 6. For purposes of #3 of this subdivision, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.
 7. Any sexually oriented business lawfully operating on January 1, 2000, that is in violation of subsections “#1” through “#6” above, shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except

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that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in #2 of this subdivision within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

Subd. M Additional Regulations for Adult Motels.

1. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Ordinance.
2. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, rents or sub rents a sleeping room to a person, and within ten (10) hours from the time the room is rented, rent or sub rents the same sleeping room again.
3. For purposes of #2 of this subdivision, the terms "rent" or "sub rent" means the act of permitting a room to be occupied for any form of consideration.

Subd. N Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - a. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's

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- blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus six inches (6"). The City may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- b. The application shall be sworn to be true and correct by the applicant.
 - c. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.
 - d. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of very area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - f. It shall be the duty of the licensees to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection "a" of this Subdivision.
 - g. No viewing room may be occupied by more than one person at any time.
 - h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level.
 - i. It shall be the duty of the licensees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 - j. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

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- k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
 - l. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
 - m. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 - n. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be construction of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight inches (48") of the floor.
2. A person having a duty under this section commits a misdemeanor if he knowingly fails to fulfill that duty.

Subd. O Additional Regulations for Escort Agencies.

1. An escort agency shall not employ any person under the age of 18 years.
2. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Subd. P Additional Regulations for Nude Model Studios.

1. A nude model studio shall not employ any person under the age of 18 years.
2. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.
3. A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises, which can be viewed, from the public right of way.
4. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

Subd. Q Additional Regulations Concerning Public Nudity.

1. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

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2. It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet (10') from any patron or customer and on a stage at least two (2) feet from the floor.
3. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

Subd. R Prohibition Against Children in a Sexually Oriented Business.

1. A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

Subd. S. Hours of Operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and six o'clock (6:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and ten o'clock (10:00) a.m. on Sundays.

Subd. T Exemptions. It is a defense to prosecution under Subd. Q above that a person appearing in a state of nudity did so in a modeling class operated:

1. by a proprietary school, licensed by the State of Minnesota; a college, junior college or university supported entirely or partly by taxation;
2. by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
3. in a structure:
 - a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - c. where no more than one (1) nude model is on the premises at any one time.

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Section 17.0 Repealer, Date of Adoption, and Signatures

The previous Zoning Ordinance and all subsequent amendments to that ordinance adopted by the Elysian City Council are hereby repealed in their entirety. Any previous Zoning Ordinance which has not been repealed is also hereby repealed in its entirety.

This Ordinance shall become effective upon its publication according to law.

Amended this 9th day of November 2015 by the City of Elysian.

Attest: _____
City Clerk/Administrator

Mayor, City of Elysian