

## CHAPTER 153: ZONING

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## ***GENERAL PROVISIONS***

### **§ 153.001 TITLE.**

This chapter shall be referred to and cited as The Zoning Ordinance for the City of Breezy Point, except herein where it shall be cited as the "chapter".  
(Prior Code, § 8.01)

### **§ 153.002 INTENT AND PURPOSE.**

(A) *Intent.* This chapter is established pursuant to the authority granted by the Minnesota Statutes, in particular the Municipal Planning Act, M.S. §§ 462.12 to 462.17, and 462.351 to 462.364, as they may be amended from time to time, the policies in M.S. Chapters 105, 115, 116, as they may be amended from time to time, and any amendments thereto. This chapter hereby repeals Breezy Point Zoning Ordinance,

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effective April 4, 1991 and all amendments thereto.

(B) *Purpose.* This chapter is adopted for the purpose of:

(1) Protecting the public health, safety, comfort, convenience and general welfare;

(2) Inaugurating and effectuating the goals of the Comprehensive Plan;

(3) Promoting order in development by dividing the area of the city into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land;

(4) Conserving the natural and scenic beauty and attractiveness of the city, for the health and welfare of the public;

(5) Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties;

(6) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Zoning Administrator, Planning Commission, Board of Adjustment and City Council under this chapter;

(7) Providing standards and criteria for shore lands to preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shore lands and provide for the wise use of water and related land resources of the city;

(8) Establishing minimum standards governing the appearance, condition, maintenance and occupancy of residential and non-residential premises to prevent the creation and growth of depressed areas, slums and blighted conditions, to protect and maintain property values and to prevent the necessity in time the expenditure of large amounts of public funds to correct and eliminate the growth and spread of the aforesaid conditions; and

(9) Establishing minimum standards governing utilities, facilities and other physical components and conditions essential to make them fit for human habitation, occupancy and use, and to prevent a menace to property and the environment to foster

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the public health, safety and welfare.

(Prior Code, § 8.02)

### § 153.003 RULES AND DEFINITIONS.

(A) *Rules.* For the purpose of this chapter, the following rules shall apply to the interpretation of the language used herein.

(1) The word **PERSON** includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(2) The masculine gender includes the feminine gender and neuter gender.

(3) The singular includes the plural and the plural, the singular.

(4) The present tense includes the past and future tenses and the future includes the present.

(5) The word **MAY** is permissive, the word **SHALL** is mandatory. Mandatory compliance with the ordinance shall allow for variances thereto.

(6) All distances expressed in feet shall be to the nearest one-tenth of a foot, horizontally or vertically.

(7) In the event of conflict, the most restrictive provision shall apply.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

**ABANDONED BUILDING.** A building as defined hereinafter on public or private property, which no longer serves a practical use and is considered a safety hazard in the opinion of the Zoning Administrator due to its location or structural condition.

**ABANDONED MOTOR VEHICLE.** A motor vehicle as defined in M.S. § 169.01, as it may be amended from time to time, that:

(a) Has remained on public property in an inoperable condition for more than 48 hours;

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(b) Has remained on private property for more than 48 hours without the permission of the person in control of the property; or

(c) Has remained on private property for more than 30 days and is inoperable, or is unlicensed unless kept in a garage or other storage structure. Refer also to M.S. Chapter 168B, as it may be amended from time to time.

**ACCESSORY USE or ACCESSORY STRUCTURE,** A use or structure on the same lot and of a nature customarily incidental and subordinate to, the principal use or structure, including t.v. tower antennas, dish antennas exceeding a 60-inch diameter, swimming pools, wind generators, solar energy systems, garages, sheds, guest quarters and similar structures. ACCESSORY STRUCTURES attached to the principle structure shall not be counted in the total accessory structure square footage allowed on a property as per the Zoning Chart. Antennas shall meet all setback requirements, but shall not be subject to height restrictions.

**ACCESSORY STRUCTURE HEIGHT,** The vertical distance measured from the highest adjacent finished grade, to the highest point of the roof for flat roofs, to the deck line of mansard roof and to the average height between the eaves or the ridge (peak) for gable, hip and gambrel roof.

**ACCESSORY STRUCTURE SIZE** of a building shall include all roof surfaces except for the allowable roof overhang of up to 3 feet per side of the structure.

**AGRICULTURAL USE.** The use of land for the growing and/or production of crops or livestock products for the production of income, including incidental retail sales of produce.

**ANIMAL HUSBANDRY.** The care and/or breeding of domestic animals such as cattle, hogs, sheep, horses, and fowl with a 5 acre minimum lot size.

**ANIMAL UNITS.** The number of animals allowed per 5 acres of property.

<b>Animal Units*</b>	
<b>Animal</b>	<b>Amount per 5 Acres</b>
Fowl	50
Cow or Horse	1
Sheep or Goat	20

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<i><b>Animal</b></i>	<i><b>Amount per 5 Acres</b></i>
Swine	2

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The maximum number of any one animal is expressed in the chart above based on 5 acres of property. Additional acreage provides for a proportional increase in the number of animals. When multiple animal types are to be involved the allowable maximums are adjusted so that only one animal unit is available per 5 acres or additional acreage fraction thereof.

\* This list is not all inclusive and animals of similar nature will be defined using references from the units expressed within.

**ANTENNA** means any device, which by use of any means, is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose.

**ANTENNA SUPPORT STRUCTURE** means a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

**APPURTENANCE.** Addition, extension or attachment to or onto a building; separate building accessory to a principal building.

**AREA IDENTIFICATION SIGN.** Any free standing sign identifying the name of a neighborhood, a residential subdivision or a multiple residential complex on residentially zoned property.

**ARTERIAL ROAD.** County roads that provide movement of traffic through the city.

**ATTORNEY** or **CITY ATTORNEY.** The attorney duly appointed by the Planning Commission or Council to represent the City of Breezy Point.

**AUTO SALVAGE YARD.** A lot or yard where four or more unlicensed motor vehicles are stored while parts are removed, where crushing occurs or where storage pending crushing may occur.

**BACKYARD COMPOST SITE.** A site used to compost food scraps, garden

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wastes, weeds, lawn cuttings, leaves and prunings from a single-family or household, apartment building or a single commercial office, a member of which is the owner, occupant or lessee of the property.

#### ***BLUFF.***

(a) A topographic feature such as a hill, cliff or embankment having all the following characteristics:

1. Part or all of the feature is located in shore land area (See ***SHORE LAND***);
2. A slope rises at least 25 feet above the ordinary high water level of the water body;
3. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
4. The slope must drain toward the water body.

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

***BLUFF IMPACT ZONE.*** Land between the toe of bluff and the top of bluff.

***BOARD OF ADJUSTMENT.*** The Board, appointed by the City Council, to hear variance requests and appeals from action of the Zoning Administrator and/or Zoning Inspector.

***BOARDING HOUSE.*** A dwelling, other than a resort, where for compensation for definite periods of time, meals or lodgings are provided and containing not more than four separate bedrooms. Includes bed and breakfast.

***BOAT HOUSE.*** A structure designed and used solely for the storage of boats or boating equipment.

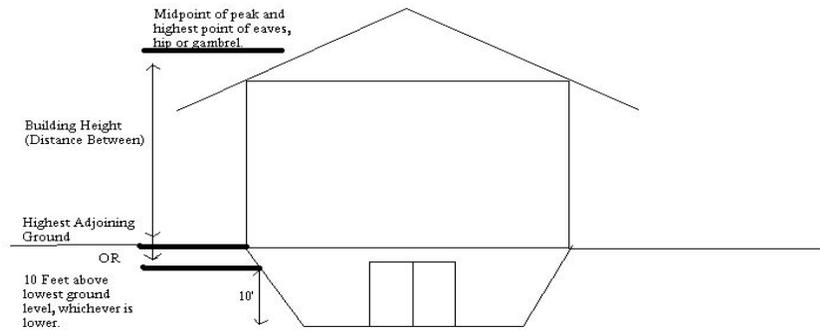
***BUFFER AREA.*** Land set aside in its natural state, enhanced by screening, or

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containing topographical features designed to buffer the impacts of a more intense land use on a less intense use such as between commercial and residential uses.

**BUILDING.** Any structure having a roof, or completely enclosing an area for the purpose of sheltering persons, animals or property.

**BUILDING HEIGHT.** The vertical distance measured from the highest adjacent finished grade, to the highest point of the roof for flat roofs, to the deck line of mansard roof, and to the average height between the eaves or the ridge (peak) for gable, hip and gambrel roof.



(Illustration Only)

**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.

**BUILDING MATERIALS.** Lumber, bricks, concrete, cinder blocks, plumbing materials, electric wiring or equipment, heating ducts or equipment, shingles, insulation, mortar, concrete or cement, nails, screws or any other materials used in constructing any structure.

**CAMPING; LIMITED.** Temporary camping on improved residential lots for a period of up to 14 days at one visit or a cumulative of 30 days in one calendar year.

**CAMPING; CONSTRUCTION AND RECONSTRUCTION.** Camping by owner on improved residential lots or property where a building permit has been issued. Camping duration shall not exceed a cumulative 6 months time starting with the date of the building permit. All camping activity and units shall meet the required principal structure setbacks.

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**CAMPGROUND, MEMBERSHIP.** A land use under single ownership consisting of designated campsites with appropriate facilities designed for temporary occupation by tents or recreational vehicles with management services and with site rentals. (See also **RECREATIONAL CAMPING AREA**).

**CAMPSITE.** A parcel within a resort, campground or recreational camping area designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle. Whether owned, leased or timeshared, or in any other manner recognized.

**CITY ADMINISTRATOR.** The duly elected or appointed person chiefly responsible for the administration of the city affairs and staff.

**CITY CLERK-TREASURER.** The duly elected or appointed person chiefly responsible for the record keeping in the city and any other responsibilities as assigned by the City Administrator or as designated in Minnesota Statutes.

**CITY COUNCIL.** The duly elected governing body of the city.

**CITY SEWER or WATER SYSTEM.** A system of municipally maintained utilities approved by the state and serving more than one building or property.

**COLLECTOR ROAD.** Roads that collect local roads and provide for the movement of people and commodities to arterial roads. Also referred to as **THOROUGHFARES**.

**COMMERCIAL PLANNED UNIT DEVELOPMENTS.** Commercial Planned Unit Developments are typically uses that provide transient, short term lodging spaces, rooms or parcels and their operations are essentially service oriented. For example, hotel and/or motel accommodations, resorts, recreational vehicle and camping parks and other primarily service oriented activities are Commercial Planned Unit Development. Includes timeshared condominiums where part of a resort.

**COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental, trade of products, goods or services.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

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**COMMON INTEREST COMMUNITY** or **CIC**. Contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separate described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for:

- (a) Real estate taxes levied against;
- (b) Insurance premiums payable with respect to;
- (c) Maintenance of; or

(d) Construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

**COMPOST FACILITY**. A site used to compost or co-compost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate and storage areas for the in-coming waste, the final product and residuals resulting from the composting process. (See also **BACKYARD COMPOST SITE**).

**COMPOST PILE**. A controlled mixture that consists largely of decayed organic matter, which is used for fertilizing and conditioning land.

**COMPOSTING**. The controlled microbial degradation of organic waste to yield a humus-like product.

**COMPREHENSIVE PLAN**. A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development of the city.

**CONDITIONAL USE (CUP)**. A land use or development, as defined by ordinance, that would not be appropriate without restriction, but may specifically be allowed with appropriate restrictions or conditions as determined by the Planning Commission upon a finding that:

- (a) The use or development is an appropriate conditional use in the land use zone;

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(b) The use or development with conditions conforms to the Comprehensive Land Use Plan;

(c) The use with conditions is compatible with the existing neighborhood; and

(d) The use with conditions would not be injurious to public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity.

**CONDOMINIUM OWNERSHIP.** A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a condominium plat in accordance with M.S. Chapter 515A, as it may be amended from time to time, or subsequent revisions.

**CONSTRUCTION DEBRIS.** Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

**CONTROLLED ACCESS LOT.** A riparian lot meeting the ordinance standards for a lot suitable for building, owned by more than one owner in undivided interest, provided with facilities and used for access and not containing a dwelling.

**CORRUGATED STEEL** and/or **SHEET METAL.** Maintenance-free or non-coated ribbed, curved or flat steel panels commonly used as exterior surfaces for post frame buildings.

**DEBRIS.** The remains of something broken down, discarded or destroyed, rubbish, ruins and rubble.

**DECK.** An uncovered, unscreened structure with or without attached railings or seats and which has a floor level above grade. Railings or seats shall be at least 85% open.

**DEMOLITION DEBRIS.** Solid waste resulting from the demolition of buildings, roads and other structures including concrete, concrete block, stucco, brick, stone facing, bituminous concrete, untreated wood, masonry, glass, trees, rock, structural and sheet metal and plastic building parts and other materials that are a result of the demolition and construction operations, but does not include asbestos wastes.

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***DETERIORATION.*** The condition of a building or structure or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or serious neglect, lack of maintenance or excessive rotting, decaying and/or crumbling or other evidence of neglect.

***DILAPIDATED FENCE.*** Any fence, in whole or in part, which has fallen on the ground, or because of decay or disrepair has deteriorated to such an extent that it presents a danger of imminent collapse on its own, or as a result of normal weather conditions.

***DISPOSAL.*** The discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

***DUPLEX, TRIPLEX or QUAD.*** A dwelling structure having two, three or four dwelling units respectively being attached by common walls, and each unit being equipped with separate sleeping, cooking, eating, living and interior sanitation facilities.

***DWELLING, GUEST QUARTERS.*** A structure used as a dwelling unit that may contain sleeping spaces and/or kitchen and/or bathroom facilities in addition to those provided in the primary dwelling unit on a lot, dependent upon the principal structure for primary utilities, services, entrance, parking and accesses and not for rent or lease.

***DWELLING, MULTI-FAMILY.*** Two or more dwelling units attached together by any point including duplexes, triplexes, townhouses and multi-level units regardless of type of ownership.

***DWELLING, SINGLE-FAMILY.*** A dwelling unit totally separated from any other dwelling unit.

***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.*** A structure or portion of a structure or other shelter

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designed as short or long-term living quarters for one or more persons including rental or timeshare accommodations such as motel, hotel, resort rooms and resort cabins.

**DWELLING WIDTH.** The smallest horizontal dimension of a dwelling which does not include decks or patios.

**ENGINEER or CITY ENGINEER.** The Engineer duly appointed by the Council to perform technical services for the City of Breezy Point.

**EXPANSION OF A NON-CONFORMING STRUCTURE OR USE.** Any act that would extend, intensify or enlarge a lawful structure or use existing before the effective date of this chapter, and which does not conform to the provisions of the ordinance.

**EXPOSED TO PUBLIC VIEW.** Any premises or any part thereof of a structure or premises that may be lawfully viewed by the public or any member thereof.

**EXTERIOR OF A PREMISE.** Open space on the premises outside of any building located thereon, with or without a structure.

**EXTERIOR STORAGE.** Storage of goods, materials, equipment, manufactured products outside of a fully enclosed building.

**EXTERMINATION.** The control and/or elimination of insects, rodents and vermin.

**EXTRACTIVE USE.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

**FACILITY.** A structure, building or appurtenance that allows an activity; i.e. parking facility.

**FAMILY.** An individual, or two or more persons related by blood, marriage or adoption, living together in a dwelling unit or a group of not more than four persons not so related, maintaining a common household.

**FENCE.** A partition, wall or gate erected as a divider, marker, barrier or

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enclosure on or near a property boundary or a barrier, screen or enclosure within the property.

***FINAL CONDOMINIUM PLAT.*** A drawing prepared by a registered land surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of M.S. § 515A.2-110, as it may be amended from time to time.

***FINAL PLAT.*** A drawing prepared by a registered land surveyor depicting the subdivision of land and related information conforming to the requirements of M.S. Chapter 505, as it may be amended from time to time, and subsequent amendments.

***FLAG LOT.*** A lot with two distinct parts:

(a) The flag, which is the only building site and is located behind another lot; and

(b) The pole, which connects the flag to the street, provides the only street frontage for the lot and at any point is less than the minimum lot width for the zoning district.

***FLOODPLAIN.*** The areas adjoining a watercourse, intermittently or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100-year storm).

***FLOODWAY.*** The channel of the watercourse and those portions of the adjoining floodplain, which are reasonably required to carry and discharge the regional flood (100-year chance of occurrence).

***FOOTPRINT.*** The area of a property covered by improvements including a dwelling, accessory buildings and appurtenances.

***FOREST LAND CONVERSION.*** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.

***FOUNDATION.*** A concrete, concrete and concrete block, or treated wood portion of a structure which totally encloses the perimeter of the structure and/or

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supports the bearing loads of the super structure and penetrates the ground to provide frost protection.

**GARAGE.** An accessory building, or that portion of a principal structure, that is used for the parking of one or more motor vehicles and is totally enclosed with a roof, walls and one or more doors.

**GARBAGE.** Putrescible and vegetable waste resulting from the handling, processing, storage, preparation, serving and consumption of food. (See also **REFUSE**).

**GREEN SPACE.** Privately owned property permanently dedicated by covenant to vegetative ground coverage with allowance for use as recreational facilities, tree coverage, water courses, water supply, sewage disposal and access. Public property dedicated to park, vegetative buffer, tree coverage or similar uses.

**HANGAR.** A structure in which solely aircraft are stored and maintained and not to include space dedicated for short-term or long-term dwelling purposes.

**HAZARDOUS SUBSTANCE.** Any commercial chemical designated pursuant to the Clean Water Act, under 33 U.S.C. § 1321(b)(2)(A); any hazardous air pollutant listed pursuant to the Clean Air Act, under 42 U.S.C. § 7412, or amendments thereto or similar acts of federal, state or local governments; and any hazardous waste.

**HAZARDOUS SUBSTANCE** does not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel or mixtures of the synthetic gas and natural gas, nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste.

**HAZARDOUS WASTE.** Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste materials in solid, semi-solid, liquid or contained gaseous form which, because of its quantity, concentration or chemical, physical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. **HAZARDOUS WASTE** does not include source, special nuclear or by-product material as defined by

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the Atomic Energy Act of 1954, being 42 U.S.C. § 2011 as amended; any hazardous waste as defined in M.S. § 116.06, Subd. 11 and any substance identified as a hazardous waste pursuant to rules adopted by the Minnesota Pollution Control Agency under M.S. § 116.07, as amended and any hazardous waste as defined in the Resource Conservation and Recovery Act under 42 U.S.C. § 6903, which is listed or has the characteristics identified under 42 U.S.C. § 6921, as amended, not including any hazardous waste, the regulation of which has been suspended by act of Congress.

***HOLDING TANK.*** A sewage treatment system holding tank that consists of a tank that stores sewage effluent and that is regularly pumped as the tank is not connected to a drainfield.

***HOME OCCUPATION.*** The use of commercial nature conducted by an occupant of a dwelling entirely within the dwelling or accessory buildings, which use is clearly incidental and secondary to the use of the dwelling for residential purposes.

***HOUSEHOLD WASTE.*** Any material including garbage, trash and sanitary waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

***IMPERVIOUS SURFACE.*** The horizontal area of buildings, roof overhangs, decks and patios constructed of any materials, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of storm water, including drives and parking areas of any material.

***IMPROVED LOT.*** A lot on which a primary structure has been constructed.

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

***INFESTATION.*** The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard either to the occupants of the premises and/or to surrounding properties and/or residents.

***INTENSIVE VEGETATION CLEARING.*** The complete removal of trees or shrubs in a continuous path, strip, row or block.

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***INTERIM USE PERMIT (IUP).*** Same criteria as a conditional use permit, but with a specific ending at a certain date or when a specific sequence of events take place.

***INTERVAL OWNERSHIP.*** Form of ownership of real property, condominium land or space, further defined by time interval reoccurring each year, resulting in more than one owner of the same property, also known as time share. Interval ownership/timeshare may be rented. Interval ownership/time share may also be exchanged, utilizing a professional exchange company.

***JUNK.*** Parts of machinery or motor vehicles, unused furniture, stoves, refrigerators or other appliances, remnants of wood, metal or any other discarded material of any kind, whether or not the same could be put to any reasonable use.

***JUNK YARD.*** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or more automobiles without current licenses constitutes a ***JUNKYARD***. The use shall not include putrescible wastes such as garbage.

***KENNEL*** means any place, building, tract of land, abode, or vehicle wherein or whereupon dogs or cats are kept, congregated, or confined, if the dogs or cats were obtained from municipalities, pounds, auctions, or by advertising for unwanted dogs or cats, or dogs or cats strayed, abandoned, or stolen. "Kennel" does not include a pound owned and operated by any political subdivision of the state or a person's home where dogs or cats are kept as pets, or as set forth in M.S. § 347.31, Subd. 2, as it may be amended from time to time.

***LAKE CLASSIFICATION.*** The formal classification by the DNR of each body of public waters within the city.

***LAND DISPOSAL FACILITIES.*** Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land pursuant to Minn. Rules, § 735.0300, Subd. 52, as amended from time to time.

***LANDSCAPING.*** The placement of trees, shrubs, grass, walls and earth

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mounds or the utilization of existing natural vegetative cover equal thereto.

**LEASEBACK BY OWNER.** An arrangement between an owner of property and a leasing agent or resort, to promote and operate the property for rental purposes.

**LIMITED CAMPING.** Temporary camping on a residential lot for a period of up to 14 days at one visit or a cumulative of 30 days in one calendar year.

**LITTER.** Waste materials including but not limited to cans, bottles, plastic and paper wrappings or containers.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, Auditor's plat or other accepted means and separated from other parcels or portions by the description for the purpose of sale, lease, mortgage, building or separation.

**LOT AREA.** The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.

**LOT, CORNER.** A lot situated by the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.

**LOT, FRONT.** The boundary of a lot which abuts on a public right-of-way, or if a corner lot, the shortest of the two boundaries. If the lot abuts public water, the lake or stream side shall be considered the lot front.

**LOT LINE.** The property lines bounding a lot except that where the description extends into a public right-of-way, the right-of-way line shall be considered the **LOT LINE**.

**LOT LINE, REAR.** A lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. Rear setbacks on a triangular lot are measured from the apex of the side lot lines. For other irregularly shaped lots, all lot lines that are most nearly opposite the front lot line is the **REAR LOT LINE**.

**LOT, PRE-EXISTING.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an Auditor's subdivision, registered land survey

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or a lot created by metes and bounds, any of which was recorded in the office of the County Recorder prior to the effective date of this chapter.

**LOT SIZE.** The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.

**LOT SIZE, EXISTING.** The minimum lot size that an existing lot must conform to.

**LOT TIER DEPTH.** The lot depth of a normal lot conforming to the shore land requirements.

(a) General Development Lake, first tier 200 feet; second and additional tiers 267 feet.

(b) Recreational Development Lake, all tiers 267 feet.

(c) Natural Environment Lake, all tiers 400 feet.

**LOT TIERS.** Successive strips of land parallel with the ordinary high water line, each one tier depth wide and extending across the parcel.

**LOT WIDTH.** The shortest distance between lot lines measured at the midpoint of the building line.

**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 systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under M.S. Chapter 327, as it may be amended from time to time.

**MANUFACTURED HOUSING DEVELOPMENT.** A form of Planned Unit Development designed for mobile homes and/or manufactured housing and including

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two possible types of ownership: single ownership with site rentals or individual site ownership with a homeowner's association owning common property.

***METES AND BOUNDS.*** Descriptions of property and descriptions for lots other than lots in recorded subdivision plats.

***MIXED MUNICIPAL SOLID WASTE.*** Garbage, refuse and other solid waste from residential, commercial, industrial and community activities that the generator of the waste aggregates for collection but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and filters, and other materials collected, processed and disposed of as separate waste streams, but does include source-separated compostable materials.

***MODULAR*** and/or ***INDUSTRIALIZED BUILDING.*** Any building which is of closed construction, i.e.: constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction and which is made or assembled in manufacturing facilities, off the building site, for installation or assembly on the building site. ***MODULAR*** and/or ***INDUSTRIALIZED BUILDING*** includes but is not limited to, modular housing which is factory built single-family and multi-family housing (including closed wall panelized housing) and other non-residential buildings. ***MODULAR*** and/or ***INDUSTRIAL BUILDING*** does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 through 5426.

***MOTEL*** and/or ***HOTEL.*** A commercial business with a central management to provide lodging and may provide related facilities such as restaurants, bars and other recreational amenities. Includes a bed and breakfast designed with over four separate bedrooms.

***MOTOR VEHICLE SALES.*** The sale of any self-propelled vehicle designed and originally manufactured to carry at least one passenger. The sale of any vehicle propelled or drawn by a self-propelled vehicle, including trailers, both motorized and non-motorized boats, recreation vehicles, motorcycles, recreational equipment such as all-terrain vehicles and any other means of transport and equipment related thereto.

***MOTOR VEHICLE SALES, COMMERCIAL.*** The sale of motor vehicles on a

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property where the primary use of the property is the sale of the products.

***MOTOR VEHICLE SALES, PRIVATE.*** The sale of an individual motor vehicle on an irregular basis where the primary use of the property is not dedicated to motor vehicle sales.

***NOISE POLLUTION.*** The presence in the outdoor atmosphere of any noise or combination of noises in such quantity, at such levels of the nature and duration or under the conditions as could potentially be injurious to human health or welfare, to animal or plant life, to property or could interfere unreasonably with the enjoyment of life or property.

***NON-CONFORMING.*** Any building, structure or land use lawfully existing prior to the enactment or amendment of the provisions of this chapter and not in compliance with one or more of the provisions of this chapter.

***NORTHWOODS CHARACTER.*** The combination of factors including undeveloped open spaces, farmlands, woodlands, tree-lined roads, native vegetation, clean air and water and wetlands compose Northwoods Character. ***NORTHWOODS CHARACTER*** directs development in the city to incorporate and protect these items through landscaping and architectural design by using earth tone colors, styles and materials including stone, log and natural-looking siding, among others, and native plant species such as oak, red pine and other native species in development plans.

***NUISANCE.*** By authority and direction of M.S. § 412.221, Subd. 23 and 24 and § 429.031, Subd. 8 and §§ 145.01 *et seq.*, as they may be amended from time to time, ***NUISANCE*** is anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses, such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses. See also ***PERFORMANCE STANDARDS.***

***OPEN DUMP.*** A land disposal site at which solid waste is disposed of in a manner that does not protect the environment, is susceptible to open burning and is exposed to the elements, flies, rodents and scavengers.

***OPERATOR.*** Any person who has charge, care or control of a dwelling or premises or any part thereof, whether with or without the knowledge and consent of the owner.

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**ORDINARY HIGH WATER LEVEL.** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient periods of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses where the DNR has determined the **ORDINARY HIGH WATER LEVEL (OHW)**, that level is adopted. For water courses where the DNR has not made such a determination, the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

**OUTDOOR FURNACE.** Any equipment, device or apparatus, or any part thereof which is installed or situated outdoors for the primary purpose of combustion fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. It is the intent of this ordinance to regulate only exterior free-standing solid fuel-fired devices and also such devices which are contained within a structure used primarily to house the device.

**OWNER.** Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or who shall have charge, care or control of any dwelling unit as owner or agent of the owner or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how the possession was obtained. Any person who is a lessee subletting or assigning any part of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by the lessee.

**PARKING SPACE.** A site off the public right-of-way, maintained and sized to be occupied by one automobile.

**PARTY WALL** or **FLOOR.** The structural divider between dwelling units vertically or horizontally, respectively.

**PARTY WALL AGREEMENT.** An agreement between separate owners of multi-family property such as a duplex which has a common wall or walls that governs maintenance or the common wall, and other common property including utilities, the agreement to be filed against the property.

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**PATIO.** An uncovered, unscreened platform without attached railings or seats, which platform is at grade at its highest point and does not exceed 300 square feet cumulative of all patios on the property.

**PERMITTED USE.** A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issuable by the Zoning Administrator.

**PERSON.** Any human being, any municipality or other governmental or political sub-division or other public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing or any other legal entity.

**PERVIOUS HARD SURFACES.** Permeable hard surfaces (concrete, concrete pavers, asphalt) installed over an engineered sub-surface. These surfaces shall be professionally designed, installed, and periodically maintained to capture rain water in a network of voids that allow it to percolate into the underlying soil. These surfaces may be utilized for roadways, parking areas, sidewalks, and patios.

**PET.** An animal, bird, reptile or fish commonly associated with human habitation, not considered under animal husbandry and not raised for production of income.

**PLANNED UNIT DEVELOPMENT (PUD).** A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases and mix of structure types and land uses. These developments may be organized and operated as condominiums, timeshare condominiums, co-operatives, full free ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential, condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.

**PLANNING COMMISSION.** The body duly appointed by the City Council to determine the development of the city and make recommendations to the City Council on Comprehensive Plans, zoning district boundaries, subdivision of land and capital improvements and decide conditional use permits. The Commission shall decide

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conditional use permits, interim use permits, preliminary plats and preliminary condominium plats. See also § 153.117(B).

**PLAT.** See **FINAL CONDOMINIUM PLAT** and/or **FINAL PLAT**.

**PRACTICAL DIFFICULTY.** 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 his or her property not created by the landowner and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a **PRACTICAL DIFFICULTY** if reasonable use for the property exists under the terms of the ordinance.

**PRELIMINARY PLAT** or **PRELIMINARY CONDOMINIUM PLAT.** A plan prepared in accordance with Chapter 152 depicting the proposed subdivision of property by final plat or final condominium plat.

**PREMISES.** A lot, plot or parcel of land, including the buildings or structures thereon.

**PRINCIPAL STRUCTURE** or **USE.** The single primary structure or use on a lot, as distinguished from accessory uses or accessory structures. The principal structure on a residential lot shall be a dwelling unit.

**PRIVATE ROAD OR DRIVEWAY.** Path, route, byway or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner.

**PROTECTIVE COVENANTS.** Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in Planned Unit Developments to establish homeowners associations, restrict shoreline development and provide for common facilities.

**PUBLIC AUTHORITY.** Any officer who is in charge of any department or branch of the government of the City of Breezy Point, County of Crow Wing or State of Minnesota, relating to health, fire and building regulations or to other activities concerning buildings in the municipality.

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***PUBLIC WATERS.*** Any waters as defined in M.S. § 105.37, Subd. 14 and 15, as they may be amended from time to time. However, no lake, pond or flowage of less than ten acres in size in municipalities need be regulated for the purposes of the Shore Land Management Rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shore land management. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

***RECORDER.*** The County Recorder of Crow Wing County.

***RECREATION CENTER.*** A structure or other facility designed for the purpose of recreation such as a movie theater, bowling alley, meeting hall, teen center and the like.

***RECREATIONAL CAMPING AREA.*** Any area whether privately or publicly owned, available on a daily, nightly or weekly basis for the accommodation of five or more units consisting of tents or travel trailers and whether use of the accommodation is granted free of charge or for compensation.

***RECREATIONAL VEHICLE.*** Vehicles, including trailers less than eight feet wide or containing less than 320 square feet, which are designed to be occupied as living quarters, and capable of being licensed by the state for highway purposes.

***RECYCLABLE MATERIALS.*** Materials that are separated or are capable of being separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil and batteries.

***REFUSE.*** Putrescible and non-putrescible solid wastes (except body wastes), including but not limited to, garbage, rubbish, ashes, incinerator ash, incinerator residue, waste combustor ash, street cleanings, dead animals, abandoned automobiles and market and industrial solid wastes, car parts, tires, household appliances and furnishings and including municipal treatment wastes which do not contain free moisture. (See also ***DEBRIS, GARBAGE, REFUSE, TRASH*** and ***RUBBISH***).

***RESIDENTIAL PLANNED UNIT DEVELOPMENT.*** A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives and full fee ownership residences would be considered as

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**RESIDENTIAL PLANNED UNIT DEVELOPMENTS.** Includes timeshare condominiums not part of resort.

**RESORT.** A commercial business with a central management to provide necessary services, and having dwelling units and/or campsites for rent or owned by time interval and may provide related facilities such as restaurants, bars, golf courses or other recreational amenities.

**RIGHT-OF-WAY.** A parcel of property dedicated to the public, connecting to other public rights-of-way, which afford primary access by pedestrians and vehicles to abutting properties.

**RUBBISH.** Non-putrescible solid wastes, including ashes, consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, crop residue, brush, wood, glass, bedding, crockery and similar materials or litter of any kind. (See also **DEBRIS**, **GARBAGE** and **REFUSE**).

**SCRAP METAL.** Discarded metal in the form of machinery, appliances and motor vehicle parts and may include, but not be limited to, bits and pieces of metal parts such as bars, turnings, rods, sheets, wire, construction and building metal or metal pieces that may be combined together with bolts or soldering, such as radiators, scrap automobiles and railroad box cars. (See also **DEMOLITION DEBRIS**).

**SEMI-PUBLIC USE.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization considered a PUD under this chapter.

**SENSITIVE RESOURCE MANAGEMENT.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

**SETBACK.** The minimum horizontal distance between a structure, sewage treatment system, well or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway, wetland, property line or other facility. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from

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stoops to ground not over four feet wide may protrude into the setback.

***SETBACK; INTERIOR LOT.*** In a Planned Unit Development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

***SETBACK; SIDE, EXTERIOR.*** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

***SETBACK; WATERFRONT.*** The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

***SEWAGE TREATMENT SYSTEM.*** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Minn. Rules, Chapter 7080 of the State Rules and Regulations.

***SEWER SYSTEM.*** Pipe lines or conduits, pumping stations and force mains and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste 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% of the normal structure setback.

***SHORE LAND.*** Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shore lands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the water for lesser distances and when approved by the Commissioner of Natural Resources.

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***SHORELINE PROPERTY.*** A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.

***SIGN; AREA.*** The area in square feet enclosed by the exterior perimeter of a sign not including the structural supports. Only the largest side of a double faced sign or a v-shaped sign with no greater than a 30-degree angle between faces shall be considered.

***SIGNS.*** A name, identification, description, display, illustration, advertisement or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business.

***SIGNS; OFF-SITE.*** Any sign not located on the contiguously owned property with the use which is advertised.

***SIGNS; ON-SITE.*** Any sign located on the contiguously owned property with the use which is advertised.

***SIGNIFICANT HISTORICAL SITE.*** Any archeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historical site meets this 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 Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be ***SIGNIFICANT HISTORICAL SITES.***

***SKETCH PLAN.*** A plan drawn to scale used for planning and discussion purposes only.

***SOLID WASTE.*** Garbage, refuse, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semi-solid, liquid or contained gaseous form, resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include hazardous waste, animal waste used as fertilizer, earthen fill, boulders, rock, sewage sludge, solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial

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waste water effluents or discharges which are point sources subject to permits under the Clean Water Act, being 33 U.S.C. § 1342, as amended, dissolved materials in irrigation return flows; or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, being 42 U.S.C. § 2011 as amended.

**STEALTH** means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.

**STEEP SLOPE.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12% as measured over horizontal distance of 50 feet or more, but which are not bluffs.

**STOOP.** Landing or platform with or without steps at the door to a dwelling or other structure.

**STORAGE SHED.** An accessory structure erected for the purpose of storing miscellaneous personal property, containing no plumbing and not exceeding ten feet wide, 12 feet long and 12 feet high, inside dimensions and constructed of materials compatible with the principal structure. Roof overhang shall not exceed 18 inches.

**STREET.** A right-of-way which affords primary vehicular access to abutting property and shall include avenues, road or highway, boulevard, drive and the like. These shall further be classified as follows:

(a) **ARTERIAL ROADS.** County highway and/or county state aid highway, County Highway #4, County Highway #11 and County Highway #39.

(b) **COLLECTOR ROADS.** Thoroughfares-Buschmann Road, Nelson Road, Fawn Lake Road, Dove Street (Highway #4 to Ranchette), Ranchette South, Ranchette North, Plant Road, Ski Chalet Drive.

(c) **LOCAL ROADS.** All dedicated roads not listed above:

1. Minimum maintenance; and
2. All **LOCAL ROADS** not classified as minimum maintenance.

**STRUCTURE.** Any building or appurtenance including decks or other facility constructed, placed or erected by any person except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grades not more than four feet wide, stoops not exceeding 30 square feet, fences, temporary furniture, planters or material and retaining walls consisting of wood or block, except additions which add less than 12 inches to the silhouette of the structure and do not extend into the setback area. Currently licensed fish houses are not considered structures but must maintain all setbacks as pertain.

**SUBDIVISION.**

(a) The division of an area, parcel or tract of real estate into two or more parcels, tracts, lots or long term leasehold interests for the purpose of sale, rent, mortgage or lease, including Planned Unit Development.

1. **SUBDIVISION BY PLAT.** The subdivision into two or more parcels of any size by the authority of M.S. Chapter 505, as it may be amended from time to time, and subsequent amendments with documents prepared by a registered land surveyor and duly approved by the Planning Commission and Council.

2. **SUBDIVISION BY THE CONDOMINIUM PLAT.** The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of M.S. Chapter 515A, as it may be amended from time to time, and subsequent amendments, with documents prepared by a registered land surveyor and duly approved by the Planning Commission and Council.

3. **SUBDIVISION BY METES AND BOUNDS.** Any division of real estate resulting in two or more parcels which are not platted, but divided by description prepared and signed by a registered land surveyor. All subdivision by metes and bounds shall be considered for approval by the Planning Commission.

(b) The following shall not be deemed a **SUBDIVISION** within the meaning of this chapter; when resulting parcels, tracts, lots or interest are:

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1. Twenty acres or larger in size and 500 feet in width for residential or urban reserve zoned lots;
2. Five acres or larger in size and 300 feet in width for commercial or industrial zoned lots;
3. The result of a court order(s) or adjustment of a lot line by relocation of a common boundary; or
4. The creation of cemetery lots.

***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 operation of business. Marinas, resorts and restaurants with transient docking facilities are examples of the use.

***TELECOMMUNICATIONS FACILITIES*** means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or near a tower or antenna support structure. The term does not include:

- (a) A satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;
- (b) A satellite earth station antenna one meter or less in diameter, wherever located; or
- (c) A tower.

***TELECOMMUNICATION TOWER or TOWER*** means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities; the term does not include amateur radio operations equipment licensed by the Federal Communications Commission.

***TEMPORARY STRUCTURE.*** A structure of a temporary character including but not limited to house boats, recreational vehicles, shore stations, tents and portable screen houses.

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**THROUGH LOT.** A lot that has frontage on two parallel or approximately parallel streets; also called double front lot.

**TIMESHARE DUPLEX.** A structure of a nature similar to a duplex specifically used for interval ownership sales and not to be subdivided. Commonly part of a Planned Unit Development. Timeshare industry refers to this type of duplex as a lockout.

**TOE OF BLUFF.**

(a) The lower point of a 50-foot segment with an average slope exceeding 18%; or

(b) The ordinary high water level if closer to the bluff than division (a) above.

**TOP OF THE BLUFF.** The highest point of any 50-foot segment of real property provided that the average slope leading up to the point exceeds 18% as determined by a certified land surveyor.

**TOWNHOUSE DWELLING.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by plat or condominium plat.

**TRASH.** Any and all forms of debris not herein otherwise defined and/or classified.

**VARIANCE.** A legally permitted deviation as provided in M.S. § 462.357, Subd 6, as it may be amended from time to time, from the provision of this chapter as deemed necessary by the Board of Adjustment when the strict interpretation of the ordinance would create practical difficulty and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance. Variances cannot create a land use not permitted in a zone.

**VEGETATION REMOVAL, CLEAR CUTTING.** The removal of more than 75% and up to 100% of a stand of trees and brush over ten feet in height on a lot or parcel of land up to 40 acres.

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**VEGETATION REMOVAL, OPEN CUTTING.** The removal of more than 25% and up to 75% of a stand of trees and brush over ten feet in height on a lot or parcel of land up to 40 acres.

**VEGETATION REMOVAL, SELECT CUTTING.** Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land up to 40 acres. Complete brush removal is allowable including trees up to ten feet in height.

**VEHICLE.** A machine propelled by other than human power, designed to travel along the ground or water by use of wheels, treads, runners or slides and to transport persons or property or pull machinery, including, but not limited to, an automobile, truck, trailer, motorcycle, tractor, buggy, wagon, lawn mower, snowmobile, motor home, travel or camper trailer, recreational motor vehicle, golf cart, pontoons and boats.

**WASTE.** Solid waste, sewage sludge and hazardous waste.

**WASTE MATERIAL.** All non-combustible inorganic refuse matter such as ashes, cinder, sand, earth, metal, concrete, building materials, tires and similar matter, originating from the ordinary household or business operations or from any other source that shall not include body wastes of human or animal origin.

**WATER ORIENTED ACCESSORY STRUCTURE or FACILITY.** A small above ground building or other improvement except stairways, fences, docks and retaining walls which, on account of its proximity to surface water, is located closer to public waters than the normal structure setback. Examples of the structures and facilities include boat houses, gazebos, screen houses, fish cleaning houses and detached decks.

**WETLAND.** Land which is subject to periodic or continued inundation by water such as floodplains, marshes, swamps and peat lands, classified as provided in circular #39, United States Fish and Wildlife Service and amendments thereto.

**YARD.** A required green space unoccupied and unobstructed by a structure or portion of a structure; provided, however, that fences, signs, utility poles, lawn lights, antenna and related minor equipment may be permitted in any yard provided that they do not create a safety hazard or constitute a nuisance.

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**YARD WASTE.** The vegetative and garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste and prunings.

**ZONING ADMINISTRATOR.** The duly appointed person responsible for the enforcement and administration of this chapter.

**ZONING DISTRICT.** An area of the City of Breezy Point defined on the zoning map, having uniform zoning provisions.

**ZONING INSPECTOR.** The duly appointed person responsible to the Zoning Administrator and authorized to inspect, enforce and administer provisions of this chapter.

**ZONING MAP.** The map of the City of Breezy Point amended from time to time, which defines the boundaries of the zoning districts.

**ZONING PERMIT.** A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a land use when the provisions of this chapter have been met and when approval of any conditional use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when provided by the ordinance.

(Prior Code, § 8.03) (Ord. 123, passed 9-6-2005; Ord. 05-01-06, passed 5-1-2006; Ord. 08-01-06, passed 8-7-2006; Ord. 09-02-06, passed 9-5-2006; Ord. 10-006, 3<sup>rd</sup> Series, passed 5-03-2010; Ord. 11-03, 3<sup>rd</sup> Series, passed 8-01-2011; Ord. 11-09, 3<sup>rd</sup> Series, passed 7-05-2011; Ord. 11-15, 3<sup>rd</sup> Series, passed 12-05-2011; Ord. 12-05, 3<sup>rd</sup> Series, passed 11-05-2012; Ord. 13-06, 3<sup>rd</sup> Series, passed 7-01-2013; Ord. 14-06, 3<sup>rd</sup> Series, passed 9-02-2014; Ord. 16-04, 3<sup>rd</sup> Series, passed 11-07-2016; Ord. 17-03, 3<sup>rd</sup> Series, passed 08-07-2017)

### **§ 153.004 APPLICATION OF ORDINANCE.**

(A) The provisions of this chapter shall generally be held to be the minimum requirements for the maintaining of the public health, safety, morals and welfare.

(B) Where the provisions of this chapter are either more restriction or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive shall prevail, except where authorized by the more restrictive agency.

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(C) Except as this chapter specifically provides, no structure shall be erected, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this chapter and without a permit issued therefore, when required by this chapter.

(D) The provisions of this chapter shall apply to the shore lands of the public waters identified in § 153.008(E).

(Prior Code, § 8.04, Subd. 1) Penalty, see § 153.999

### **§ 153.005 ENVIRONMENTAL DOCUMENTS AND CONCURRENT PERMITS.**

(A) It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal permits, Health Department permits, Corps of Engineers permits, DNR Public Water permits, DNR Water Appropriation permits and Thirty Lakes Watershed. Approval by the city does not imply approval by other agencies.

(B) The proposer of any project exceeding the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental review program or as requested by the Planning Commission, shall submit a draft Environmental Assessment Worksheet (EAW) for the city to review with other pertinent data.

(1) The applicant for a permit for any action for which environmental documents are required either by state law, rules or by the Planning Commission, shall supply in the manner prescribed by this chapter all unprivileged data or information reasonably requested by the city that the applicant has in his or her possession or to which he or she has reasonable access.

(2) The applicant for a permit for any action for which an Environmental Assessment Worksheet (EAW) is required either by state law or rules or by the Planning Commission shall pay all costs of preparation and review of the EAW, and upon request of and in a manner prescribed by the city, shall prepare a draft EAW and supply all information necessary to complete that document.

(3) Both the city and the applicant shall comply with the provisions of the rules governing assessment of costs for Environmental Impact Statement. One copy of these rules is on file in the office of the City Clerk-Treasurer.

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(4) No permit for an action for which an EAW or EIS is required shall be issued until all costs of the preparation and review are paid and the environmental review process has been completed.

(5) The Council and applicant may in writing, agree to a different division of the cost of the preparation and review of any EAW or EIS as provided in 6 M.C.A.R. § 3.042.

(6) The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

(Prior Code, § 8.04, Subd. 2)

### **§ 153.006 USE OF PRE-EXISTING LOTS.**

(A) Outside of the Shoreland, a pre-existing lot of record shall be considered for a zoning permit without requiring a variance from lot size provided it has at least 80% of required lot area and lot width, as defined by Ordinance, all required zoning provisions can be met, and sanitary provisions for well and sewage disposal can be maintained.

1. A non-conforming single lot of record located within the shoreland area shall be considered for a building permit provided that the following can be met:

a. All structure setbacks and other zoning requirements can be met.

b. A Type 1 sewage treatment system consistent with Minnesota Rules Chapter 7080 can be installed or the lot is connected to public sewer.

c. The impervious coverage does not exceed 25% of the lot.

2. In a group of two or more contiguous lots of record under common ownership in the Shoreland, an individual lot may be considered a separate parcel of land for sale or development if it meets the following requirements:

a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules 6120.

b. The lot must be connected to public sewer, if available, or must be suitable

## Zoning

for installation of a Type 1 sewage treatment system consistent with Minnesota Rules, Chapter 7080, and local government controls.

c. Impervious coverage must not exceed 25 percent of each lot, and all other zoning requirements must be met.

d. Development must be consistent with an adopted Comprehensive Plan.

e. A lot subject to the above not meeting the above requirements shall be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

(B) If two or more pre-existing contiguous lots in total could not be divided into two or more lots meeting the requirements of § 153.006(A), and are held by the same fee owner(s) or contract vendee(s) on the effective date of the Zoning Ordinance, they will be considered one lot for building and zoning purposes. The lots shall be consolidated with Crow Wing County to become one parcel of record. This shall be required before a zoning permit is issued thereon.

(C) Any lot, pre-existing which was assessed for sanitary sewer availability under project 72-1 or project 78-1, shall be considered for a building permit providing building setbacks and well standards, and all other zoning requirements can be maintained.

(D) Legal and/or equitable interests in lots joined together to meet the minimum requirements for zoning permit applications shall not, as to title, use by easement or license, or contract interest, be divided, sold, mortgaged or conveyed separately in the future, but shall be bound together by covenants filed with the County Recorder. This provision does not apply to easements or licenses which convey an interest in lots joined together for zoning permit application, if the purpose or use of the easement or license is utility placement, utility access, drainage, access easement, road maintenance, local improvements and/or pedestrian ingress and/or egress.

(Prior Code, § 8.04, Subd. 3, Ord. 10-01-02, 3<sup>rd</sup> Series, passed 01/04/2010)

### **§ 153.007 NON-CONFORMING USES.**

Except as otherwise provided by law, any structure or use lawfully existing before the effective date of related controls under this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following:

(A) No such use shall be expanded or enlarged except in conformity with the

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### **§ 153.007**

provisions of this chapter. The existing nonconformity may be continued, including through repair, replacement, maintenance or improvement, but not including expansion, enlargement or intensification of use, unless:

(1) The non-conformity or occupancy is discontinued for a period of more than one year; or

(2) A non-conforming structure or use is damaged by any cause such as fire, collapse, explosion or acts of God, acts of war or public enemy to the extent that greater than 50 percent of its market value, as indicated in the records of the county assessor at the time of damage, is in need of replacement or substantial remodeling, and no building permit has been applied for within 180 days of when the property is damaged. In this case the structure or its replacement shall thereafter conform to this Ordinance.

a. When a non-conforming structure in the shoreland district 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 market value, as indicated in the records of the County assessor at the time of damage, the structure shall be reconstructed at a distance more than 50% of the required waterfront setback if determined by the Zoning Administrator that no limiting factors exist.

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

(C) Sewage treatment systems shall meet the requirements of Minn. Rules, Chapter 7080 except that a system shall be considered conforming if its was constructed pursuant to Rule WPC 40 or Minn. Rules, Chapter 7080 prior to amendment and is functioning properly. However, any cesspool, leaching pit, seepage pit or other deep disposal method or a system too close to the water table shall be considered non-conforming. Sewage treatment systems shall be upgraded to a conforming status according to the following schedule:

(1) Upon issuance of any permit or variance for any improvement on, or use of, the property;

(2) Upon determination that leakage to the surface or lake or into an adjacent

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well is occurring, or determination that the system is discharging into the ground at an elevation less than three feet above the highest known water table;

(3) Upon determination by the Zoning Administrator that system is inadequate for a change in occupation or use in the structure;

(4) Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system;

(5) Any non-conforming sewage system shall be upgraded upon sale or transfer of title of the property by conveyance or contract for conveyance, including and dwelling, hotel, motel, boarding or rooming house, restaurant or commercial property or other property containing the non-conforming on-site sewage disposal system located within the city. The seller shall request the city make a determination of conformance or non-conformance of the sewage system. Provided that the sewage system is non-conforming, 30 days prior to the consummation of the sale of the property, the seller shall apply for a zoning permit for the work as is required to bring the system into conformance. The zoning permit shall specify the allowable time for completion of the required work, not to exceed seven months, and shall be binding on either the buyer or seller of the property. The city shall notify the buyer of the requirement and permit.

(6) Owners of non-conforming sewage systems, which in the opinion of the Zoning Administrator, cannot be upgraded to conforming status using a drain field or mound system and which cannot be combined into a conforming private cluster system, shall be required to use a holding tank. The holding tank shall include a water meter. All pumping records and a copy of a current contract with a certified pumper shall be provided annually to the Zoning Administrator by the owner. Holding tanks are allowed Whitebirch Camping Clusters I without meeting the requirements of this section. (See also Sanitary Provisions, § 153.067(B))

(D) Non-conforming off-site signs in existence on the effective date of this chapter shall be allowed except as provided in § 153.061.

(Prior Code, § 8.04, Subd. 4, Ord. 10-01-02, 3<sup>rd</sup> Series, passed 01/04/2010)

### **§ 153.008 BUILDING STANDARDS.**

(A) All structures and appurtenances shall be constructed in accordance with the general standards of the building industry. The city does not examine plans nor assume

## Breezy Point Land Usage

liability for the structural stability or quality of any structures.

(B) Sewage treatment systems shall conform to Minnesota Pollution Control Agency Standards, *Individual Sewage Treatment Systems Standards*, Minn. Rules, Chapter 7080. Further, all systems shall be constructed by installers certified by the State of Minnesota to install on-site disposal systems. The septic tank shall be no closer than 50 feet from any well. The treatment area shall be no closer than 50 feet for a well which is deeper than 50 feet or penetrates at least ten feet of impervious material or 100 feet from any other well. The bottom of the rock in the treatment area shall be four feet or more above the highest known water table. The trench and drop box method shall be used where feasible. A drawing, to scale, showing the treatment system and nearby buildings property lines and wells shall be provided to the city with each installation.

(1) Sewage tanks being abandoned shall be thoroughly pumped and filled with soil by a licensed installer.

(2) Building sewers to be connected to the municipal sewer system shall be schedule 40 PVC or other pipe approved for pressure use and be tested with air pressure according to Minnesota Department of Health standards.

(C) Plumbing and electrical facilities installed after the date of this chapter in all structures shall conform to the State Plumbing Code and the State Electrical Code respectively. The certification by the State Electrical Inspector shall be visible in the elective box.

(D) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of Minnesota Health Department. All wells must be constructed, maintained and/or sealed by a well driller licensed by the State of Minnesota. A log for each well shall be filed with the city by the well driller.

(E) The provisions of this chapter were prepared to be at least as restrictive as the *Statewide Standards for Management of Shore Land Areas* effective July 3, 1989, except as specifically authorized by the DNR. The shore land standards shall be the first city reference document and shall govern in case of oversight, exclusion or question in this chapter and shall govern the city's administration of this chapter in shore land matters where standards are set forth by the DNR. The provisions of this chapter shall

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apply to the shore lands of the public water bodies as classified in § 153.030(D).

(F) All lots or parcels within a subdivision shall use the local streets provided within the subdivision for driveway access onto the lots. For through lots (lots that have frontage on two parallel or approximately parallel streets), access shall be from the improved street side. Where two or more improved streets abut the property, access shall be from the local street side when possible. Driveway access to residential property from a public road shall not be more than 25 feet in driving surface width. Where no other regulations exist governing the number of driveways allowed onto a public road, one driveway shall serve no more than two lots. A lot or parcel with multiple driveways shall have a minimum distance of 75 feet between each driveway after meeting all other setback requirements for their zoning district. On a lot or parcel with more than one driveway, no driveway width may be wider than 20 feet.

(Prior Code, § 8.04, Subd. 5)

### **§ 153.009 SEPARABILITY.**

Every section, provision or part of this chapter, or any permit issued pursuant to this chapter, is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this chapter or any permit issued pursuant to this chapter shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

(Prior Code, § 8.10, Subd. 1)

### **§ 153.010 SUPREMACY.**

When any condition implied by this chapter on the use of land or buildings is either more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other city ordinance or regulation or other jurisdiction, the more restrictive shall apply except as approved by the agency in question. The ordinance does not abrogate any easements, restrictions or covenants imposed on the land by private declaration or agreement, but where the provisions are less restrictive than an applicable provision of this chapter, the ordinance shall prevail.

(Prior Code, § 8.10, Subd. 2)

### **§ 153.011 EFFECTUATION.**

This chapter shall be in full force and effect one week from and after publication.

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(Prior Code, § 8.10, Subd. 3)

### **§ 153.012 AMENDMENT.**

(A) *Adoption.* The City Council may adopt amendments by majority vote to either the Zoning Ordinance or zoning map in relation to the land uses within a district or the boundaries of the district(s). The amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the city.

(B) *Procedure.*

(1) An amendment may be initiated by the Council, the Planning Commission or by any property owner.

(2) The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.

(3) The Planning Commission shall cause all property owners within 350 feet of the proposed zoning district change to be notified by regular mail and shall publish a hearing notice for either a zoning district change or Zoning Ordinance change in the legal section of the official newspaper, and if the proposed change affects shore lands, shall provide notice to the DNR postmarked at least ten days ahead of the public hearing. The Planning Commission shall hold the hearing and make a recommendation to the City Council within 60 days of the date of application. Adoption of a new zoning map shall require published notice only.

(4) The City Council shall review the recommendations and shall make a timely decision. An amendment requires a majority vote to be enacted. Any amendment which changes the classification of a property, properties, or portions thereof from residential to industrial or commercial shall require a four-fifths majority vote of all members of the City Council.

(5) The Planning Commission and City Council shall consider the criteria identified in § 153.030(F) prior to deciding on any re-zoning of land.

(6) The City Clerk-Treasurer shall publish a summary of the text of the change or description of boundary change or a new zoning map, whichever is appropriate in the official newspaper, within one week after action by the Council and shall send a

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copy to the DNR if the change affects shore lands.

(C) *Zoning District Boundaries.* The official zoning map dated 1 July 2013 is hereby adopted. Any subsequent changes shall be listed in numeric order as follows:

(1) The following described properties shall be rezoned from the Medium Density Residential (R-2) to Resort Commercial (RC) zoning district.

Legal Descriptions:

Lot 1 Block 1, Deacons Lodge Addition, PID 101890010010009

Lot 2, Block 1, Deacons Lodge Addition, PID 101890010020009

Outlot A, Deacons Lodge Addition, PID 1018900090A0009

(Prior Code, § 8.10, Subd. 4) (Ord. 06-01-08, passed 6-2-2008, Ord. 12-01, 3<sup>rd</sup> Series, passed 5-07-2012; Ord. 13-07, 3<sup>rd</sup> Series, passed 7-01-2013; Ord. 15-09, 3<sup>rd</sup> Series, passed 12-07-2015)

### § 153.013 NOTICES.

Failure to receive notice called for by this chapter shall not invalidate any action taken by the city so long as the city acted reasonably in its attempt to provide the notice. (Prior Code, § 8.10, Subd. 5)

## ***ZONING DISTRICTS AND PROVISIONS***

### § 153.030 RULES.

(A) The City of Breezy Point is hereby divided into zoning districts as shown on the official zoning district map, which may be subsequently amended by the procedures of §§ 153.009 through 153.013.

(B) The boundaries are generally on the center of streets, on lot lines, on shorelines, on the center of streams or rivers and following the contour of land for the open zoning district.

(C) The following districts are hereby established:

<b><i>District</i></b>	<b><i>Abbreviation</i></b>
Urban Reserve	UR

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<b><i>District</i></b>	<b><i>Abbreviation</i></b>
Commercial	C
Original Neighborhoods	R-3
Low Density Residential	R-1
Medium Density Residential	R-2
Multi-Family Residential	R-4
Public	P
Airport	A
Wooded Residential	WR
Resort Commercial	RC
Estate Lots Residential	EL-R

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(Ord. 13-01, 3<sup>rd</sup> Series, passed 01-07-2013; Ord. 13-07, 3<sup>rd</sup> Series, passed 7-01-2013; Ord. 15-01, 3<sup>rd</sup> Series, passed 10-05-2015)

(D) The lakes and streams in the city have been classified as follows:

(1) *General Development (GD)*.

(a) Pelican (18-308), §§ 15, 16, 21 and 28; and

(b) Ossawinnamakee (18-352), §§ 2, 3, 4 and 5.

(2) *Recreational Development (RD)*.

(a) Fawn (18-309), § 1; and

(b) Pelican Brook, §§ 1 and 2.

(3) *Natural Environment (NE)*.

(a) Unnamed (18-345), § 2 (lake east of Co. Rd. 39);

(b) Unnamed (18-346), §§ 4 and 5 (lake west of Northwoods Lane);

(c) Lynch (18-347), § 9;

(d) Shaffer (18-348), §§ 9 and 10;

## Zoning

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(e) Cullen Brook, §§ 18 and 19; and

(f) Rat (18-344), §§ 1 and 2.

(E) Permitted uses and conditional uses as listed in each zone are not intended to be all inclusive; uses similar in nature to those listed shall also be considered.

(F) Criteria for land use categories:

- (1) Preservation of natural sensitive areas;
- (2) Present ownership and development;
- (3) Shore land soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;
- (6) In-water physical characteristics;
- (7) Re-creative use of surface water;
- (8) Road and service center accessibility;
- (9) Socio economic development needs of the public;
- (10) Availability of public sewer;
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value;
- (12) Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties;
- (13) Alternatives available for desired land use;
- (14) Prevention of spot zoning; and

## Breezy Point Land Usage

(15) Conformance to the City of Breezy Point Land Use Plan.  
(Prior Code, § 8.05, Subd. 1) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 10-017, 3<sup>rd</sup> Series, passed 11-01-2010; Ord. 11-04, 3<sup>rd</sup> Series, passed 03-07-2011; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-16)

### **§ 153.031 LOW DENSITY RESIDENTIAL (R-1).**

It is the intent of this district to establish and maintain an off lake shore land or similar land use district, with density controlled either by the lake classification or quasi rural standards.

#### A. Allowed without a permit

1. Limited Camping on improved lots only
2. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
3. Grading/fill of less than 50 cubic yards
4. Licensed Daycare Facility (serving 12 or fewer persons)
5. Private Motor Vehicle sales of 2 or less annually
6. Residential Identification Sign (up to three square feet)
7. Snowmobile trail
8. Select vegetation removal

#### B. Permitted Uses – Requires a Permit

1. Accessory Structures cumulative of up to 1,600 square feet on parcels of 2 acres or less.
2. Accessory Structure cumulative up to 2% of parcel size on parcels 2 acres or more up to a maximum of 5,000 square feet
3. Dwelling; Single family 26 feet or wider, must have foundation of 1,296 square feet **or** 975 square feet with a minimum of a 22 by 22 foot attached garage and 6/12 pitch roof
4. Grading/fill of 50 cubic yards or more
5. State Licensed Residential Facility
6. Storage shed 10 ft. by 12 ft. or smaller or no greater than 120 square feet and 12 feet high
7. Water orientated accessory structure no greater than 120 square feet
8. Working in Shore Impact Zone

## Zoning

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#### C. Conditional Uses

1. Accessory Structures cumulative up to 2,400 square feet on parcels of 2 acres or less.
2. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size
3. Accessory Structure Height in excess of 15 feet up to 25 feet
4. Agriculture – excluded within 50 feet of Ordinary High Watermark of lake or stream or Bluff Impact Zone
5. Churches
6. Dwelling; Single family with Guest Cottage of no more than 700 square feet
7. Parks and Historical Sites
8. PUD; Single Family Residential
9. Revised Rear Setback; a minimum of 10 feet up to the required 35 feet
10. Area Identification Sign (up to 3 square feet)
11. Used structure moved onto property
12. Open vegetation removal

#### D. Interim Uses

1. Home Occupation

#### E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Accessory structure without a principle structure
2. Adult uses Principal or Accessory
3. Auto Salvage
4. Residential Rentals of more than 4 per year

#### F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

#### G. Lot Size, Setback, Height and Use requirements for Low Density Residential and Natural Environmental Lakes:

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**§ 153.031**  
N.E. Lakes

1. Lot Area; Single Family minimum	40,000	2.5 acres
2. Lot Area; with Guest dwelling	80,000	2.5 acres
3. Lot Area; PUD; 3 units minimum	120,000	2.5 acres
4. New Subdivision Lots	2.5 acres	2.5 acres
5. New Subdivision with guest dwelling	5 acres	5 acres
6. New Subdivision; PUD 3 units minimum	120,000	2.5 acres
7. Lot Width; Single Family minimum	125 feet	150 feet
8. Lot Width; Single Family with guest quarters	265 feet	225 feet
9. PUD; Minimum Lot Width	375 feet	300 feet
10. Lot Frontage on Public ROW	33 feet	33 feet
11. Structure Setback; County ROW	35 feet	35 feet
12. Structure Setback; City ROW	35 feet	30 feet
13. Structure Setback; Side	15 feet	10 and 15 ft ROW
14. Structure Setback; Rear (non-lakeshore)	35 feet	setback
15. Structure Setback; OHW	NA	150 feet
16. Structure Setback; Top of bluff	30 feet	30 feet
17. Structure Setback; Wetland	30 feet	30 feet
18. Driveway Setback	15 feet	15 feet
19. Setback; 10 by 12 or smaller shed	3 feet rear and side	
20. Water oriented Structure setback; OHW	NA	20 feet
21. Water oriented Structure setback; Side	NA	10 feet
22. Water oriented Structure height	NA	15 feet
23. Impervious Coverage: Maximum	20%	15%
24. Height; Primary Structure; Maximum (25 feet if adjacent to public water)	35 feet	35 feet
25. Height; Accessory Structure	15 feet	15 feet

(Prior Code, § 8.05, Subd. 2) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16; Ord. 16-04, 3rd Series, passed 11-07-2016)

## Zoning

### **§ 153.032 MEDIUM DENSITY RESIDENTIAL (R-2).**

It is the intent of this district to establish and maintain a land use district consisting of shoreline and non-shoreline property controlled by General Development lake classification that is recreational-residential in character and compatible with natural resources of lakes and streams.

#### A. Allowed without a permit

1. Limited Camping on Improved lots only
2. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
3. Grading/fill of less than 50 cubic yards
4. Licensed Daycare Facility (serving 12 or fewer persons)
5. Private Motor Vehicle sales of 2 or less annually
6. Residential Identification Sign (up to three square feet)
7. Snowmobile trail
8. Select Vegetation removal

#### B. Permitted Uses – Requires a permit

1. Accessory Structures cumulative up to 1,280 square feet on parcels of 2 acres or less.
2. Accessory Structure cumulative up to 2% of parcel square feet on parcels 2 acres or more up to a maximum of 5,000 square feet
3. Dwelling; Single family 26 feet or wider, must have foundation of 1,296 square feet **or** 975 square feet with a minimum of 22 by 22 foot attached garage and 6/12 pitch roof
4. Grading/fill of 50 cubic yards or more
5. State Licensed Residential Facility
6. Storage shed 10 ft. by 12 ft. or smaller or no greater than 120 square feet and 12 feet high
7. Water Orientated Structure of no more than 120 square feet
8. Working in Shore Impact Zone

#### C. Conditional Uses

1. Accessory Structure cumulative up to 1,600 square feet on parcels of 2 acres or less.
2. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size

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3. Accessory Structure Height in excess of 15 to 20 feet in height. (Height can't exceed principal structure height)
4. Churches
5. Controlled Access Lot
6. Dwelling; Duplex with subdivision (requires zero lot line division)
7. Dwelling; Single Family with Guest Cottage of up to 700 square feet
8. Manufactured Home Development
9. Marina
10. Parks and Historical Districts
11. PUD Residential single and/or two family
12. Area Identification Sign
13. Used structure moved onto property
14. Open Vegetation removal

#### D. Interim Uses

1. Boarding House
2. Home Occupation

E. Excluded or Prohibited Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Accessory structure without a principle structure
2. Adult uses Principal or Accessory
3. Auto Salvage
4. Residential Rentals of more than 4 per year

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

G. Lot Size, Setback, Height and Use Requirements for sewered and unsewered Medium Density Residential R-2 General Development lakes, Recreational Development lakes, and Natural Environmental Lakes:

	<u>Sewered</u>	<u>Unsewered</u>	<u>R.D. Lakes</u>	<u>N.E. Lakes</u>
1. Lot Area; Single Family minimum	15,000	20,000	40,000	2.5 acres
2. Lot Area; with Guest dwelling	26,000	40,000	80,000	2.5 acres
3. Lot Area; PUD; Duplex	30,000	40,000	80,000	2.5 acres
4. Lot Area; PUD; 3 units minimum	40,000	80,000	120,000	2.5 acres

## Zoning

	<u>Sewered</u>	<u>Unsewered</u>	<u>R.D. Lakes</u>	<u>N.E. Lakes</u>
5. New Subdivision Lots	2 acres	2.5 acres	2.5 acres	2.5 acres
6. New Subdivision with guest dwelling	4 acres	2.5 acres	2.5 acres	2.5 acres
7. New Subdivision; Duplex	4 acres	5 acres	5 acres	5 acres
8. New PUD; 3 units minimum	40,000	80,000	120,000	2.5 acres
9. Lot Width; Single Family minimum	75 feet	100 feet	150 feet	150 feet
10. Lot Width; Duplex	150 feet	200 feet	300 feet	300 feet
11. PUD; Minimum Lot Width	195 feet	260 feet	300 feet	300 feet
12. Lot Width; SF with guest dwelling	135 feet	180 feet	225 feet	225 feet
13. Lot Frontage on Public ROW	33 feet	33 feet	33 feet	33 feet
14. Structure Setback; County ROW	35 feet	35 feet	35 feet	35 feet
15. Structure Setback; City ROW	30 feet	30 feet	30 feet	30 feet
16. Structure Setback; Side	10 feet	10 & 15 ft	10 & 15 ft	10 & 15 ft
17. Structure Setback; Rear (non-lakeshore)	30 feet	30 feet	NA	NA
18. Structure Setback; Top of bluff	30 feet	30 feet	30 feet	30 feet
19. Structure Setback; OHW	50 feet	75 feet	100 feet	150 feet
20. Structure Setback; Wetland	30 feet	30 feet	30 feet	30 feet
21. Driveway Setback	5 feet	5 feet	5 feet	5 feet
22. Setback; 10 by 12 or smaller shed	3 feet rear and side (all columns)			
23. Impervious Coverage: Maximum	25%	25%	20%	15%
24. Height; Primary Structure; Maximum (25 feet if adjacent to public water)	35 feet	35 feet	35 feet	35 feet
25. Height; Accessory Structure	15 feet	15 feet	15 feet	15 feet

(Prior Code, § 8.05, Subd. 3) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16; Ord. 16-04, 3rd Series, passed 11-07-2016)

### **§ 153.033 ORIGINAL NEIGHBORHOODS (R-3).**

It is the intent of this district to establish and maintain an off lake urban shore land or similar land use district with density controlled by lake classification in shore land, for one and two family units and served by public sewer.

A. Allowed without a permit

## Breezy Point Land Usage

### § 153.033

1. Limited Camping on Improved lots only
2. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
3. Grading/fill of less than 50 cubic yards
4. Licensed Daycare Facility (serving 12 or fewer persons)
5. Private Motor Vehicle sales of 2 or less annually
6. Residential Identification Sign (up to three square feet)
7. Snowmobile trail
8. Select Vegetation removal

#### B. Permitted Uses – Requires a permit

1. Accessory Structures cumulative up to 1,280 square feet on parcels of 2 acres or less.
2. Accessory Structure cumulative up to 2% of parcel square feet on parcels 2 acres or more up to a maximum of 5,000 square feet
3. Dwelling; Single family 26 by 26 feet or wider
4. Grading/fill of 50 Cubic Yards or more
5. State Licensed Residential Facility
6. Storage shed 10 ft. by 12 ft. or smaller or no greater than 120 square feet and 12 feet high

#### C. Conditional Uses

1. Accessory Structure cumulative up to 1,600 square feet on parcels of 2 acres or less.
2. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size
3. Accessory Structure Height in excess of 15 to 20 feet in height. (Height can't exceed principal structure height)
4. Campground
5. Churches
6. Controlled Access Lot
7. Dwelling; Duplex with subdivision (requires zero lot line division)
8. Dwelling; Single Family with Guest Cottage of up to 700 square feet
9. Manufactured Home Development
10. Parks and Historical Districts
11. PUD Residential single and/or two family
12. Revised Rear Setback; a minimum of 10 feet up to the required 35 feet

## Zoning

### § 153.033

13. Area Identification Sign
14. Used Structure moved onto property
15. Open Vegetation removal

#### D. Interim Uses

1. Boarding House
2. Home Occupation

E. Excluded or Prohibited Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Accessory structure without a principle structure
2. Adult uses Principal or Accessory
3. Auto Salvage
4. Residential Rentals of more than 4 per year

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

#### G. Lot Size, Setback, Height and Use Requirements:

	Sewered	Unsewered
1. Lot Area; Single Family minimum	10,000	20,000
2. Lot Area; with Guest dwelling	17,500	35,000
3. Lot Area; Duplex	20,000	40,000
4. Lot Area; PUD; 3 units minimum	40,000	80,000
5. New Subdivision Lots	2 acres	2.5 acres
6. New Subdivision with guest dwelling	4 acres	5 acres
7. New Subdivision; Duplex	4 acres	5 acres
8. New PUD; 3 units minimum	40,000	80,000
9. Lot Width; Single Family minimum	75 feet	100 feet
10. Lot Width; minimum with Guest dwelling	135 feet	175 feet
11. Lot Width; Duplex	150 feet	200 feet
12. PUD; Minimum Lot Width	190 feet	375 feet
13. Lot Frontage on Public ROW	33 feet	33 feet
14. Structure Setback; County ROW	35 feet	35 feet

## Breezy Point Land Usage

	Sewered	Unsewered
15. Structure Setback; City ROW	35 feet	35 feet
17. Structure Setback; Side	10 feet	10 and 15 ft.
18. Structure Setback; Rear	30 feet	30 feet
19. Structure Setback; Top of bluff	30 feet	30 feet
20. Structure Setback; Wetland	30 feet	30 feet
21. Driveway Setback	5 feet	5 feet
22. Setback; 10 by 12 or smaller shed	3 feet rear and side	
23. Impervious Coverage: Maximum	30%	25%
24. Height; Primary Structure; Maximum	35 feet	35 feet
25. Height; Accessory Structure	15 feet	15 feet

(Prior Code, § 8.05, Subd. 4) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 10-017, 3<sup>rd</sup> Series, passed 11-01-2010; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-16; Ord. 16-04, 3<sup>rd</sup> Series, passed 11-07-2016)

### **§ 153.034 MULTI-FAMILY RESIDENTIAL (R-4).**

It is the intent of this district to establish and maintain a residential land use containing multi-family structures, sewerred by public sewer, developed by PUD and compatible with the natural resources of General Development lakes where applicable.

#### A. Allowed without a permit

1. Limited Camping on Improved lots only
2. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
3. Grading/fill of 50 cubic yards or less
4. Private Motor Vehicles sales of 2 or less annually
5. Residential Identification Sign (up to three square feet)
6. Snowmobile Trail
7. Select Vegetation Removal

#### B. Permitted Uses – Requires a Permit

1. Accessory Structure cumulative up to 2% of parcel size on parcels 2 acres or more up to a maximum of 5,000 square feet
2. Dwelling; Single family 26 feet by 26 feet or wider

## Zoning

### § 153.034

3. Grading/fill of 50 cubic yards or more
4. State Licensed Residential Facility
5. Storage Shed 10 by 12 ft. or smaller or no greater than 120 square feet and 12 feet high

#### C. Conditional Uses

1. Accessory Structure cumulative up to 1,600 sq. ft. on parcels 2 acres or less
2. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size
3. Churches
4. Dwelling; Duplex with subdivision (requires zero lot line division)
5. Dwelling; Single Family with Guest Cottage no greater than 700 square feet
6. Dwelling; Triplex-Quad units
7. Manufactured Home Development
8. Nursing home/hospital
9. Parks and Historical Sites
10. PUD; Interval Ownership
11. PUD Residential single and/or two family
12. PUD; Mixed Use
13. Rental Apartments
14. Revised rear Setback; a minimum of 10 feet up to the required 35 feet
15. Area Identification Sign
16. Used Structure moved on site
17. Open Vegetation Removal

#### D. Interim Uses

1. Boarding House
2. Home Occupation
3. Residential Rentals more than 4 times per year

E. Excluded or Prohibited Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Accessory structure without a principle structure
2. Dwellings less than 26 feet wide
3. Adult uses Principal or Accessory
4. Motel/Hotel

## Breezy Point Land Usage

### § 153.034

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

G. Lot Size, Setback, Height and Use Requirements for this sewerred district:

1. Single Family Lot Area; minimum	10,000
2. Lot Area; with Guest Dwelling	17,500
3. Lot Area; Duplex	20,000
4. Lot Area; PUD; 3 units minimum	30,000
5. New Subdivision Lots	2 acres
6. New Subdivision with Guest Dwelling	4 acres
7. New Subdivision; Duplex	4 acres
8. New PUD; 3 units minimum	30,000
9. Lot Width; Single Family minimum	75 feet
10. Lot Width; minimum with Guest Dwelling	
11. Lot Width; Duplex	150 feet
12. PUD; Minimum Lot Width	190 feet
13. Lot Frontage on Public ROW	33 feet
14. Structure Setback; County ROW	35 feet
15. Structure Setback; City ROW	35 feet
16. Structure Setback; Rear	35 feet
17. Structure Setback; Side	20 feet
18. Structure Setback; Between buildings	15 feet
19. Structure Setback; Top of bluff	30 feet
20. Structure Setback; Wetland	30 feet
21. Driveway Setback	20 feet
22. Setback; 10 by 12 or smaller shed	3 feet rear and side
23. Impervious Coverage: Maximum	30%
24. Height; Primary Structure; Maximum	35 feet
25. Height; Accessory Structure	15 feet

(Prior Code, § 8.05, Subd. 5) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16)

## Zoning

### **§ 153.035 Estate Lots Residential (EL-R).**

It is the intent of this district to establish and maintain a single-family residential district which limits densities in outlying areas through the use of intermediate lot size requirements, therefore preventing scattered urban development, while also ensuring that the character of certain existing developments and undeveloped areas are maintained.

#### A. Allowed without a Permit

1. Agricultural Uses – excluded within 50 feet of Ordinary High Watermark of lake  
or stream or Bluff Impact Zone
2. Limited Camping on Improved Lots only
3. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
4. Grading/fill- 50 cu. Yds. or less
5. Licensed Daycare Facility (serving 12 or fewer persons)
6. Private Motor Vehicle Sales of 2 or less annually
7. Outside Storage
8. Residential identification sign (up to three square feet)
9. Snowmobile Trail
10. Select Vegetation Removal

#### B. Permitted Uses – Requires a Permit

1. Accessory Structure Area, Cumulative; up to 2% of parcel area, not to exceed 5,000 square feet
2. Dwelling; Single family 26 feet by 26 feet or wider
3. Grading/ fill of 50 cubic yards or more
4. Storage Shed 10 by 12 ft. or smaller; no greater than 120 square feet and 12 feet high
5. State Licensed Residential Facilities
6. Open Vegetation Removal
7. Working in Shore Impact Zone

#### C. Conditional Uses

1. Accessory Structure cumulative of up to 2% of parcel size if over structure is over 5,000 sq. ft.
2. Accessory Structure Height in excess of 20 up to 25 feet
3. Boarding House
4. Churches
5. Dwelling; Single Family with Guest Cottage no greater than 700 square feet

## Breezy Point Land Usage

### § 153.035

6. Golf Course
7. Parks/Historical Sites
8. Public Recreation Area/ Recreation Trails (non-motorized)
9. Area Identification Sign
10. Used Structure Moved onto Property
11. Clear Vegetation Removal

#### D. Interim Use

1. Home Occupation

E. Excluded or Prohibited Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Accessory structure without a principle structure
2. Dwellings less than 26 feet wide
3. Adult uses Principal or Accessory
4. Junk Yard
5. Vacation Rentals (more than 4 times per year)
6. Animal Husbandry

F. Similar Uses: Uses listed as Permitted, Conditional, and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

#### G. Lot Size, Setback, Height and Use Requirements:

	Non-Shoreland	N.E. Lake
1. Lot area; minimum (acres)	2.5 acres	2.5 acres
2. Lot width; minimum	200 feet	200 feet
3. Lot Frontage on Public ROW	33 feet	33 feet
4. Structure Setback; County ROW	40 feet	40 feet
5. Structure Setback; City ROW	40 feet	40 feet
6. Driveway Setback	25 feet	25 feet
7. Structure Setback; side	25 feet	25 feet
8. Structure Setback; OHW	75 feet	150 feet
9. Setback; 10 by 12 or smaller shed	3 feet rear and side	3 feet rear and side
10. Structure Setback; top of bluff	30 feet	30 feet
11. Structure Setback; wetland	30 feet	30 feet

## Zoning

12. Structure Setback; rear (off-lake only)	40 feet	40 feet
13. Impervious Coverage; maximum	15%	15%
	Non- <u>Shoreland</u>	N.E. <u>Lake</u>
14. Height; Primary Structure; Maximum (25 feet if adjacent to public water)	35 feet	35 feet
15. Height; Accessory Structure; Maximum (Ord. 11-04, 3 <sup>rd</sup> Series, passed 03-07-2011; Ord. 16-01, 3rd Series, passed 05-02-16; Ord. 16-04, 3rd Series, passed 11-07-2016)	20 feet	20 feet

### § 153.036 WOODED RESIDENTIAL (WR).

It is the intent of this section to establish and maintain a Low Density Wooded District, preserving the character of the city, serving as a buffer between urban reserve/forestry and residential uses and providing a rural single-family setting with limited agricultural/forestry uses.

#### A. Allowed without a Permit

1. Agriculture – excluded within 50 feet of Ordinary High Watermark of lake or stream or Bluff Impact Zone
2. Limited Camping on Improved Lots only
3. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
4. Grading/fill of less than 50 cubic yards
5. Licensed Daycare Facility (serving 12 or fewer persons)
6. Private Motor Vehicle sales of 2 or less annually
7. Outside Storage
8. Residential Identification Sign (up to three square feet)
9. Snowmobile trail
10. Select vegetation removal

#### B. Permitted Uses – Requires a Permit

1. Accessory Structure cumulative of up to 2% of parcel size on parcels over 2 acres up to 5,000 square feet
2. Dwelling; Single family 26 feet or wider, must have foundation of 1,296 square feet **or** 975 square feet with a minimum of a 22 by 22 foot attached garage and 6/12 pitch roof
3. Grading/fill of 50 cubic yards or more
4. Public Recreation, Trails, Non-motorized use
5. Storage shed 10 ft. by 12 ft. or smaller or no greater than 120 square feet and 12

## Breezy Point Land Usage

- feet high  
6. Open Vegetation Removal

### § 153.036

#### C. Conditional Uses

1. Accessory Structures, cumulative maximum of 2% of the parcel size on parcels 5 acres or more
2. Accessory Structure Height in excess of 20 feet up to 25 feet
3. Aquaculture
4. Churches
5. Dwelling; Single Family with Guest Cottage of no more than 700 square feet
6. Golf Course
7. Parks and Historical Sites
8. Working in Shore Impact Zone
9. Area Identification Sign
10. Silviculture with reforestation
11. Used structure moved onto property
12. Clear vegetation removal

#### D. Interim Uses

1. Home Occupation

E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Adult uses Principal or Accessory
2. Auto Salvage
3. Residential Rentals of more than 4 per year
4. Animal Husbandry

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

#### G. Lot Size, Setback, Height and Use Requirements:

- |                                     |          |
|-------------------------------------|----------|
| 1. Lot Area; Single Family minimum  | 5 acres  |
| 2. New Subdivision Lots             | 5 acres  |
| 3. Lot Width; Single Family minimum | 300 feet |
| 4. Lot Frontage on Public ROW       | 33 feet  |
| 5. Structure Setback; County ROW    | 50 feet  |

## Zoning

6. Structure Setback; City ROW	50 feet
7. Structure Setback; OHW	150 feet
8. Structure Setback; Side	30 feet
9. Structure Setback; Rear	50 feet
10. Structure Setback; Top of bluff	30 feet
11. Structure Setback; Wetland	30 feet
12. Setback; 10 by 12 or smaller shed	3 feet rear and side
13. Impervious Coverage: Maximum	10%
14. Height; Primary Structure; Maximum (25 feet if adjacent to public waters)	35 feet
15. Height; Accessory Structure	20 feet

(Prior Code, § 8.05, Subd. 6) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16; Ord. 16-04, 3rd Series, passed 11-07-2016)

### **§ 153.037 URBAN RESERVE (UR).**

It is the intent of this district to establish and maintain a land use district that allows for long-term urban growth of the City, while effectively planning for growth by using larger lot size requirements to prevent the occurrence of premature scattered urban development while, in the meantime allowing very low density residential and agricultural uses and land uses which promote or foster forestry.

#### A. Allowed without a Permit

1. Agriculture – excluded within 50 feet of Ordinary High Watermark of lake or stream or Bluff Impact Zone
2. Limited Camping on improved lots only
3. Camping; Construction and Reconstruction with active building permit, limited to 6 months in duration
4. Grading/fill of less than 50 cubic yards
5. Licensed Daycare Facility (serving 12 or fewer persons)
6. Private Motor Vehicle sales of 2 or less annually
7. Outside Storage
8. Residential Identification Sign (up to three square feet)
9. Snowmobile trail
10. Select vegetation removal

#### B. Permitted Uses – Requires a Permit

1. Accessory Structures without Principle Structure

## Breezy Point Land Usage

2. Accessory Structure of up to cumulative of 2% of parcel square feet on parcels over 2 acres up to 5,000 square feet

**§ 153.037**

3. Aquaculture
4. Dwelling; single family of any size
5. Grading/fill of 50 cubic yards or more
6. Public Recreation, Trails, Non-motorized use
7. Storage shed 10 ft. by 12 ft. or smaller; no greater than 120 square feet and 12 feet high
8. Silviculture with reforestation
9. Open Vegetation Removal
10. Working in Shore Impact Zone

### C. Conditional Uses

1. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size
2. Accessory Structure Height in excess of 20 feet up to 25 feet
3. Adult Uses Principal and Accessory
4. Airport
5. Aquaculture
6. Churches
7. Dwelling; Single family with Guest Cottages no greater than 700 square feet
8. Golf Course
9. Manufacturing / Light Industrial
10. Parks and Historical Sites
11. Area Identification Sign
12. Towers
13. Used structure moved onto property
14. Clear vegetation removal

### D. Interim Uses

1. Animal Husbandry – One animal unit or less per 5 acres on parcels of 5 acres or more.
2. Extractive Use
3. Game Farm with Hunting
4. Home Occupation
5. Off-road vehicle activity area
6. Trap or Skeet Range

E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed

## Zoning

as Allowed, Permitted, Conditional or Interim are prohibited.

1. Auto Salvage
2. Residential Rentals of more than 4 per year

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

G. Lot Size, Setback, Height and Use Requirements:

1. Lot Area; single Family minimum	10 acres
2. New Subdivision Lots	10 acres
3. Lot Width; Single Family minimum	300 feet
4. Lot Frontage on Public ROW	33 feet
5. Structure Setback; County ROW	50 feet
6. Structure Setback; City ROW	50 feet
7. Structure Setback; OHW	150 feet
8. Structure Setback; Side	50 feet
9. Structure Setback; Rear	50 feet
10. Structure Setback; Top of bluff	30 feet
11. Structure Setback; Wetland	30 feet
12. Setback; 10 by 12 or smaller shed	3 feet rear and side
13. Impervious Coverage: Maximum	10%
14. Height; Primary Structure; Maximum (25 feet if adjacent to public waters)	none
15. Height; Accessory Structure	20 feet

(Prior Code, § 8.05, Subd. 7) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 10-017, 3<sup>rd</sup> Series, passed 11-01-2010; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-16; Ord. 16-04, 3<sup>rd</sup> Series, passed 11-07-2016)

### **§ 153.038 PUBLIC (P).**

It is the intent of this district to establish and maintain a land use district that is publicly owned for public buildings and public facilities including parks and open spaces.

A. Allowed Uses

## Breezy Point Land Usage

### § 153.038

1. Grading/fill of less than 50 cubic yards
2. Private Motor Vehicle sales of 3 or more annually
3. Outside Storage
4. Parks and Historical Sites
5. Snowmobile trail
6. Select vegetation removal
7. Working in Shore Impact Zone

#### B. Permitted Uses – Requires a Permit

1. Accessory Structures without Principle Structure
2. Accessory Structure up to 2,400 square feet on parcels of 2 acres or less.
3. Accessory Structure of up to cumulative of 2% of parcel square feet on parcels 2 acres or more up to a maximum of 5,000 square feet
3. Grading/fill of 50 cubic yards or more
4. Public Buildings
5. Public Recreation, Trails, Non-motorized
6. Recreational Facility; Public
7. On-site Commercial Signs
8. Storage shed 10 ft. by 12 ft. or smaller or no greater than 120 square feet and 12 feet high
9. Towers that are under 100 feet tall that are used for emergency purposes such as police, fire or other public agencies.

#### C. Conditional Uses

1. Accessory Structures, a cumulative maximum of 2% of the parcel size on parcels 5 acres or more
2. Accessory Structure Height up to 25 feet (can't exceed principal building height).
3. Golf Course
4. Nursing home / hospital
5. Off-site Commercial Sign
6. Towers
7. Used Structure moved onto property
8. Open and Clear Vegetation Removal

#### D. Interim Uses

1. None

#### E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed

## Zoning

as Allowed, Permitted, Conditional or Interim are prohibited.

1. Adult Uses; Principal and Accessory
2. Auto Salvage Yard

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

G. Lot Size, Setback, Height and Use Requirements:

1. Lot Area; minimum	20,000
2. Lot Width; minimum	100 feet
3. Lot Frontage on Public ROW	33 feet
4. Structure Setback; County ROW	35 feet
5. Structure Setback; City ROW	35 feet
6. Structure Side	15 feet
7. Structure Setback; Rear	35 feet
8. Setback; 10 by 12 or smaller shed	3 feet rear and side
9. Structure Setback; Top of bluff	30 feet
10. Structure Setback; Wetland	30 feet
11. Impervious Coverage: Maximum	50%
12. Principal Structure Height (25 feet if adjacent to public waters)	none
13. Accessory Structure Height	15 feet

(Prior Code, § 8.05, Subd. 8) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16)

### **§153.039 Resort Commercial (RC).**

It is the intent of this district to establish and maintain a district consisting of resort related and non-resort related including retail, rental units, condominiums, timeshare units, marinas, and mixed use buildings, along with other recreational oriented uses such as golf courses and recreational vehicle parks while also ensuring protection of the natural resources that allow the community to thrive.

A. Allowed without a Permit

1. Grading/fill of less than 50 Cubic Yards

## Breezy Point Land Usage

### B. Permitted Uses – Requires a Permit

1. Sign, on-site
2. Storage Shed 10 by 12 ft. or smaller or no greater than 120 square feet and 12 feet high
3. Fence
4. Grading/fill of more than 50 Cubic Yards
5. Parks and Historical Sites
6. Professional Buildings
7. Public Buildings
8. Recreational Facilities; Public
9. Retail Stores
10. Area Identification Signs
11. On-site Commercial Signs
12. Working in the Shore Impact Zone

### C. Conditional Uses

1. Apartments
2. Accessory Structure without Principle Structure
3. Cumulative Accessory Structure up to 2,400 sq. ft. on parcels less than 2 acres  
Cumulative accessory structure up to 2% of parcel size on parcels over two acres
3. Accessory Structure Height in excess of 15 feet up to 25 feet
4. Boarding House
5. Campground
6. Churches
7. Controlled Access Lots
8. Golf Course
9. Marina
10. Mixed Use Buildings ,not to exceed 50% residential
11. Hotel/Motel
12. Private Motor Vehicle Sales of 3 or more annually
13. Planned Unit Development; Interval Ownership
14. Planned Unit Development; Commercial
15. Recreational Camping Area
16. Recreational Facility; Resort Guests
17. Recreational Vehicle Park
18. Restaurants
19. Off-Site Commercial Sign
20. Social Club
21. Storage Units (sale or rental, Storage units for sale shall be cooperative or condominium and shall meet the criteria for a commercial PUD
22. Theater

## Zoning

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- 23. Towers (Less than 100 feet tall if within 2640 feet of OHW)
- 24. Used Structure Moved onto property
- 25. Vacation Rentals more than 4 per year
- 26. Open Vegetation Removal

#### D. Interim Uses

- 1. None

E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

- 1. Adult Oriented Business
- 2. Junk Yard

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

G. Lot Size, Setback, Height and Use Requirements:

	G.D. Lake or non- <u>Shoreland</u>	N.E. <u>Lake</u>
1. Lot area (sq. ft.); minimum - sewerer	20,000	N/A
2. Lot area (sq. ft.); minimum –unsewered	40,000	2.5 Acres
3. Lot width; minimum	100 feet	200 feet
4. Lot Frontage on Public ROW	33 feet	33 feet
5. Setback; County ROW	35 feet	35 feet
6. Setback; City ROW	35 feet	35 feet
7. Setback; side	20 feet	25 feet
8. Setback; OHW - sewerer	50 feet	N/A
Setback; OHW - unsewered	75 feet	150 feet
9. Setback; 10 by 12 or smaller shed	3 feet rear and side	
10. Setback; top of bluff	30 feet	30 feet
11. Setback; wetland.	30 feet	30 feet
12. Setback; rear (off-lake only)	35 feet	35 feet
13. Setback; from residential lot line	40 feet	40 feet
14. Setback; parking (from any lot line)	5 feet	5 feet
15. Impervious Coverage; maximum	25%	25%

## Breezy Point Land Usage

	G.D. Lake or non- <u>Shoreland</u>	N.E. <u>Lake</u>
16. Accessory Building Height	15 feet	15 feet
17. Building Height; Maximum	none, set by C.U.P or 25' if adjacent to public water	

(Ord. 10-018, 3<sup>rd</sup> Series, passed 11-01-2010; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-16;  
Ord. 17-03, 3<sup>rd</sup> Series, passed 08-07-2017)

### **§ 153.040 COMMERCIAL (C).**

It is the intent of this district to establish and maintain a district consisting of offices, stores, retail, fuel sales, restaurants, bars, storage facilities, repair shops and other commercial businesses needed to support the community and provide for the general commerce.

#### A. Allowed without a permit:

1. Grading/fill of less than 50 cubic yards
2. Private Motor Vehicles sales of 2 or less annually
3. Snowmobile Trail
4. Vegetation Removal; select

#### B. Permitted Uses – Requires a Permit

1. Grading/fill of 50 cubic yards or more
2. Outside Storage
3. Parks and Historical Sites
4. Professional Buildings
5. Retail Stores
6. Area Identification Sign
7. On-site Commercial Sign
8. Storage Shed 10 by 12 ft. or smaller or no greater than 120 square feet and 12 feet high

#### C. Conditional Uses:

1. Accessory Structure without Principle Structure
2. Accessory Structure up to 2,400 sq. ft. on parcels 2 acres or less
3. Accessory Structures –parcel over 2 acres, cumulative of up to 2% up to 5,000 square feet

## Zoning

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4. Accessory Structures on parcels 5 acres or more, a cumulative maximum of 2% of the parcel size
5. Accessory Structure Height in excess of 15 feet up to 25 feet
6. Airport
7. Business with Residential Quarters
8. Boarding House
  
9. Churches
10. Gas Station / Light Repair
11. Hangar
12. Manufacturing / light industrial/ repair
13. Motel/Hotel
14. Private or Commercial Motor Vehicle sales
15. Nursing home/hospital
16. PUD; Mixed Use
17. PUD; Commercial
18. Radio/TV station
19. Recreational Facilities; Resort Guests
20. Recreational Facilities; Public
21. Restaurant
22. Off-site Commercial Sign
23. Social Club
24. Storage Units for Rental or Sale. Storage Units for Sale shall be Cooperative or Condominium and meet criteria for commercial PUD
25. Theaters
26. Used Structure moved on site
27. Open or Clear Vegetation Removal
28. Rental Units (Apartments)

### D. Interim Uses:

1. Animal Husbandry of one animal unit or less per 5 acres on parcels 5 acres or more.
2. Residential Rentals more than 4 times per year

### E. Excluded or Prohibited Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Adult uses Principal or Accessory
2. Residential Dwellings; Single, Single with Guest Quarters, Duplex, Triplex, Quads, apartments or interval ownership.

### F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

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### G. Lot Size, Setback, Height and Use Requirements:

	<u>Sewered</u>	<u>Unsewered</u>
1. Lot Area	10,000	20,000
2. Lot Width	75 feet	100 feet
3. PUD; Minimum Lot Area	80,000	80,000
4. Lot Frontage on Public ROW	33 feet	33 feet
5. Structure Setback; County ROW	35 feet	35 feet
6. Structure Setback; City ROW	25 feet	35 feet
7. Structure Setback; Next to Residential District	40 feet	40 feet
8. Structure Setback; Side	15 feet	20 feet
9. Structure Setback; Rear	15 feet	15 feet
10. Structure Setback; Side between buildings	10 feet	20 feet
11. Structure Setback; Top of bluff	30 feet	30 feet
12. Structure Setback; Wetland	30 feet	30 feet
13. Driveway Setback	20 feet	
14. Setback; 10 by 12 or smaller shed	3 feet of rear or side	
15. Impervious Coverage: Maximum	50%	25%
16. Height; Primary Structure maximum	None, set by CUP	
17. Height; Accessory Structure	15 feet	

(Prior Code, § 8.05, Subd. 12) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-16; Ord. 16-04, 3rd Series, passed 11-07-2016; Ord. 19-02, Series 3, passed 08-05-2019)

### **§ 153.041 AIRPORT (A).**

It is the intent of the Airport District to establish and maintain a land use district that is essential to and complements the operations of a recreational airport.

#### A. Allowed without a Permit

1. Open and Clear Vegetation Removal
2. Private Motor Vehicles sales of 2 or less annually
3. Snowmobile Trail
4. Select Vegetation Removal
5. Residential Identification Sign (up to 3 square feet)

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#### B. Permitted Uses – Requires a Permit

1. Airport, Airport Runway
2. Fence
3. Aircraft Hanger
4. Accessory Structure without Principle Structure
5. On site Signs
6. Accessory Storage Structure, up to 2400 Sq. Ft. on parcels 2 acres or less
7. Airport Business Office
8. Enclosed Storage
9. Incidental Sales of Private Aircraft
10. Fuel Storage
11. Grading/fill of less than 50 cubic yards
12. Area Identification Sign
13. On-site Commercial Sign
14. Storage Shed 10 by 12 ft. or smaller or no greater than 120 square feet and 12 feet high

#### C. Conditional Uses

1. Accessory Structure up to 2% of parcel size
2. Accessory Structure Height in excess of 15 feet up to 20 feet
3. Aircraft Hanger with Dwelling unit
4. Business with Residential quarters attached
5. Planned Unit Development – Mixed Use
6. Grading/fill 50 Cu. Yards or more
7. Incidental lighting necessary for airport operations
8. Incubator Business Development
9. Light Manufacturing/Assembly/light industrial
10. Parks and Historical Sites
11. Professional Services
12. PUD; Mixed Use
13. Public Buildings
14. Recreational Facility; public
15. Retail stores
16. Machine Shop
17. Professional Contractors, Plumbing, Heating, Painting, Electrical
18. Cabinet Shop

## Breezy Point Land Usage

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19. Cold Storage
20. Wholesale Business
21. Textile Manufacturing and Crafting
22. Warehouse
23. Working in the shore impact zone
24. Storage units for rental or sale (sale or rental, Storage units for sale shall be cooperative or condominium and shall meet the criteria for a commercial PUD)
25. Used Structure moved onto the property
26. Uses as determined by the Planning Commission to be complementary to the operation of a Recreational Airport and surrounding uses. In no case shall any use cause any nuisances such as noise, odor, glare, light, health, etc.

#### D. Interim

1. None

E. Prohibited or Excluded Uses: In addition to the following shown uses, uses **not** listed as Allowed, Permitted, Conditional or Interim are prohibited.

1. Adult Uses Principal or Accessory
2. Animal Husbandry
3. Auto Salvage or Junk Yard
4. Single or Multiple Family Dwellings
5. Residential Rentals of more than 4 per year

F. Similar Uses: Uses listed as Permitted, Conditional, Interim and Prohibited in this zone shall not be considered all inclusive. Uses similar to those listed may also be considered.

#### G. Lot Size, Setback, Height and Use Requirements:

- |                                      |                      |
|--------------------------------------|----------------------|
| 1. Lot Area; minimum                 | 11,250 Square feet   |
| 2. Lot Width; minimum                | 75 feet              |
| 3. Lot Frontage on Public ROW        | 33 feet              |
| 4. Structure Setback; County ROW     | 35 feet              |
| 5. Structure Setback; City ROW       | 35 feet              |
| 6. Structure Setback; Side           | 10 feet              |
| 7. Structure Setback; Rear           | 35 feet              |
| 8. Setback; 10 by 12 or smaller shed | 3 feet rear and side |

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9. Structure Setback; Top of bluff	30 feet
10. Structure Setback; Wetland	30 feet
11. Impervious Coverage: Maximum	50%
12. Height; Primary Structure; Maximum	none, set by CUP
13. Height; Accessory Structure (Height can't exceed principal structure height)	15 feet

(Ord. 13-01, 3<sup>rd</sup> Series, passed 01-07-2013; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-16;  
Ord. 17-03, 3<sup>rd</sup> Series, passed 08-07-2017)

## Breezy Point Land Usage

### **§153.044 Land Use Categories Chart**

The following land use chart is for the convenience of the users but is not all inclusive. Each zoning district is arranged with land uses classified as Allowed, Permitted, Conditional, and Interim uses. Each Zoning District provides information that may not be included in the charts. The individual district sections are to be considered the final determinate in what land uses are acceptable in each district.

## Zoning

### **§153.045 Lot Size; Dimension Chart**

The following lot size dimension chart is for the convenience of the users and may not be all inclusive. Each zoning district includes required lot size and width, structure setbacks, impervious coverage, and height standards. Each Zoning District provides information that may not be included in the chart. The individual district sections are to be considered the final determinate in what is acceptable in each district.

***PERFORMANCE STANDARDS; GENERAL***

**§ 153.060 BOND.**

(A) Prior to construction of any PUD or any construction of public improvements in a Resort Commercial (RC) or Commercial (C) District, the developer shall post a bond or other security satisfactory to the City Attorney, in the following amounts:

(1) One hundred twenty-five percent of the cost of off-site and on-site sewer, water, storm sewer or street improvements required for the project as estimated by the Engineer.

(B) The city shall hold the bond as security to assure the timely and satisfactory installation of the improvements listed in division (A)(1) above and shall use the proceeds, if the developer defaults on his or her plans for any reason, to remove or complete the construction. The city may, at its discretion, allow construction and approval of the utilities and streets after preliminary approval, but before final approval of a plat or condominium plan.

(C) The financial guarantees as may be required may be reduced in increments as construction and/or installation is completed to the satisfaction of the Engineer and City Council. (Prior Code, § 8.06, Subd. 1) (Ord. 15-01, 3<sup>rd</sup> Series, passed 10-05-2015)

**§ 153.061 SIGN STANDARDS.**

(A) *Purpose.* The purpose of this provision is to protect the general welfare and safety of the city by providing a policy of aesthetic development to prevent signs from intruding on the rural and residential character of the city, to provide adequate signs for direction and property identification purposes and to provide adequate signs for commercial use.

(B) *Nature.* All signs are considered structures and require a zoning permit except as indicated in this chapter.

(C) *Public signs and name directory signs at intersections.* The city recognizes the role that off-site residential directory signs had played in the past in helping people to find their way, but due to the placement of street signs on all new streets and the advent of the E911 addressing system, the need for residential directory signs has been eliminated.

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(1) Signs placed by the city, county, state or nonprofit organizations to inform of the laws or ordinances, or to provide direction to public facilities, shall be considered exempt from the provisions of divisions (E) and (F) below. The size of public signs shall be the traffic control standard or not to exceed 32 square feet with a maximum height of eight feet, whichever applies.

(2) Commercial directory signs shall be no larger than six square feet, placed only at major intersections and shall be stacked on a common post.

(3) All off-site residential directory signs, whether contained within the public right-of-way or on private property, shall be removed within 60 days of the effective date of this chapter and no new signs of this nature shall be placed anywhere within the city.

#### (D) *General; all signs.*

(1) *Discontinued businesses.* Signs for discontinued business will be removed 30 days after notification by the designated city official or after discontinuance of the business. The designated city official shall be authorized to remove the sign 60 days after notification if the owner fails to so do.

(2) *Sight distances.* Conditional use permits and zoning permits shall consider protecting sight distances at intersections, driveways and curves.

(3) *Flashing, revolving and certain lighted signs.* All flashing, revolving and signs with other type of movement are prohibited. Externally lighted signs shall be shielded to prevent glare to adjoining roadway.

(4) *Temporary signs.* Temporary signs pertaining only to the sale of, rental of, or construction on the premises are allowable, provided they do not exceed nine square feet in size. Temporary signs for the sale of a platted subdivision placed at the entrance of the subdivision are allowable provided they do not exceed 32 square feet. Signs must be removed within one year unless extended by the Zoning Administrator.

(5) *Existing signs.* An existing, legally non-conforming sign, except for off-site residential directory signs, may be refaced, removed and replaced for maintenance purposes, however, it shall not be increased in size and the support system shall not be replaced and the sign shall be removed in its entirety upon the determination by the

## Breezy Point Land Usage

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Zoning Administrator that the sign is in disrepair or the support system is failing. Removal shall be within 30 days of notice by the Zoning Administrator.

(6) *Election signs.* On-premise signs of any size containing non-commercial speech may be posted, without requiring a permit, from June 25 in any general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election, provided that the signs are in compliance with Minnesota Statutes and other applicable provisions of this chapter.

(7) *Signs allowed without permit.* No trespassing, no hunting and similar signs no more than four square feet in area are allowed without permit. Non-profit and civic organizations may display, without permit, a banner or temporary sign to advertise a specific or single day event. Said advertisement may be displayed twenty-one (21) days prior to the event, and must be removed within twenty-four (24) hours of the conclusion of the event. Advertisements shall not be placed on the public right-of-way. Permission of the property owners must be obtained prior to the display of the banner or temporary sign.

(8) *Signs in disrepair.* All signs shall be kept in good repair and shall be free from peeling paint, rust, damaged or rotted supports, damaged or rotted framework or other material, broken or missing faces or missing letters. The City Zoning Administrator, or any designee thereof, may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this chapter, as contained in § 153.063. Upon failure to comply with the notice within the time specified in the order, the City Council may declare the sign to be a public nuisance, remove it and assess the cost of removal to the sign owner or the sign owner's agent.

(9) *Impoundment of signs.* The Zoning Administrator, or any designee thereof, may, at any time and without notice, impound signs that have been installed on public property, within a public right-of-way, or within a public easement that are in violation of this section or of any other provision of this chapter. The sign owner or his or her agent may retrieve the sign, subject to the following rules:

(a) Payment of an impoundment release fee shall be set from time to time by resolution of the council. Any subsequent impoundment(s), within one calendar year, for a particular property or sign owner will require payment of double the initial impoundment release fee.

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(b) Any impounded sign may be retrieved from the impound area within 60 days of the impoundment, or the Zoning Administrator, or any designee thereof, may dispose of it. Any cost incurred by the city for disposal of an impounded sign may be assessed to the sign owner or the sign owner's agent.

(c) The city, the Zoning Administrator or any designee thereof shall have no obligation to notify a property owner that it has impounded a sign.

(d) The city, the Zoning Administrator or any designee thereof, shall not be held liable for any damage to an impounded sign.

(E) *On-site signs.*

(1) *Residential Districts.*

(a) Signs shall not be internally lit. External lighting shall be directed as to not create illumination off the premises.

(b) No sign shall be larger than three square feet, except as provided in divisions (E)(1)(d) and (e) below.

(c) Only one sign per principal use shall be allowed.

(d) Signs for home occupations shall not exceed six square feet.

(e) Area identification signs are permitted by conditional use permit in residential districts and must meet the following:

1. Shall not exceed 32 square feet;
2. Shall not exceed eight feet in height;
3. Shall be located on private property no less than ten feet from property line or lake setback;
4. Shall be constructed of natural materials and colors and shall be continually maintained;

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5. Shall include a landscaping plan to be installed and continually maintained; and
6. Shall not exceed one per entrance.

#### (2) *Resort Commercial and Commercial Districts.*

(a) One free standing sign shall be allowed per property meeting the following requirements:

1. Sign area shall not exceed 45 square feet when the speed limit of the abutting road or highway is 54 mph or less; or 54 square feet in areas where the speed limit of the abutting road or highway is 55 mph or more. An additional ten square feet is shall be allowed per additional business in the same building or development complex under one ownership.

2. Free-standing sign height shall not exceed ten feet. A sign height of 15 feet shall be allowed where the speed limit of the abutting road or highway is 55 mph or more and sign is placed double the required setback.

(b) Each lot shall have the choice of one of the following for a second on-site sign:

1. A sign protruding from the front of the building not more than four feet with a maximum area of 32 square feet;

2. A roof mounted sign not more than six feet above the roof line with a maximum sign area of 24 square feet per face, and a maximum of two faces; and

3. Signs flush on a building and not protruding shall cover a maximum of 10% of any face of the building. Signs located inside windows, as to be visible from the outside of the building shall not be included toward sign area requirements, but shall meet all other provisions of this chapter related to illumination, and dynamic signage.

(c) Signs shall be located no closer than ten feet from any property line or right-of-way line.

(d) Uses that depend on patrons arriving by water craft may use signs and

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lighting to convey needed information to the public, subject to the following general standards.

1. 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.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the following 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 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

#### *(3) General; on-site signs.*

(a) Present non-conforming on-site signs are considered permissible non-conforming uses except portable units which are used in a permanent manner; or flashing lights which shall be eliminated upon enactment of this chapter.

(b) Banners, streamers, advertising flags, feathers, flag type banners, portable signs or freestanding signs and other such signage not considered permanent shall be limited to five per property, only one of which may be a portable or freestanding sign. All such signs shall be limited to 40 square feet each in size and shall not be placed within the public right-of-way. A portable or freestanding sign may have two sides and shall provide for changeable messages which must change a minimum of every 30 days. All of these advertising devices shall not be allowed to deteriorate, fade or otherwise become unsightly, as determined by the Planning Commission. These types of advertising signage shall not be considered toward the maximum allowable sign area.

(c) A sign for a multi-business complex may be addressed separately in the CUP for the principal use to allow innovations and may be allowed to have a sign area exceeding the maximums if found compatible with the surrounding area by the Planning Commission.

(F) *Off-site signs.*

(1) Except as specified in division (C)(2) above, off-site signs shall be located in the RC and C Districts only, with the written permission of the property owner and shall be a conditional use in these districts. Off-site signs of all types, including residential and commercial, are specifically prohibited in all other zoning districts.

(2) The maximum size allowed shall be 32 square feet.

(3) The maximum height shall be ten feet from the ground to the top of the sign.

(4) No new off-site sign shall be allowed within 300 feet of an existing on or off-site sign.

(5) New on-site signs require the removal of existing off-site signs as provided in division (F)(4) above.

(6) Each Commercial or Resort Commercial establishment shall be limited to one off-site sign in addition to the above directional signs.

(7) The sign shall be located on private property at the required setbacks for the zoning district, as detailed in § 153.045. Placement of the sign shall be outside of the clear vision area, shall include consideration for the maintenance of appropriate sight lines at the intersection and shall not constitute an obstruction to traffic in the area. The clear vision area shall be an area within a triangle that is measured along the edge of the road starting at the intersection of two roads (public or private) and extending 350 feet in each direction from the intersection and then a line connecting these two end points.

(G) *Dynamic signs.*

(1) (a) Studies show a correlation between dynamic signs and the distraction of drivers, which can lead to accidents. Drivers may be distracted by signs that change content rapidly, or that scroll to reveal additional information, and also by special effects such as fading, blinking, or movement within the content or background of the sign. It has also been determined that such flashing or dynamic movement can detract from the character of neighboring residential areas.

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(b) Time and temperature appear to be exempt from the above statement, as they are short, easily absorbed and become inaccurate without frequent changes.

(c) Despite safety concerns, the city finds merit in allowing the use of such technology when controlled by certain restrictions which still allow the signs to provide information in an efficient manner. The following restrictions are intended to minimize distractions to drivers, impact on the character of neighboring residential districts and the northwoods character of the community.

(2) For the purposes of this chapter, a ***DYNAMIC SIGN*** shall be defined as any sign that can change content by any method other than physically removing and replacing the content of the sign, and portions thereof. This shall include the use of technology such as LED lights or other method which may allow the sign to blink, scroll, or change content through digital input.

(3) Dynamic signage shall be allowed in the city, but shall be subject to the following restrictions:

(a) Restrictions shall apply to any sign which is free-standing, roof-mounted, placed on a building wall, or in a window of a building as to be viewed from outside the premises. Dynamic signs in a window, less than three square feet in area posting easily absorbed information such as "Open," "Closed," or "ATM," etc. shall be exempt from the restrictions.

(b) Dynamic signs shall not be allowed on any residentially or urban reserve zoned property, and shall not be located within the required setback from a public water body on commercial properties.

(c) Content of a dynamic sign shall not blink or flash.

(d) Changes in sign content shall not occur more than once every 15 seconds, except for changes necessary to update current time, temperature, and date information. If time, temperature, and date information is to be included on a display separate from other information, it shall be subject to the above 15-second limit also.

(e) Brightness Standards.

1. The following brightness standards are required for all dynamic display signs:

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a) No sign shall be brighter than is necessary for clear and adequate visibility.

b) No sign shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

c) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

2. The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made within one hour upon notice of non-compliance from the city.

(f) Where access to the Minnesota Amber Alert technology is available, all applicants for freestanding sign licenses employing electronic dynamic sign technology shall display such messages as they are made available by the Minnesota Department of Public Safety or other responsible agency.

(g) Transition from one static display to another must be instantaneous without the use of special effects not limited to fading, moving, or blinking. Changes in content must be accomplished in one second or less.

(h) Dynamic signs shall be equipped to freeze or discontinue display in the event of a malfunction.

(Prior Code, § 8.06, Subd. 2) (Ord. 05-05-07, passed 5-2-2007; Ord. 11-01-08, passed 11-03-2008; Ord. 10-015, 3<sup>rd</sup> series, passed 10-04-2010; Ord. 11-12, 3<sup>rd</sup> Series, passed 9-06-2011, Ord. 13-03, 3<sup>rd</sup> Series, passed 02-04-2013, Ord. 13-07, 3<sup>rd</sup> Series, passed 7-01-2013; Ord. 15-01, 3<sup>rd</sup> Series, passed 10-05-2015; Ord. 15-02, 3<sup>rd</sup> Series, passed 12/07/2015; Ord. 17-03, 3<sup>rd</sup> Series, passed 08-07-2017)

Penalty, see § 153.999

### **§ 153.062 PARKING AND LOADING.**

(A) On-site parking or garage space shall be provided in all districts, except as specifically exempted, with adequate drive access to eliminate the need to back onto collector streets or county highways. On-site parking spaces shall not be used for storage.

(B) Parking spaces shall be a minimum of 18 feet long and ten feet wide.

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(C) Parking shall be provided for principal structures at the following ratios unless modified by a conditional use permit:

(1) Two stalls per dwelling unit;

(2) One additional stall per employee in home occupation;

(3) One half stalls per dwelling unit, multi-family over 20 units per complex, motel and/or hotel units;

(4) One stall per three seats; churches and other assembly places;

(5) One stall per 200 square feet of office space;

(6) One stall per 200 square feet of retail space; and

(7) One stall per three seats for restaurants.

(D) On-site parking shall not be closer than five feet from a lot line.

(E) All parking shall be paved or provided with all weather surface and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge to a public water.

(F) More than one parking stall contiguously located and any commercial parking adjacent to residential shall be landscaped according to a plan approved by the Planning Commission.

(G) All required loading berths shall be off-street and shall be located on the same lot or adjoining lot as the principal use served. Loading shall not occupy front yard space except in the Business Park District. Berths shall not be used for storage in excess of eight hours.

(H) Loading berths shall be no less than 15 feet in width and 50 feet long with 14 feet of vertical clearance. Berths shall have all weather surface and be well drained.  
(Prior Code, § 8.06, Subd. 3)

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### **§ 153.063 NUISANCE STANDARDS.**

(A) *Compliance required.* Every use permitted by this chapter shall be so established and maintained as to comply with the provisions of this section. The existence of any nuisance shall be reported to the city. An action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered. The Council may require the complaining party to provide the tests or investigations by an independent testing organization satisfactory to the Council as are necessary to show non-compliance with these standards. The entire cost of the investigations and tests shall be paid for by the complaining party unless the results disclose non-compliance with these standards; in that event, the entire cost shall be borne by the owner or operator. This provision does not preclude the city from making any investigations and tests it finds appropriate to determine compliance with these standards.

(B) *Prevalence of higher standards.* In any case where the provisions of this section impose a higher standard than set forth in any other ordinance of the City of Breezy Point, the County of Crow Wing or under the laws of the State of Minnesota, then the standards as set forth herein shall prevail; but if the provisions of this section impose a lower standard than any other ordinance of the City of Breezy Point, Crow Wing County or of the laws of the State of Minnesota, then the higher standard contained in any other ordinance or laws shall prevail.

(C) *Effect on other provisions.* No license, permit or other certification of compliance with this section shall constitute a defense against any violation of any other local ordinance applicable to any structure or premises or use of the structure or premises, nor shall any provision herein relieve any owner, operator, lessee, tenant or occupant from complying with any other provision or any official of the City of Breezy Point from enforcing any other provision.

(D) *General.* A public nuisance is a thing, act, occupation, condition or use of property which shall continue for the length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public, in any way render the public insecure in life or in the use of property, substantially offend the public morals or decency, unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any sidewalk, street, alley, highway, navigable body of water or other public way.

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(1) Attractive nuisances which may prove detrimental to the health or safety of children, whether in a building, on the exterior of premises or upon an unoccupied lot, including but not limited to: abandoned wells, shafts, basements, excavations, swimming pools, ice boxes, refrigerators, motor vehicles, boats, boat lifts, fish houses, docks, campers, and/or recreational vehicle, structurally unsound fences or structures and/or trash or debris which may prove hazardous for inquisitive minors.

(2) Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.

(3) Unsanitary conditions or anything significantly offensive to the senses or dangerous to health in violation of this section. This includes the slaughtering of animals kept for animal husbandry.

(4) Fire hazards, which shall include, but not be limited to, the maintenance and/or storage of combustible materials, the maintenance and/or storage of flammable chemicals and/or the maintenance of an uncontrolled open fire per state, county and local Fire Code.

(5) Any public nuisance recognized in common law of the state or in equity jurisprudence or as provided by the statutes of the State of Minnesota, the ordinances for the County of Crow Wing, or the ordinances of the City of Breezy Point, is also a nuisance under this section.

(a) *Structural and general maintenance so as not to constitute blighting factor.* The exterior of the premises, the exterior of structures and the condition of accessory structures, including fences, shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor depreciating the property value for adjoining property owners. The maintenance shall include the following:

1. The exterior of every structure or accessory structure, including fences, shall be maintained in good repair. The same shall not have conditions reflective of deterioration or inadequate maintenance, to the end that the property itself may be preserved and adjoining properties protected from blighting influences. All buildings or structures shall not be so dilapidated, or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

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2. Maintenance of residential structures shall be of standard quality and appearance such that the materials used will not be of a kind that, by their appearance under prevailing appraisal practices and standards, would depreciate the values of the neighboring and adjoining premises as aforesaid.

3. Premises with landscaping and lawns, hedges and bushes shall be kept from becoming overgrown and unsightly where exposed to public view and where the same constitutes a blighting factor depreciating adjoining property values.

4. Within one year and one month from the date of issuance of a construction permit in a residential zone, all constructions debris and remnants of construction materials including, but not limited to: lumber, brick, block, dry wall, insulation materials, tar paper, shingles, siding, paint cans and plastic sheeting shall be removed from the site or stored inside as to not be visible from any area beyond the affected property lines. In addition, any and all disturbed soils, filled and excavated areas not covered by structures or the driving surface of the driveway shall be restored and/or replanted with a vegetative ground cover, such that erosion is minimized and it is not unsightly where exposed to public view and where the same constitutes a blighting factor.

5. No person shall allow a building, manufactured house or other structure to be abandoned, deteriorate and become a safety hazard. The Zoning Administrator shall determine if a structure is a safety hazard and if so, shall order its removal. The removal shall take place within 30 days of the order. If the owner fails to remove the structure, the city may do so and assess the cost against the property through the county taxation method.

(b) *Nuisances and unsanitary conditions.* The exterior of all premises and structures or parts of structures erected, repaired or altered and located on the premises shall be kept free of all unsanitary conditions, all nuisances and any hazards to the safety of by-passing pedestrians and other persons utilizing the premises. Any of the foregoing shall be removed and abated by the owner, lessee, occupant and/or operator, and other conditions removed where necessary to eliminate hazards, dangers or unsanitary conditions. It shall be the duty of the owner, lessee, occupant and/or operator to keep the premises and/or structure free of safety and health hazards, which include, but are not limited to, the following:

1. Garbage, rubbish, refuse, trash and debris, brush, noxious growth,

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dead and dying trees, limbs, stumps, roots or other natural growth that, by reason of rotting or deteriorating conditions or storm damage, excluding controlled compost piles, constitute a hazard or potential hazard to persons in the vicinity thereof.

2. Trees and shrubs installed along or projected over a public right-of-way in such a manner that their installation and/or improper maintenance poses a threat to pedestrians or operators of motor vehicles utilizing the public right-of-way, as determined by the Director of Public Safety or his or her representative.

3. Neglected holes, excavations, breaks, projections, obstructions, loose and overhanging objects and accumulations of ice and snow, icy conditions, uncleared snow, excretions of pets and other animals on paths, walks, driveways, streets, parking lots and parking areas and other parts of the premises which are accessible to and used by persons on the premises. All the hazardous holes and excavations shall be filled and repaired, walks and steps repaired or replaced, and other conditions removed where necessary to eliminate hazards, dangers or unsanitary conditions with reasonable dispatch upon their discovery. This provision does not apply to single-family residential dwellings and/or land use.

4. Adequate runoff drainage and collection shall be maintained on the premises to eliminate recurrent or excessive accumulations of surface and/or storm water.

5. All parts of the premises shall be maintained so as to prevent infestation.

6. Every owner or occupant of land or, if the land is unoccupied, the owner or resident agent, shall manage noxious weeds as per the laws of the state.

7. No owner, lessee, occupant and/or tenant of a residential property in the City of Breezy Point shall rake, blow, push and/or drag leaves and/or lawn clippings or snow from his or her property onto the public streets of the City of Breezy Point and/or into public waters or neighboring properties without permission.

8. It shall be a nuisance and an offense for any person to illegally store or permit the storage or accumulation or dispose of debris, garbage, junk, refuse, rubbish, trash or other wastes on any private property within the city.

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(c) *Noise.* Noise shall be measured on any property line of the tract on which the source of the noise is located. Noise shall be so muffled as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line of the tract on which the source of noise is located, the limits measured for 10% (L10) and 50% (L50) of a one-hour period, using a sound level meter having the characteristics as specified in the latest standards S1.4-1983 of the American National Standards Institute, specification for sound level meters and using procedures approved by the Pollution Control Agency. In addition, no persons shall make or cause to be made, any impulsive and loudly audible noise that injures or endangers the comfort, repose, health, peace, safety or welfare of any persons or precludes their enjoyment or affects their property value.

<i>Adjoining Property Zone</i>	<i>Time</i>			
	<i>Day - 7:00 a.m. - 10:00 p.m.</i>		<i>Night - 10:00 p.m. - 7:00 a.m.</i>	
	<i>L10 - L50</i>		<i>L10 - L50</i>	
Decibels, Residential	60	55	50	45
Decibels, Commercial	65	60	65	60

(d) *Odor.* No use shall cause the discharge of toxic, nuisance or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort or welfare or cause injury to property or business.

(e) *Glare.* Direct or reflected glare, such as from floodlights, spotlights or high temperature process, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line. Any lights used for exterior illumination shall be directed away from adjacent properties. Lights used for externally lighting of signs shall be shielded from any roadway.

(f) *Vibration.* Vibration at any property line shall not be discernible to the human sense of feeling for three minutes or more duration in any one-hour period. Vibration of any kind shall not produce at any time an acceleration of more than one-tenth gravitons or result in any combination of amplitudes and frequencies beyond the safe range of Table VII, United States Bureau of Mines Bulletin No. 442, *Seismic Effects of Quarry Blasting* on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.

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(g) *Smoke*. Smoke shall be measured at the point of emission by the Standards of the United States Bureau of Mines in Circular No. 7718. Smoke not darker or more opaque than No. 1 on that chart may be emitted except that smoke not darker or more opaque than No. 3 on the chart may be emitted for a period not longer than four minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color, but with an equivalent opacity. Open burning shall require a DNR burning permit.

(h) *Dust*. Solid or liquid particles shall not be emitted at any point in concentrations measurement of the amount of particles in gases resulting from combustion, standard exceeding 3/10 grains per cubic foot of the conveying gas or air. For corrections shall be applied to a stack temperature of 500° F and 50% excess air.

(i) *Fumes or gases*. Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive. The values given in Table I (Industrial Hygiene Standards-Maximum Allowable Concentration for eight-hour day, five days per week), Table III (Odor Thresholds), Table IV (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5, *Physiological Effects* that contains the tables, in the *Air Pollution Abatement Manual* published by the Manufacturing Chemists' Association, Inc., Washington, D.C., are hereby established as guides for the determination of permissible concentration and amounts. The city may require detailed plans for the elimination of fumes or gases before the issuance of a zoning permit.

(j) *Fire hazards*. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by the safety devices as are normally used in the handling of the materials. The hazards shall be kept removed from adjacent activities to a distance which is compatible with the potential danger involved.

(k) *Air pollution*. Every activity shall conform to state regulations relating to air quality standards and air pollution control.

(l) *Erosion*. No activity shall be carried on in such a way that water, soil or any objectionable substance is carried on to any adjacent property.

(m) *Radioactivity or electrical disturbance*. No activity shall emit dangerous radioactivity at any point or any electrical disturbance adversely affecting the operation

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of any equipment at any point beyond the property line containing the activity. Adverse effects shall be measured by FCC standards.

(n) *Fertilizers, herbicides and pesticides.* No person shall place, spread or store fertilizers, herbicides, and/or pesticides in any manner other than that recommended by the manufacturer, or in any manner which allows any escape of nutrients or toxins into the air, ground water or surface water of the city.

(E) *Designation of public officer (See also § 153.115).* The Zoning Administrator is hereby designated to serve as the public officer hereunder, and all inspections, regulations, enforcement and hearings on violations of the provisions of this section, unless expressly stated to the contrary, shall be under his or her direction and supervision. He or she may appoint or designate the other local public officers or employees to perform duties as may be necessary to the enforcement of this section, including the making of inspections and the holding of hearings.

(F) *Notices, violation and issuance of complaint.* Whenever the public officer, or his or her designee, determines that a complaint results in a violation of this section, or has reasonable grounds to believe that a violation has occurred, he or she shall issue and cause to be served in accordance with this section upon the owner, occupant or other parties in interest in the premises a notice, in writing, by stating a description of the property and the reasons for the issuance, allowing a reasonable time for abatement or repairs of the violation. In addition, the notice shall state that a hearing may be requested by property owner or his or her agent to be held before the public officer or his or her designated agent at a place in the city not less than ten nor more than 20 days after the service of the notice of violation.

(G) *Filing of complaint.* In addition to the action prescribed in of this section, if, after the expiration of the time for abatement in the notice of violation or after a hearing before the public officer, it is determined that a violation does exist, the public officer may authorize a criminal citation to be issued by the Breezy Point Police Department.

(H) *Failure to comply and assessing cost of abatement.* Whenever any person fails to abate a nuisance after notice by the city to do so, or whenever the nature of a nuisance requires its immediate abatement, the city may abate the nuisance, and the cost thereof shall be assessed against the property on which the nuisance was located and certified as other taxes are certified. If the owner fails to comply with an order to

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repair, alter or improve or, at the option of the owner, to vacate and close a building, the public officer may cause the building to be repaired, altered or improved or to be vacated and closed. In such event, the public officer may cause to be posted on the main entrance of any building so closed a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupancy of this building is prohibited and unlawful". If the owner fails to comply with an order to remove or demolish the building, the public officer may cause the building to be removed or demolished or may contract for the removal or demolition thereof after advertisement for and receipt of bids therefore. (See also division (D)(5)(a)4.).

(I) *Appeals* (See also § 153.120(H)). If after a notice of a decision of the public officer, or his or her designee, upon conclusion of a hearing as set forth in this section, the person or persons affected thereby disagree with the decision of the public officer because of an alleged misinterpretation of this section and its intent, then the person or persons shall have the right of appeal to the Board of Adjustment of the City of Breezy Point within 15 days of the decision of the public officer. The notice shall be in writing and filed with the City Clerk-Treasurer of the City of Breezy Point, with a copy to be filed with the public officer. The filing of any appeal shall stop any other actions instituted under this section, except as provided in this section. If the findings of the Board of Adjustment are that the intent of the ordinance was misinterpreted, then their decision shall be final. The appellant shall have the right of appeal to the City Council.

(J) *Costs to become lien*. The amount of the cost of the filing of legal papers, fees of expert witnesses, search fees and advertising charges incurred in the course of any proceeding taken under this section determined in favor of the municipality, as well as the cost of the repairs, alterations or improvements or the vacation, enclosing or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of the materials derived from the building or from any contracts for removal or demolition thereof, shall be a municipal lien against the real property upon which the cost was incurred. The public officer shall certify the costs thereof to the governing body, which shall examine the certificate and, if found correct, shall direct the City Clerk-Treasurer to charge the cost against the subject lands. The amount so charged shall forthwith become a lien upon the lands and shall be added to and become and form part of the taxes, and a copy thereof shall be forthwith forwarded to the owner by certified mail, return receipt requested. If the total of the credits exceeds the costs, the balance remaining shall be deposited in a special fund in the City of Breezy Point. The sum shall be secured in the manner as may be directed by the court and shall be disbursed according to the order or judgment of the

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court to persons found to be entitled thereto by final order or judgment of the court; provided, however, that nothing in this section shall be construed to impair or limit in any manner the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. Any owner or party in interest may, within 60 days from the date of filing of the lien certificate, proceed in a summary manner in District Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate.

(K) *Service of complaints or orders.* Complaints or orders issued by the public officer, or his or her designee, pursuant to this section shall be served upon persons either personally or by certified mail, return receipt requested, at the address listed in the most recent tax duplicate on file in the offices of the Crow Wing County Treasurer, but if the whereabouts of the person are unknown and the same cannot be ascertained by the public officer, then, upon the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, the serving of the complaint or order upon the persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the City of Breezy Point or, in the absence of the newspaper, in one printed and published in the county and circulating in the City of Breezy Point. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall be duly recorded with the Recorder's office of the County of Crow Wing.

(L) *Emergencies.* Whenever the public officer, or his or her designee, finds that an emergency exists which requires immediate action to protect the public health or safety, he or she may, without notice or hearing, issue an order requiring that the action be taken as he or she determines necessary, applying the statutes and provisions of this section to meet the emergency, and the order shall be effective immediately, and any person to whom the order is directed shall be obliged to comply immediately. Any person may petition to the public officer for a hearing on the order, which hearing shall be conducted not later than five days after receipt of the petition. The provisions of this section to charge the cost and make them assessable as taxes shall apply to the emergencies.

(M) *Reporting of violations of additional regulations.* Any violation of any city ordinance other than this section discovered in the enforcement of this section shall be reported to the public officer, who shall refer the alleged violation to the official or agency responsible for the enforcement of the ordinances.

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(Prior Code, § 8.06, Subd. 4) Penalty, see § 153.999

### **§ 153.064 FENCE STANDARDS.**

(A) Fences not exceeding 72 inches in height may be constructed on a property line except within the waterfront setback area of any Shore Land District. Under no circumstances shall a fence be constructed closer than ten feet from the shoulder of a public road.

(B) Fences not meeting the requirements of division (A) above shall require a conditional use permit.

(C) Fences shall not be erected where they create a safety hazard in the opinion of the Zoning Administrator.

(D) Fences shall consist of usual fencing materials with posts and fence of metal, wood, composite wood, concrete, stone, brick or smooth wire.

(E) Finished sides of fences shall face out from the interior of the property so as to not negatively affect neighboring properties. Posts shall be constructed on the interior side of the fence.

(Prior Code, § 8.06, Subd. 5) (Ord. 10-01-09, passed 10-5-2009)

### **§ 153.065 STORAGE; SCREENING.**

(A) Exterior storage- The City realizes the possible negative effects that excess outdoor storage of material and equipment can have on neighboring property values and enjoyment of property by creating a cluttered look, along with the possible safety hazards it can create. While the City sees that outdoor storage of certain materials and vehicles is inevitable, it seeks to control such storage to preserve residential character, property values, and public safety. It should be realized that, while storage on some lots is appropriate, storage on smaller lots on which applicable setbacks can not be met can have a negative effect, and may not be allowed.

(1) All materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction and landscaping materials and equipment currently being used for construction of the premises, woodpiles, agricultural

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equipment and materials if these are used or intended for use on the premises and off-street parking except as otherwise regulated herein. Construction materials or equipment, including temporary storage facilities, shall be removed within 14 calendar days of the end of construction. No certificate of Occupancy will be issued until said items are removed. Fish houses are permissible on improved lots only if stored in the rear yard not less than the normal setback from any property line. Fish houses shall not be occupied as sleeping quarters or residential dwellings and must display a current license. For purposes of this section, improved lots shall mean improved by a primary structure.

(a) For the purpose of this section, the rear yard shall begin at a point behind a line extending out from the front face of any residential structure or accessory structure, whichever is closest to the right-of-way. In the case of lake lots, the rear yard shall begin on the lake side of the first residential structure or accessory structure. In the case of double frontage lots, the rear yard shall begin at the front of the first residential structure on the side of the right-of-way on which the property is addressed.

(2) Boats and recreational vehicles shall be allowed to be parked and/or stored outside a building on private and/or public property up to a cumulative total of 21 days per calendar year. Exception: Boats and recreational vehicles less than 30 feet in length may be stored in the rear yard (off-lake lots only) not less than the normal setback from any property line.

(a) Boats and recreational vehicles over 30 feet in length, including snowmobiles, jet skis, trailers, and other recreational motor vehicles as defined by State Statutes, shall be allowed to be parked outside a building anywhere on public and/or private property for no more than a cumulative total of 21 days per calendar year to allow for repair, preparation for mooring, or transition to and from other storage arrangements. Boats, recreational vehicles, and recreational motor vehicles less than 30 feet in length may be parked outside of a building for a period not to exceed 21 consecutive days. Longer term storage is regulated as follows:

(b) Boats, recreational vehicles and recreational motor vehicles less than 30 feet in length stored outside in excess of 21 consecutive days shall be stored, in the rear of improved lots only, not less than the normal setback from any property line or ordinary high water mark (OHW).(Shall not exceed a total three of such vehicles)

(c) All boats, trailers, recreational vehicles and other recreational motor

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vehicles as defined by State Statutes stored outside more than 21 cumulative days per year shall display a current license or watercraft registration if required by the State of Minnesota.

(d) For the purpose of this section, snowmobiles, jet skis, motorcycles, or other recreational motor vehicles as defined by State Statutes stored on a single trailer less than 30 feet in length shall be considered as one.

(e) Exceptions:

1. Watercraft normally maintained year-round on permanent lifts, track systems or stands as the normal usage location are not considered as stored under this section.

2. Non-motorized watercraft nine (9) feet in length or less that do not require watercraft registration by the State of Minnesota are not considered as stored under this article, so long as normal setbacks are maintained.

3. Storage on lots in excess of one acre in area, or where storage is not visible from other properties, right-of-ways, or public waters during leaf-off conditions shall be exempt from above requirements, so long as required setbacks and licensing can be maintained.

(3) Abandoned vehicles shall not be stored outside in any district. Existing abandoned vehicles shall be removed within 30 days after the adoption of this chapter.

(B) Bulk storage. All uses associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshal, The Minnesota Pollution Control Agency and Minnesota Department of Agriculture Office, and when in excess of normal domestic requirements, shall have documents from those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete dicing. (Prior Code, § 8.06, Subd. 6) (Ord. 10-012, 3<sup>rd</sup> series, passed 9-07-2010; Ord. 17-03, 3<sup>rd</sup> Series, passed 08-07-2017)  
Penalty, see § 153.999

### **§ 153.066 VISUAL STANDARDS.**

(A) No use shall create, maintain or continue any activity or structure which has a

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strong negative impact or violates the standards of the city.

(B) Where any business or industry is adjacent to property zoned residential or any use can not meet the visual standards of the city, screening shall be provided by the business or offending use.

(C) Screening required shall be in addition to normal landscaping and planting and consist of a visual obstruction completely containing the activity on the commercial or offending use property, assuming leaf-off conditions.

(D) Screening may consist of dense evergreen plantings eight feet or more in height, wood walls with 100% obstruction, a building wall consisting of aesthetically pleasing materials (with no signing) or similar structures. All structural elements shall meet required setbacks, except fences.

(Prior Code, § 8.06, Subd. 7) Penalty, see § 153.999

### **§ 153.067 SANITATION STANDARDS.**

(A) *Solid waste.* All solid waste shall be disposed of in accordance with state statutes, rules and the standards and regulations of Crow Wing County and the City of Breezy Point, as amended. Brush piles, yard wastes and compost piles containing no putricible materials are permitted. All accumulations of solid waste, including but not limited to, debris, garbage, junk, refuse, rubbish and trash shall be collected, managed and removed per laws of the state, and ordinances of the county and city. All solid waste materials, debris or refuse shall be kept or properly contained in a closed container designed for such purposes, except within a completely enclosed building or upon the premises of a properly zoned business and which materials that otherwise would constitute junk, trash or rubbish are materials that are used in the ordinary course of that business. All liquid wastes containing any organic or toxic matter shall be either discharged into a public sanitary sewer with permission of the city, or treated in a manner prescribed by the Public Works Director or his or her designee.

(1) All residents and occupants of residential properties in the City of Breezy Point are lawfully obliged to maintain the area where the garbage cans, trash cans, pails, garbage bags and/or other receptacles are placed for collection in a neat and orderly fashion, taking all reasonable and required steps to see to it that lids on garbage cans and trash cans, pails and other receptacles are in place and that garbage bags are securely tied and that no garbage, trash or refuse is allowed to lie upon the ground or scatter through the neighborhood pursuant to the laws of the state and

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ordinances of the county and the city.

(2) All owners and occupants of commercial and business establishments are obliged to maintain their place of collection of garbage, trash or other refuse in a neat and orderly fashion, taking all reasonable and required steps to see to it that lids on garbage cans, trash cans, pails and other receptacles are in place and that no garbage, trash or refuse is allowed to lie on or upon the ground or scatter through the neighborhood. All business establishments utilizing dumpsters for the receipt of garbage, trash or other refuse are obliged to maintain the facilities in a neat and orderly fashion.

(B) *Domestic sewage.*

(1) All structures shall discharge into a municipal sanitary system if available.

(2) All structures shall have an individual or common sewage disposal system meeting the requirements as provided in § 153.008(B), Minnesota Pollution Control Agency Rules, Minn. Rules, Chapter 7080 and subsequent amendments and Crow Wing County Ordinance for Individual Sewage Treatment Systems and subsequent amendments. Building sewers to be connected to the municipal sewer system shall be schedule 40 PVC or other pipe approved for pressure use and tested with air pressure according to Minnesota Health Department Standards.

(3) All non-conforming systems shall be brought into conformance as provided in § 153.007(C).

(4) Sewage tanks being abandoned shall be thoroughly pumped and filled with soil.

(5) The owner of any holding tank within the city shall be required to pay an annual fee and to annually provide the following: domestic water meter readings and pumping records certified by a certified pumper, except Whitebirch Camping Cluster I which shall adhere to the agreement between the city and the Campers Associations.

(6) All owners of individual on-site sewage treatment systems shall have the system inspected once each three years by a certified pumper or installer.

(a) The person inspecting the system shall examine the septic tank and

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determine the need for pumping in accordance with Minn. Rules, § 7080.0130 Subpart 5A.

(b) The person inspecting the system shall provide to the city a statement that the system is in good working order, or specifying any defects discovered and the date the defects were/will be corrected. The form shall also indicate if the septic tank was pumped. This statement shall be on a report form provided by the city and returned to the Zoning Administrator.

(7) The Zoning Administrator shall maintain a file by legal description and shall notify any delinquent property owner when six months have elapsed beyond the required three-year period.

(8) The Zoning Administrator, or assistant, shall have the authority to verify the above inspections and/or conduct inspections on behalf of the city.

(C) *Agricultural or animal waste.* Within the shore land area, 1,000 feet from a lake or 300 feet from a watercourse, no waste products from agriculture or animal husbandry operations shall be deposited by man at any greater rate than the plant and soil system can absorb the nutrients; nor shall any wastes be allowed to accumulate where surface waters flow directly to public waters or watercourses. No livestock shall be allowed to water directly in a stream or public water.

(D) *Water supply.*

(1) All structures shall be connected to a municipal water supply if made available.

(2) All water systems shall meet the requirements of the Minnesota Department of Health Standards for water systems.

(3) All wells being abandoned shall be sealed according to the Minnesota Department of Health Standards and reported to the Minnesota Department of Health and the city.

(E) *Non-residential holding tanks.* The following conditions shall be required for holding tanks provided for in the RUA zones:

(1) The applicant shall obtain an interim use permit for the sewage treatment

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system;

(2) The on-site septic system shall consist of a holding tank without any dispersion field or drainfield;

(3) The applicant's property shall not have impervious coverage exceeding 25% of the total property area. If the impervious coverage exceeds 25%, then a stormwater management plan acceptable to the city shall be required of the applicant. Impervious coverage shall not, in any case, exceed 50% as detailed in this chapter;

(4) A water meter shall be installed on-site in an accessible location so that water usage can be monitored and the holding tank pumped when needed;

(5) The applicant shall submit a monitoring and disposal plan, signed by the property owner and a licensed pumper. The applicant shall also submit a copy of a contract for disposal and treatment of wastes generated from the system;

(6) The system shall be inspected annually by a certified pumper or installer:

(a) The person inspecting the tank shall provide the city with a statement that the system is either in good working condition or specifying any deficiencies discovered during the inspection and a time frame for repair. The form shall also indicate whether the tank was pumped. This statement shall be on a report form provided by the city.

(b) The Zoning Administrator shall maintain a file by legal description and shall notify any delinquent property owner when three months have elapsed beyond the required one-year period.

(7) Floor drains shall drain into the holding tank; and

(8) The hangar shall not be used as a dwelling unit.  
(Prior Code, § 8.06, Subd. 8) Penalty, see § 153.999

### § 153.068 PETS AND LIVESTOCK.

(A) Pets shall be defined as provided in § 153.003. Animals kept by persons within the city which are normally considered wild shall require an interim use permit and

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appropriate state permits.

(B) Dogs shall be kept in conformance with § 90.01 through 90.13 of the Breezy Point City Code pertaining to the keeping of dogs within the City of Breezy Point. Pets shall be properly cared for, shall not be allowed to create problems for neighbors or the city or become a nuisance and shall have sanitary conditions maintained. Dog houses shall meet the requirements of the state statute.

(C) Livestock may be raised as provided in zoning districts with proper permits provided that the standards of each district are not compromised.

(D) Livestock shall be properly cared for, shall not create problems for neighbors or the city or become a nuisance, and shall have sanitary conditions maintained.

(E) Livestock such as cows, horses, goats, sheep, swine and the like are allowed where the minimum lot area can be met for each animal in the zones they are permitted. The number of animals allowed shall be calculated on an animal unit basis as outlined in § 153.003(B) using the following formula: available lot area in square feet divided by 43,560 divided by animal unit ratio equals numbers of animals allowed.

(Prior Code, § 8.06, Subd. 9)

### **§ 153.069 TREE REMOVAL, WOODLAND PRESERVATION, SOIL EROSION.**

(A) Diseased trees shall be removed immediately and disposed of as firewood or by other burning. Branches shall also be burned.

(B) Vegetation removal, clear cutting, if allowed, must include removal of all debris. Soil erosion must be prevented and replanting is encouraged.

(C) Vegetation removal, select or open cutting, if allowed, must be complete including removal of all debris. Replanting is encouraged.

(D) Natural areas designated by conditions on conditional use permits for screening or woodland preservation purposes shall be left natural except for removal of diseased trees. Replanting or thickening with native species is encouraged.

(E) Any area disturbed during any grading operation shall have the native topsoil replaced and be seeded with perennial grasses.

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(F) Vegetation alterations necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the above standards, except division (E) above. All debris shall be removed.

(Prior Code, § 8.06, Subd. 10)

### **§ 153.070 DRAINAGE STANDARDS.**

#### (A) *General.*

(1) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharged to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

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

(4) When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the Local Soil and Water Conservation Districts.

(B) *Surface and subsurface runoff.* All development shall contain provisions for adequate surface or subsurface runoff of storm water and snow melt directed to natural drainageways. A storm frequency of a five-year return period shall be provided for with flooding of structures or ponding.

(C) *Natural drainageways.* All development shall provide for the continuance of natural drainageways, and structures shall be so constructed as to be one foot above the water level in the drainageway created by a storm of a 100-year return period or a 1% chance of occurrence.

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(D) *Drainage structures.* All drainage structures provided shall be sufficient in size to pass a five-year storm to a natural drainageway and to pass a 100-year storm along a drainageway.

(E) *Stormwater storage areas.* The use of natural or man-made stormwater storage areas is encouraged. These areas should be vegetated and designed to naturally lower after a storm.

(F) *Filling areas.* No filling of areas inundated by the 100-year storm along drainageways shall be allowed, except by conditional use permit.

(G) *Places for entrapment of materials.* All parking areas, heavy use areas, storage areas and impervious area shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway or public water. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(H) *Erosion control.* Erosion control measures shall be provided where necessary in the opinion of the Engineer. All areas disturbed during any grading shall be covered with topsoil and seeded. Areas subject to concentrated runoff or steeper than 3:1 shall be sodded or seeded and protected with an appropriate mulch cover as directed by the Engineer.

(I) *Wetlands.* Wetlands shall be excluded from the lot size in determining impervious surface calculation.

(Prior Code, § 8.06, Subd. 11)

### **§ 153.071 GRADING IN SHORE LAND AREAS.**

(A) Grading and filling in shore land areas including ice ridges, wetlands or in the bed of public waters, or any alterations of the natural topography when the slope of the land is toward a public water or watercourse involving the movement of more than ten cubic yards of material in a bluff or shore impact zone or more than 50 cubic yards of material anywhere else within a shore land area, must be authorized by permit except for excavation for permitted structures, drives, sewer systems and parking areas. The following conditions shall apply:

(1) The smallest amount of bare ground is exposed for as short a time as

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feasible;

(2) Four inches of topsoil is replaced and temporary ground cover such as mulch is used and permanent ground cover such as sod is planted;

(3) Methods to prevent erosion and trap sediment are employed;

(4) Fill is stabilized to acceptable engineering standards and must not create an unstable slope;

(5) Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater;

(6) Fill or excavated material must not be placed in bluff impact zones;

(7) Fill placed in a public water below the ordinary high water line requires a DNR Waters permit and a Corps of Engineers permit;

(8) Excavation in the bed of public waters requires a DNR Waters permit and/or a Corps of Engineers permit. Maintenance of any excavation shall be the responsibility of the permittee;

(9) Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere;

(10) Alterations to topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties;

(11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level and the height of the riprap above the ordinary high water level does not exceed three feet; and

(12) The owner of any shoreline is responsible for the maintenance of and erosion prevention of that shoreline.

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(B) Grading or filling in any type two, three, four, five, six, seven or eight wetland is prohibited except by variance. A no net loss provision shall be a condition to any variance. DNR and Corps of Engineers permits shall be acquired by the applicant also.

(C) Connections to public waters of man-made boat slips, canals, lagoons, harbors and similar inland excavations is prohibited.

(D) Public and private roads, driveways and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from public waters.

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

(2) Public and private watercraft access ramps, approach roads and access-related walkways, paths, trails and parking areas for both motorized and non-motorized traffic 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 division (A) above.

(E) The potential for possible soil erosion impacts and development visibility from public waters must be evaluated before issuing a permit involving ground disturbance on steep slopes. Conditions must be attached to the permit to prevent erosion and to preserve maximum existing vegetation.

(Prior Code, § 8.06, Subd. 12) Penalty, see § 153.999

### **§ 153.072 EXTRACTIVE USE STANDARDS; MINING.**

(A) *Permit.* In all districts where permitted, mining shall be permitted only by conditional use permit. The permit shall include as a condition: a site plan, a completion plan and a haul route plan with provision for road restoration.

(B) *Excavation and extraction.* All excavation and extraction shall conform to the following:

(1) *Distance from property lines.* No quarrying operation shall be carried on or any stock pile placed closer than 50 feet from any property line, unless a greater

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distance is specified by the conditional use permit where such is deemed necessary for the protection of adjacent property, provided that this distance requirement may be reduced to 25 feet only with written consent of the owners of the affected adjacent non-residence property.

(2) *Distance from public right-of-way.* In the event that the site of the mining or quarrying operation is adjacent to the right-of-way of any public street or road, no part of the operation shall take place closer than 50 feet to the nearest line of the right-of-way.

(3) *Fencing.* Fencing shall be erected and maintained around the entire site or excavated portions thereof and shall be of a type specified by the conditional use permit.

(4) *Equipment.* All equipment and machinery shall be operated and maintained in such a manner as to minimize dust, noise and vibration. Power drives or power producing machinery not including vehicles shall not be housed or operated less than 1,000 feet from a residential use district.

(5) *Processing.* Crushing, washing and refining or other similar processing may be authorized by the conditional use permit as an accessory use; provided, however, that the accessory processing shall not be in conflict with the use regulations of the district in which the operation is located. Processing shall not be permitted in the residential districts. All processing equipment shall be located at least 1,000 feet from any residence and 200 feet from the ordinary high water mark of any lake or stream.

(6) *Time.* All truck, asphalt and crushing operations must be conducted between 6:00 a.m. and 8:00 p.m., Monday through Saturday, except temporary asphalt operations which may take place occasionally during other hours, if an emergency or hardship exists, if approved by the Zoning Administrator, or his or her deputy. The owner and/or operator must notify the Breezy Point Zoning Administrator at least seven days prior to the commencement of crushing operations. An **EMERGENCY** or **HARDSHIP** is e.g., an unanticipated, unexpected, sudden, compelling set of circumstances, in the nature of unexpected, inclement, impending and severe weather or environmental conditions with potentially serious and substantial consequences to roads, equipment and structures.

(7) *Notifications.* Owner must notify, in writing, the Breezy Point Zoning

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Administrator as to who the operators are not less than seven days prior to start of operations allowed under a conditional use permit, and of any changes, additions or alterations thereafter. The notice shall include the name, address and contact person of each operator.

(8) *Nuisance.* The owner and/or operator shall assure that his or her employees, subcontractors and clients do not park or load on the public haul roads and that dust caused by operations be controlled so as not to constitute a nuisance or hazard, as determined by the city.

(9) *Holding pond.* A holding pond of adequate size, with an effective line, shall be established by the owner for recycling of water to be used in any washing process.

(10) *Safety precautions.* An entry gate shall be installed by the owner at entrances of excavation site and no trespassing signs shall be placed every 250 feet, with each succeeding sign visible from one to another along the border. Fencing, consisting of red or orange plastic safety type fence, shall be erected and maintained around the entire excavation site and unrestored area.

(11) *Soil restoration.* Before mining operation ceases each year, areas which have been exhausted and topsoil removed shall be replaced with black dirt or native topsoil sufficient to support vegetation. Restored banks of excavation not backfilled shall not be steeper than three feet horizontal and one foot vertical. All banks and restored areas are to be seeded and erosion control established and maintained.

(12) *Mapping.* Before a conditional use permit is issued, two full-scale, accurate maps, approved and received for filing by the Planning Commission, shall be completed, showing where buffer areas, haul roads and required restoration, will take place, pursuant to § 153.119(B). Proper buffer areas must be protected and restoration implemented, pursuant to § 153.072.

(13) *Dust control.* Bag house shall be the preferred method of dust control of any accessory uses allowed. If wet scrubbers are used, then the Zoning Administrator shall be notified and scrubbers are to comply to Minnesota Pollution Control Standards.

(14) *Plant runoff.* If any plant runoff occurs onto adjacent lands, then the National Pollutant Discharge Elimination System, also known as N.P.D.E.S./S.D.C., must be notified, and runoff shall be contained immediately.

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(15) *Approved drawings.* Owner shall designate, on approved drawings, the permitted five-acre mining area involved in the mining operation and accessory uses, prior to the issuance of a permit.

(16) *Size of mining area.* The permitted area of the mining operation and accessory uses, excluding stockpiling, shall not exceed five acres at any given time, in accordance with the MPCA requirements. If more than five acres are active or unrestored at one time, then additional financial security and storm water permits shall be required, as determined by the city.

(17) *Buffer zone.* The buffer zone, as defined in § 153.003 identified on the approved maps and plans and made a part of these conditions, shall not be used for any purpose except as may be permitted by the Planning Commission.

(18) *Security.* The owner shall be bonded or shall furnish approved security, pursuant to division (C) below in an amount not less than \$1,000 nor greater than \$10,000 per approved five-acre site, as a guarantee, that owner shall restore, reclaim and rehabilitate the land within a reasonable time (not to exceed one year) to the satisfaction of the city. Before bonds or securities are released, all conditions of the permit must be completed to the satisfaction of the city.

(19) *Annual review.* An issued conditional use permit shall be reviewed for compliance by the Planning Commission on an annual basis.

(20) *Other permits.* All other permits required for mining operation and accessory uses allowed under a to be issued conditional use permit shall be presented to the Zoning Administrator before the conditional use permit is issued, including all other governmental permits.

(21) *Dumping prohibited.* No dumping or stockpiling of any materials, foreign to permitted mining operation and accessory uses, shall be allowed.

(22) *Equipment maintenance.* The owner and/or operator shall adhere to good maintenance of equipment so as to minimize and/or eliminate leakage or spillage.

(23) *Leaks and spills.* In case of major leaks or spills, all mining operations and accessory uses allowed shall cease until the situation is corrected.

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(24) *Compliance.* The owner and/or operator must comply in all respects with pre-operation conditions, and the application submitted must be found fully and accurately to be complete prior to the issuance of a conditional use permit.

(25) *Terms.* Owners and operators, whether operators are lessees, independent contractors or otherwise, shall conform to the terms of the ordinance and any issued conditional use permit. Violation by either shall be grounds for revocation of an issued conditional use permit. All operators shall execute a document and shall file the same with the Zoning Administrator, acknowledging the existence of the conditions on an issued permit and agreeing to abide by and conform to them.

(C) *Rehabilitation.* To guarantee the restoration, rehabilitation and reclamation of mined-out areas, every applicant granted an extraction and/or mining permit as herein provided shall furnish a performance bond running to the city in an amount of not less than \$1,000 and not more than \$10,000 as a guarantee that the applicant, in restoring, reclaiming and rehabilitating the land and haul road shall, within a reasonable time and to the satisfaction of the city, meet the following minimum requirements:

(1) *Surface rehabilitation.* All excavation shall be made either to a water producing depth, with a water depth of not less than five feet or the surface of the area which is not permanently submerged shall be graded or backfilled to contour and shape the peaks and depressions thereof, so as to produce a gently drained surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.

(2) *Vegetation.* Vegetation shall be restored by appropriate seeds of grasses or planting of shrubs or trees in all parts of the mining area where the area is not to be submerged under water as herein above provided.

(3) *Banks of excavation not backfilled.* The banks of all excavations not backfilled shall be sloped not steeper than three feet horizontal to one foot vertical and the bank shall be seeded.

(4) *Additional requirements.* In addition to the foregoing, the conditional use permit may impose the other conditions, requirements or limitation concerning the nature, extent of the use and operation of the extraction and/or mining sites as the city may deem necessary for the protection of adjacent properties and the public interest, including but not limited to the following:

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(a) *Haul roads.* The owner and/or operator, while hauling material, may be required to maintain on a continuous basis, the haul roads and upon of each project, to refurbish the haul roads to an as good or better state than prior to start up of operation.

(b) *Furnishing materials.* Material for repair and/or maintenance of haul roads may be required to be furnished by the owner and/or operator, without charge or cost of any kind to city.

(5) *Comments, suggestions.* Comments, concerns and suggestions provided by recognized reviewers or the information and solutions presented and made a part of an Environmental Assessment Worksheet submitted to the Minnesota Environmental Quality Board by the city as responsible governmental unit on behalf of the proposer, together with the Environmental Assessment Worksheet itself, may be included by reference as conditions in a to be issued conditional use permit. The conditions and the amount of the performance bond shall be determined by the city prior to the issuance of the permit.

(D) *Application; contents; procedure.* An application for the operation shall set forth the following information:

- (1) Name of the owner or owners of land from which removal is to be made;
- (2) Name of the applicant making request for such a permit;
- (3) Name of person or corporation conducting the actual removal operation;
- (4) Location, description and size of the area from which the removal is to be made;
- (5) Location of processing plant use;
- (6) Type of resources or materials to be removed;
- (7) Proposed method of removal and whether or not blasting or other use of explosives will be required;
- (8) Description of equipment to be used;

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(9) Method of rehabilitation and reclamation of the borrow area; and

(10) Identification of haul roads.

(Prior Code, § 8.06, Subd. 13) Penalty, see § 153.999

### **§ 153.073 MISCELLANEOUS STANDARDS.**

(A) *Decks.* Decks may be added to shore land structures constructed prior to July 2, 1973, provided all the following apply:

(1) A thorough evaluation of the property and the structure reveals no reasonable location exists for a deck meeting or exceeding the waterfront setback;

(2) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing waterfront setback of the structure or does not encroach closer than 50 feet, whichever is more restrictive; and

(3) The deck is constructed primarily of wood and is not roofed or screened.

(B) *Stairways, lifts and landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed four feet in overall width on residential lots. Wider stairways may be used for commercial properties, public, open-space recreational properties and Planned Unit Developments;

(2) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area;

(3) Canopies or roofs are not allowed on stairways, lifts or landings;

(4) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion; and

(5) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the

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dimensional and performance standards in divisions (B)(1) through (4) above are complied with.

(C) *Fertilizer and pesticides.* Use of fertilizer and pesticides in the Shore Land Management District must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation or both.

(D) *Lots.* Lots joined together for zoning permit applications shall not be divided in the future, but shall be tied together with covenants and/or restrictions filed with the County Recorder permanently requiring that the lots be considered as one lot only.

(E) *Historical sites.* A significant historical site may not be modified, altered or built upon in a manner which affects the historical value or nature of the site and without consultation with the Minnesota Historical Society.

(F) *Recreational facilities.* Minimum facilities for limited camping shall include a fire permit, provision for wastewater, provision for water supply and provisions for solid waste, all recreational vehicles or other camping units shall be completely removed from the property after use during the allowed time limit, and no miscellaneous or storage structures shall be constructed or placed without permit.

(G) *References for timber management.* The *Best Management Practices for Minnesota for Agriculture and Water Quality* and Minnesota Pollution Control Agency, shall hereby be adapted as a reference for urban reserve areas. The *Best Management Practices for Minnesota for Water Quality in Forest Management* and Minnesota Pollution Control Agency, shall hereby be adapted as a reference for timber management in urban reserve areas.

(H) *Water craft uses.* Uses that require short-term water craft mooring for patrons must centralize these facilities and design them to avoid obstruction of navigation and to be the minimum size necessary to meet the need.

(I) *Commercial uses without water.* Commercial uses without water oriented needs must be located on lots or parcels without public water frontage, or must be setback double normal setback, water front or must be substantially screened from the water.

(Prior Code, § 8.06, Subd. 14) (Ord. 11-05, 3<sup>rd</sup> Series, passed 03-07-2011)

**§ 153.074 BUILDING DESIGN AND MATERIALS.**

All buildings shall be designed to accomplish the goals and polices of the Comprehensive Plan.

(A) Major exterior surfaces of all walls shall be wood, log brick, stone, stucco, glass, maintenance free vinyl or steel, concrete panels or decorative block. Under no circumstances shall sheet metal, corrugated metal, plain concrete block (whether painted or unpainted), canvas, plastic and/or vinyl sheeting, or other flexible material of a similar nature be deemed acceptable as major exterior wall materials on buildings located within R-1, R-2, R-3, R-4 and RC Zoning Districts in the city.

(B) All structures over 120 square feet must be designed to handle a minimum snow load of 42 pounds per square foot as per State Building Code.

(C) In order to prevent habitation by animals and to provide protection from the weather, masonry skirting including, but not limited to, concrete block, rock-faced block, brick, stone or simulated stone shall fully enclose the perimeter of any residential dwelling that is not supported by a perimeter foundation.

(D) With the exception of the Urban Reserve Zoning District, accessory structures shall be of similar color to that of the principal structure in all residential zoning districts.

(Prior Code, § 8.06, Subd. 15) (Ord. 06-02-06, passed 6-5-2006; Ord. 12-03-06, passed 12-4-2006; Ord. 09-01-07, passed 9-4-2007; Ord, 11-05, 3<sup>rd</sup> Series, passed 03-07-2011; Ord. 15-01, 3<sup>rd</sup> Series, passed 10-05-2015; Ord. 16-01, 3<sup>rd</sup> Series, passed 05-02-2016)

**§ 153.075 TEMPORARY STRUCTURES.**

(A) Temporary structures, such as but not limited to, tents, canopies, vinyl accessory structures or other structures of a temporary nature not meeting other provisions of this chapter shall be allowed without a permit for a period not to exceed 14 consecutive days, and/or 30 days per year, on improved properties only. A maximum of two temporary structures shall be placed on a property at any given time. The time restriction shall apply to the use of any temporary structure(s) and not be limited to a

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particular temporary structure(s). Such uses shall meet applicable side and right-of-way setbacks, and shall not be placed within the Shore Impact Zone or on common outlots.

(B) Awnings, canopies, screens, or other structures of a temporary nature, as determined by the Zoning Administrator, that are used to provide shelter and/or shade from outdoor elements within or over decks shall be exempt from the limitations outlined above.

(Ord. 08-01-09, passed 8-3-2009)

### **§153.076 OUTDOOR FURNACES**

(A) Findings- It is the purpose of this ordinance to establish and impose restrictions upon the construction, installation, and operation of outdoor furnaces within the City of Breezy Point. While it is realized that such mechanisms are beneficial as an efficient and cost effective means of providing heat to homes in the area cold months, the City also realizes that these mechanisms can create noxious and hazardous smoke, soot, fumes, odors and other emissions that can be detrimental to the health of the City's residents and the enjoyment of their property. The City therefore finds regulation necessary to lessen these possible effects.

#### (B) Requirements-

(1) All Outdoor furnaces shall be considered structures and shall be allowed to be installed by permit only and shall meet the requirements listed below. An inspection and Certificate of Compliance shall be required by the City to ensure that all requirements are met, and continue to be met. Failure to comply with standards set forth may result in revocation of the Certificate of Compliance by the City of Breezy Point.

(2) A Certificate of Compliance shall be issued by the Zoning Administrator upon successful inspection of the device by the Zoning Administrator and Building Inspector and prior to operation. The applicant shall sign a statement of agreement with terms of this section, and also acknowledge that the unit shall be subject to inspection at any time.

(3) All Outdoor furnaces operated within the City are required to meet both safety and emissions requirements set forth by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL). Operation of such units shall also be subject to

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Nuisance Standards set forth in Section 153.063 of the City of Breezy Point Zoning Ordinance and provisions for enforcement thereof.

(4) Outdoor furnaces operated within the City shall maintain a minimum setback of 50 feet from all property lines and 10 feet from any principal or accessory structure.

(5) Outdoor furnaces shall have an attached permanent stack or chimney to carry off smoke or exhaust from the unit. A minimum stack or chimney height of twenty (20) feet from the grade at which installed, and/or the height (as defined in 153.003, Building Height) of the highest structure within 300 feet which is not served by the unit, whichever is greater, shall be required to ensure that emissions are properly dispersed. Stacks or chimneys shall be of masonry or insulated metal and shall be constructed to withstand high winds or other elements.

(6) Outdoor furnaces shall burn clean fuel only. The burning of solid waste, treated or stained wood, composite wood products, construction debris, tires, garbage, petroleum products, refuse and other potentially harmful materials as defined or determined by the MPCA and/or EPA shall be prohibited.

(7) It is recommended that consideration be given by the property owner or installer to issues such as terrain and prevailing winds which may increase the level to which such a unit may become a nuisance to neighboring property owners.

(8) Outdoor Furnaces installed and operated in the Urban Reserve Zoning District shall be exempt from requirements listed above, except as required by the MPCA, State Building Code, or other State or Federal Agencies.

(C) Pre-existing, Non-conforming Units- All such units permitted prior to the adoption of this section shall be operated in compliance with this section except for distance and stack height requirements outlined in items 4 and 5 of this section. Pre-existing units shall obtain a Certificate of Compliance within 30 days of adoption of this ordinance. Pre-existing, non-conformities shall be listed on the Certificate of Compliance.

(Ord. 10-006, 3<sup>rd</sup> Series, passed 5-03-2010)

### **§153.077 WATER ORIENTED STORAGE STRUCTURES**

(A) Water Oriented Accessory Structure (storage shed) on Residential lots. One water oriented accessory structure may be placed with a zoning permit on a riparian

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residential lot provided the following standards are met.

(1) The structure must not exceed 12 feet in height and cannot occupy an area greater than 120 square feet.

(2) The setback of the structure from the ordinary high water level must be at least twenty (20) feet. The setback of the structure from the side yard must be at least ten (10) feet.

(3) The structure must be treated to reduce visibility as viewed from the public water and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the City, assuming summer, leaf-on conditions.

(4) Construction is compatible with principal structure.

(5) The maximum impervious surface limits are not exceeded.

(6) The structure shall not be located within a bluff impact zone.

(7) The structure shall not be used for human or animal habitation.

(8) The structure shall not include bathroom facilities.  
(Ord. 12-03, 3<sup>rd</sup> Series, passed 7-02-2012)

### ***SPECIAL PROVISIONS***

#### **§ 153.090 PLANNED UNIT DEVELOPMENT.**

(A) *General.* Planned Unit Development (PUD) requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, PUDs provide more latitude in land use than normal development to allow for planning, clustering facilities, consolidating green spaces and internal recreation amenities. While densities higher

than normal are often allowed, they must be justified by the preservation and consolidation of green space, increased screening and landscaping, increased recreational amenities and other significant improvements and design features beneficial to the residents, neighbors and the general public. Mixed-use PUD where

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appropriate, may be allowed by the city, provided the use not normally allowed in the zoning district does not exceed 35% of the building floor area.

(B) *Criteria.* The city must consider the following criteria in the examination of a parcel for suitability as a PUD:

- (1) Existing recreational use of the surface waters and likely increases in use associated with Planned Unit Developments;
- (2) Physical and aesthetic impacts of increased density;
- (3) Suitability of lands for the Planned Unit Development approach;
- (4) Level of current development in the area;
- (5) Amount and types of ownership of undeveloped lands; and
- (6) Size of the parcel and amount, if any, of shoreline.

(C) *Shore land dwelling unit or site density evaluation.* Proposed new or expansions to existing Planned Unit Developments must be evaluated using the following procedures and standards:

(1) 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:

<b><i>Shore Land Tier Dimensions</i></b>		
	<b><i>Unsewered (Feet)</i></b>	<b><i>Sewered (Feet)</i></b>
General Development (GD) Lakes; first tier	200	200
General Development (GD) Lakes; second and additional tiers	267	267
Natural Environment Lakes	400	320

(2) The suitable area within each tier is next calculated by excluding all wetlands, bluffs or land below the ordinary high water level of public waters. This area is then subjected to either the residential or Commercial Planned Unit Development

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density evaluation steps to arrive at an allowable number of dwelling units or sites.

(D) *Shore Land Residential Planned Unit Development density evaluation steps and design criteria.* The density evaluation steps and design criteria for Residential Planned Unit Developments are as follows:

(1) *Density.* The suitable area within each tier is divided by the single residential lot size standard for existing lots for lakes, which shall then be used to yield a base density of dwelling units or sites for each tier. The city may allow some dwelling unit or site density increases for Residential Planned Unit Developments above the densities determined in the evaluation if all dimensional standards for the zoning district are met or exceeded. Maximum density increases may only be allowed if all design criteria in division (D)(2) below are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred from any tier to any other tier further from the shore land water body or watercourse, but must not be transferred to any other tier closer.

<b><i>Maximum Allowable Dwelling Unit or Site Density Increases for Residential Planned Unit Developments</i></b>	
<b><i>Density Evaluation Tiers</i></b>	<b><i>Maximum Density Increase Within Each Tier (Percent)</i></b>
First	25
Second	50
Third	50
Fourth	50
Fifth	50

(2) *Design criteria.* The design criteria are:

(a) All Residential Planned Unit Developments must contain at least three dwelling units or sites;

(b) Residential Planned Unit Developments must contain green space meeting all of the following criteria:

1. At least 50% of the total project area must be preserved as green space, including adequate space dedicated to the residents to compensate for smaller lots, and to provide adequate recreational opportunities.

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2. Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures are developed areas and should not be included in the computation of minimum green space.

3. Green space must include areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or un-platted cemeteries.

4. Green space may include outdoor recreational facilities for use by owners of the dwelling units or sites or the public and shall include adequate space for recreational opportunities.

5. The shore impact zone, based on normal structure setbacks, must be included as green space. At least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in their natural or existing state.

6. Green space must not include commercial facilities or uses, but may contain water-oriented facilities and golf courses, trails, tennis facilities and similar uses.

7. The appearance of green space areas, including topography, vegetation and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

8. Green space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the system.

(c) Centralization and design of facilities and structures must be done according to the following standards:

1. Residential Planned Unit Developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting

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factors must be provided for a replacement soil treatment system for each sewage system. Water softener systems to be reviewed and approved or denied by the city.

2. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shore land classification: setback from the ordinary high water level, elevation above the surface water features and maximum height. Setbacks from the ordinary high water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the Planning Commission and the setback is at least 25% greater than the minimum setback.

3. Shore recreation facilities, including but not limited to swimming areas, docks and water craft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of water craft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading boats and equipment, may be provided for use by occupants of dwelling units or sites located in other tiers. A controlled access lot, exclusive of any dwelling units, may also be considered for additional access and docking.

4. Structures, parking areas and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setbacks, color or other means acceptable to the Planning Commission, assuming summer, leaf-on conditions.

(d) Erosion control and stormwater management for Residential Planned Unit Developments must:

1. Be designed, and their 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

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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; and

2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff.

(3) *Administration and any maintenance requirements.* Prior to final approval of any Residential Planned Unit Developments, the city will require adequate provisions developed for preservation and maintenance in perpetuity of green spaces and for the continued existence and functioning of the development as a community.

(a) *Green 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 green space. The instruments must include all of the following protections:

1. Commercial uses prohibited;
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited;
4. Uncontrolled beaching prohibited; and
5. Changes to owner's association documents must be approved by the city prior to adoption. The documents shall provide for the submission and required approval in the amendment provisions.

(b) *Development organization and functioning.* Unless an equally effective alternative community framework is established, when applicable, all Residential Planned Unit Developments must use an owners association with the following features:

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
2. Each member must pay a pro rata share of the association's

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expenses, and unpaid assessments can become liens on units or sites;

3. Assessments must be adjustable to accommodate changing conditions; and

4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.

(4) *Shore land resort conversions.* The city may allow existing resorts or other land uses and facilities to be converted to Residential Planned Unit Developments if all of the following standards are met:

(a) Proposed conversions shall be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(b) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, green space and shore recreation facilities, must be corrected as part of the conversion or as specified in the conditional use permit.

(c) Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvement made as part of the conversion. These improvements must include, where applicable, the following:

1. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones;

2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

3. If existing dwelling units are located in shore or bluff impact zones, conditions shall be attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions will also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(d) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to

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limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

(E) *Commercial Planned Unit Development density evaluation steps and design criteria.* The density evaluation steps and design criteria for Commercial Planned Unit Developments are contained in divisions (E)(1) and (2) below:

(1) Density evaluation steps:

(a) 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 space;

(b) Select the appropriate floor area ratio from the following table:

<b>Commercial Planned Unit Development Floor Area Ratios Public Water Classes</b>			
<b>Average Unit Floor Area (Square Feet)</b>	<b>Sewered General Development Lakes; First Tier On Unsewered General Development Lakes</b>	<b>Second And Additional Tiers On Unsewered General Development Lakes; Recreational Development Lakes</b>	<b>Natural Environment Lakes And Streams</b>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

1. For average unit floor areas less than shown, use the floor area

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ratios listed for 200 square feet.

2. For areas greater than shown, use the ratios listed for 1,500 square feet.

3. For recreational camping areas, use the ratios listed at 1,000 square feet.

4. 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 1,000 square feet.

(c) Multiply the useable 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;

(d) Divide the area computed in division (E)(1)(c) above by the average determined in division (E)(1)(a) above. This yields a base number of dwelling units or sites for each tier. Use 1,000 square feet for an RV or unknown manufactured home;

(e) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design standards in division (E)(2) below and exceed one or more of them. The city shall decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the following table. (Not applicable to campgrounds or RV parks):

<b><i>Maximum Allowable Dwelling Unit Or Site Density Increases For Commercial Planned Unit Developments</i></b>	
<b><i>Density Evaluation Tiers</i></b>	<b><i>Maximum Density Increase Within Each Tier (Percent)</i></b>
First	25
Second	50
Third	50
Fourth	50
Fifth	50

(f) Allowable densities may be transferred from any tier to any other tier further from the shore land, lake or river, but must not be transferred to any other tier closer.

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(2) The design criteria are:

(a) *Green space.* Commercial Planned Unit Developments must contain green space meeting all of the following criteria:

1. At least 50% of the total project area must be preserved as green space;

2. Dwelling units or sites, road rights-of-way or land covered by road surfaces, or parking areas, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of minimum green space;

3. Green space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or un-platted cemeteries;

4. All shore impact zones within Commercial Planned Unit Developments must be included as green space, and at least 50% of these areas must be preserved in their natural existing state;

5. Green space may include outdoor recreation facilities for use by guests staying in dwelling units or sites, or the public; and

6. Green space may include subsurface sewage treatment systems if use of the space is restricted to avoid adverse impacts on the systems.

(b) Design of structures and facilities must be done according to the following standards:

1. Commercial Planned Unit Developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be designed and installed to meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system. Water softening systems to be reviewed and approved or denied by the city.

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2. Dwelling units or sites must be located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shore land classification: setback from the ordinary high water level, elevation above surface water features and maximum height.

Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetation management, topography, or other means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

3. Structures, parking areas and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer leaf-on conditions. The structure, dwelling unit, accessory structure or parking area must be treated to reduce visibility as viewed from public waters and adjacent shore lands 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.

4. Shore recreation facilities, including but not limited to swimming areas, docks and water craft mooring areas shall only be located in areas suitable for them. Evaluation of suitability by the city shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading boats and equipment may be provided for use by occupants of dwelling units or sites located in other tiers. A controlled access lot, exclusive of other uses, may also be considered for additional access and docking.

(c) Erosion control and stormwater management for Commercial Planned Unit Developments must:

1. Be designed and their 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

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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; and

2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area, except 35% impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan.

#### *(F) Non-Shore Land Planned Unit Developments.*

(1) Density shall conform to the requirements of the appropriate zoning district.

(2) Design criteria shall be the same as divisions (D)(2) and (3) for Residential PUDs and divisions (E)(2) and (3) for Commercial PUDs.

(3) Maximum impervious coverage: 40%.

#### *(G) Building standards; all PUDs.*

(1) Maximum floors: three;

(2) Building height: 25 feet;

(3) Building above highest known groundwater: three feet;

(4) New multi-family dwellings of four units or larger shall be designed by an architect, shall be compatible in color, character and mass with surrounding land use;

(5) Winterized water systems;

(6) Exterior lighting;

(7) Paved parking and drives;

(8) Landscaping and screening; and

(9) Recreation facilities.

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(H) *Submissions and administration.* See § 153.119.

(Prior Code, § 8.07, Subd. 1) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 11-05, 3<sup>rd</sup> Series, passed 03-07-2011)

### **§ 153.091 MANUFACTURED HOUSING DEVELOPMENT.**

(A) *Intent.* The intent of this section is to ensure quality development compatible with that occurring throughout the city, while also ensuring the safety and well-being of residents and their guests.

(B) *General.* Manufactured home developments shall be considered a conditional use in all districts where such uses are allowed. No person shall develop or operate a manufactured home without obtaining and maintaining required licenses from the Minnesota Department of Health.

(C) *Requirements.* All new manufactured home developments within the city shall meet the following standards:

(1) All new manufactured home developments shall require a minimum of five acres of land area and a minimum width of 400 feet.

(2) Manufactured home developments shall comply with all requirements (including density) of a Planned Unit Development for the zoning district in which it is located, unless specified in this section.

(3) No individual lot shall be located within 35 feet of the exterior of the development adjacent to another property or public right-of-way. A landscaped area providing a minimum 25% screening shall be provided within this area.

(4) The minimum lot size for each dwelling unit shall be 6,000 square feet, with a minimum 50-foot lot width.

(5) All structures, including common buildings and recreational structures, shall maintain the following setbacks:

Front/right-of-way.....	25 feet
Corner side.....	15 feet
Rear.....	15 feet
Side.....	10 feet

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(6) A minimum of 50% of the land within the development must be kept in common or association ownership.

(7) All manufactured home developments must be served by municipal sewer, and a centralized water system. All sewer, water and electrical connections must be winterized to allow for year-round use.

(8) A permanent storm safety shelter shall be provided, which meets all requirements of Minnesota State Statutes. The shelter must be accessible to residents of the development at all times.

(9) Covenants. The developer shall record covenants with the plat that conform to § 152.52 of the Subdivision Ordinance. Also, covenants shall address provisions for snow and trash removal, and private road maintenance by the association.

(10) Private streets within the development shall be constructed from a paved or bituminous surface and have a minimum 20-foot surface within a 40-foot corridor.

(a) All roads (private or public) shall have a minimum of a 48-inch sidewalk on at least one side of the road surface, at a minimum of five feet from the surface of the road surface, or separated from the road surface by curb.

(b) Where possible, roads should be designed to limit traffic speeds.

(c) To be accepted by the city, roads must comply with all standards set forth in § 152.53 of the Subdivision Ordinance.

(11) Maximum speed limits within the development shall be posted at 15 mph.

(12) No on-street parking shall be allowed within the development, and "No Parking" signs shall be posted within the development.

(13) Additional off-street parking shall be provided for guests of occupants. One ten-foot-by-20-foot space per each three units in the development shall be provided in clustered locations throughout the development, to the satisfaction of the Planning Commission. Overflow parking shall not be located within street corridors.

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(14) Recreational amenities shall be provided on site for use by owners/renters within the development, and may satisfy park dedication requirements if satisfactory to the city.

(15) Developments may include garage spaces for rent or purchase by lot owners of units in the development. Garage spaces and drives shall be excluded from greenspace calculations as required for the Planned Unit Development, but may be located in common areas. Garages and other accessory structures shall comply with height restrictions for the zoning district in which the development is located.

(16) The city may impose additional requirements in order to comply with criteria for issuance of a conditional use permit.

(17) Individual lots shall also provide for the following:

(a) A manufactured home shall not occupy more than 50% of the total area of the lot.

(b) All manufactured homes shall be anchored in compliance with the State Building Code.

(c) A continuous foundation that supports the bearing load of the structure and is constructed to a depth of 60 inches shall be required. An alternatively engineered foundation may be allowed where it can be shown that soils or water table prevent 60-inch footings. In the case of an engineered foundation, masonry skirting, including but not limited to, concrete block, rock-faced block, brick, stone or simulated stone shall fully enclose the perimeter of the dwelling, to prevent habitation by animals and provide protection from the weather.

(d) Placement of a manufactured home shall require a building permit. Each unit shall meet requirements of State Building Code relative to manufactured homes. No manufactured home shall be occupied prior to issuance of a certificate of occupancy.

(e) Each lot shall have a minimum of two ten-foot-by-20-foot, off-street, paved parking spaces located in the front of the home. Parking of vehicles or boats in lawn or rear-yard areas shall be prohibited.

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(f) Each lot shall be required to have a minimum ten-foot-by-12-foot storage shed, which shall not exceed 12 feet in height. Only one storage shed, not to exceed 250 square feet, shall be allowed per lot.

(g) A minimum of two trees shall be maintained on each lot at all times.

(h) All manufactured homes shall be provided with a landing and steps at each doorway. Such landing and steps shall comply with Minnesota State Building Code. (Prior Code, § 8.07, Subd. 2) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 09-01-09, passed 12-2-2009)

### **§ 153.092 CAMPGROUND.**

(A) *General.* Campgrounds and/or recreational camping areas shall be considered a form of Planned Unit Development and administered thereunder as conditional uses in the zones where the use is allowed, except no density increase will be considered.

(B) *Minimum parcel size.* No campground or recreational camping area shall be allowed on a parcel of less than 40 acres.

(C) *Dwelling site requirements.* The dwelling sites must conform to the Minnesota Department of Health Standards and the following:

(1) Campsites or recreational camping areas shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet center to center;

(2) A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites;

(3) Parking shall be off the road;

(4) Recreational facilities as determined by the PUD;

(5) A water system capable of providing 100 gallons per site per day at 20 psi at the most remote fixture for recreational vehicle sites or within 400 feet of each campsite;

(6) Conforming on-site sewage collection system sized for 100 gallons per

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campsite per day, connected to the municipal sewage system;

(7) Solid waste facilities consisting of one 30-gallon can for each four campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals and screened from view;

(8) Fire pit or other suitable fire and ash container for each campsite;

(9) Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided;

(10) Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities;

(11) The exterior setback area shall be screened to obstruct 50% vision from the boundary line assuming leaf-off conditions;

(12) Grass or other complete ground cover shall be maintained except in parking areas and roads;

(13) Evidence shall be provided prior to final approval that the licenses and approval process of Minnesota Department of Health has been adhered to; and

(14) All sites shall be well drained.

(D) *Submission requirements.* The submission requirements for a campground shall be the same as PUDs except as determined not applicable by the Zoning Administrator. (Prior Code, § 8.07, Subd. 3) (Ord. 123, passed 9-6-2005)

### **§ 153.093 HOME OCCUPATION.**

(A) Each home occupation established shall be considered an interim use. Interim Use Permits shall not be transferable to a new owner and/or renter, thus the permit will not run with the property, nor be transferable to a different property.

(B) All activities shall be clearly incidental to the use of the property for residential

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purposes.

(C) Hours of operation shall be limited by the interim use permit to be compatible with the residential use.

(D) Number of employees shall be limited by the interim use permit and shall be limited to family members living on premises only.

(E) Retail sales will be allowed only of products manufactured on those premises unless specifically authorized by the interim use permit.

(F) All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.

(G) Parking adequate for all activities related to the home occupation shall be provided on-site.

(H) All business activities including storage shall be inside buildings.

(I) No outside signage shall be allowed without being expressly permitted by the interim use permit.

(J) Home occupations are subject to review at designated times as specified by the interim use permit.

(Prior Code, § 8.07, Subd. 4) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-2016)

### **§ 153.094 AUTO SALVAGE YARDS.**

Commercial activity of this type is provided in nearby communities. Land use of this nature, if not provided for in the Comprehensive Plan, and will not be considered in any land use district.

(Prior Code, § 8.07, Subd. 5) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006)

### **§ 153.095 LANDFILLS.**

(A) No landfills are allowed in the City of Breezy Point due to the close proximity to

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the lakes and streams.

(B) Crow Wing County has the responsibility for this service.

(C) Disposal of trees, stumps, rock, brush and other natural products by burying is allowed on construction sites as determined by the permit.

(Prior Code, § 8.07, Subd. 6) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006)

### **§ 153.096 DWELLING; GUEST QUARTERS.**

The city may, by conditional use permit, allow guest quarters on residential lots in addition to an existing primary dwelling unit and must meet the following restrictions:

(A) Dwelling and guest quarters, shall not cover more than 700 square feet of land and must not exceed 15 feet in height. Dwellings and guest quarters located on the second floor of a detached accessory building shall not exceed 25 feet in combined building height;

(B) Guest quarters shall be located to reduce its visibility as viewed from public waters and adjacent shore lands by vegetation, topography, increased setback, color or other means acceptable to the city, assuming summer leaf on conditions;

(C) Guest quarters shall not be for rent or lease; and

(D) Guest quarters shall be constructed only on lots meeting the minimum requirements for the zoning district they are located in.

E) Temporary Family Health Care Dwellings, pursuant to authority by Minnesota Statutes Section 462.3593, Subdivision 9, the city of Breezy Point opts-out of the requirements of Minnesota Statutes 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

(Prior Code, § 8.07, Subd. 7) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-02, 3rd Series, passed 9-06-2016) Penalty, see § 153.999

### **§ 153.097 CONTROLLED ACCESS LOTS.**

Lots intended for controlled access to public waters for use by more than one owner must meet or exceed the following standard conditions. The use shall require a

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conditional use permit. (See DNR 6120.3300 Subd. 2E).

(A) The lot must meet the width and size for a residential lot in the zoning district and be suitable for use as a controlled access.

(B) Six water crafts may be moored or stored over water on a standard sized lot. The lot width must be increased by 25% for each additional water craft.

(C) The lot must be jointly owned by all purchasers or the lots within the subdivision who are provided riparian access on the access lot.

(D) Covenants must be filed that specify which lot owners have an ownership interest in the lot, what activities are allowed, the number of vehicles parked and the number of water craft allowed to be moored or stored.

(E) Activities which conflict with typical public uses of the lake or infringe on the rights of adjoining neighbors are prohibited.

(F) All parking, storage buildings and other facilities must be screened from view of public waters.

(Prior Code, § 8.07, Subd. 8) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006) Penalty, see § 153.999

### **§ 153.098 DUPLEXES.**

(A) New construction of a duplex may be allowed by conditional use permit on residential lots where applicable and requires the following at a minimum:

(1) The minimum required lot width and lot area shall be maintained for each side of the duplex for the zoning district in which the unit is located;

(2) Certification shall be submitted that the property line lies with the party wall;

(3) Party wall agreements shall be provided including the following at a minimum and shall be recorded on the property at the County Recorder's office:

(a) Repair and maintenance to exterior of structure;

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(b) Repair and maintenance of common wall; and

(c) Agreement to insure.

(4) Each side to be served by a separate well;

(5) Each side to be hooked to separate sewer connection except on natural environment lakes; and

(6) On a natural environment lake, duplexes must also meet the following standards:

(a) Each building must have a setback of at least 200 feet from the ordinary high water mark;

(b) Water craft docking facilities for each lot must be centralized in one location and serve both units in the building;

(c) No more than 25% of a lake's shoreline can be in duplex development;  
and

(d) Each building must have common sewage treatment and water systems that serve both dwellings in the unit with party wall agreement governing repair and maintenance.

(B) Subdivision of an existing duplex may be allowed by conditional use permit, provided the following at a minimum:

(1) The minimum required lot width and lot area shall be maintained for each side of the duplex;

(2) Certification shall be submitted that the property line lies within the party wall; and

(3) Party wall agreement shall be reviewed and approved including the following at a minimum and shall be recorded at the County Recorder's office:

(a) Repair and maintenance to the exterior of the structure;

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(b) Repair and maintenance of common wall;

(c) Agreement to insure; and

(d) Repair and maintenance of common sewer connection or well unless separate hookups and wells serve the duplex.

(Prior Code, § 8.07, Subd. 9) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006)

### **§ 153.099 PRIVATE MOTOR VEHICLE SALES.**

(A) The term ***MOTOR VEHICLE*** includes automobiles, recreation vehicles, boats, motorcycles, boat trailers, recreational equipment, recreational equipment trailers, motor vehicle carriers and any other motorized or non-motorized vehicle used for the transport of persons or equipment related thereto.

(B) In any calendar year, no more than two vehicles may be placed for sale on the same property without the appropriate permit. No vehicles shall be placed for sale for a period exceeding 21 consecutive days. Exceeding this time frame shall be considered a violation.

(C) No person shall conduct the sale of a private motor vehicle, other than a permitted motor vehicle seller, except as follows:

(1) The seller is the owner of the vehicle;

(2) The vehicle is shown for sale on property owned by the seller or the property is the legal residence of the seller; and

(3) The seller has obtained a permit from the City of Breezy Point for the commercial sale of vehicles.

(D) A conditional use permit shall be required for the sale of three or more vehicles at any one time or for more than three vehicle sales in any one calendar year provided the location is in the zoning district where the sale is an eligible Conditional Use.

(E) Signs for any sale shall only be placed on the windshield of the vehicle, unless authorized through a related conditional or interim use permit, or a permit for signage has been obtained.

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(F) If the City of Breezy Point determines that any sale has interfered with the safe flow of motor vehicle traffic along public roadways, the city may order the sale to cease or may suspend the permit until the time as the unsafe condition has been remedied. Failure to suspend a sale of being ordered to do so shall constitute a violation of this section.

(Prior Code, § 8.07, Subd. 10) (Ord. 123, passed 9-6-2005; Ord. 09-02-06, passed 9-5-2006; Ord. 16-01, 3rd Series, passed 05-02-2016) Penalty, see § 153.999

### **§ 153.100 Vacation Rentals (more than 4 rentals per year)**

(A) Vacation rentals, cases in which residential property is rented in excess of four times per year, have long been a part of the City of Breezy Point's history. While the City sees the benefit of such uses in certain zoning districts, the City also realizes that the high turnover in occupancy of residential structures can bring increased intensity of use, higher levels of noise, and increased need for parking and sanitation facilities which, if not controlled, can detract from the residential character of certain areas of the City. Therefore, such uses may be considered by Interim Use, on an individual basis, subject to the criteria set forth in §153.119 (E). Newly established vacation rentals shall be subject to the following standards:

(1) Residences in the R-4, C, & RC Zoning Districts approved or existing interim uses substantially changed after the effective date of this section shall require approval or revision of an Interim Use Permit.

(2) The rental agent shall be only the fee owner of the property, and shall not be rented by any outside agent.

(3) Due to a usual increased intensity of use from that of a single-family residential dwelling, vacation rentals shall be allowed only on properties served by, and connected to Municipal Sewer.

(4) Notification shall be posted both on the property, and in rental documents stating the following: "This property is located in a residential zoning district. Please be considerate of neighbors. Quiet hours shall be observed between the hours of 10:00 p.m. and 7:00 a.m. Sunday through Thursday, and 11:59 p.m. and 7:00 a.m. Friday evening through Saturday morning and 11:59 p.m. and 7:00 a.m. Saturday evening through Sunday morning.

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(5) No outside signage shall be allowed unless specifically allowed by Interim Use Permit.

(6) Two (2) off-street parking spaces, plus 1.5 parking spaces per bedroom shall be provided on-site. Garage spaces may be considered toward required parking spaces on a one-to-one basis. Parking spaces applied toward requirement must be of an all-weather surface.

(7) Due to normal differences in operation, the Interim Use Permit shall not be transferable to a new owner, nor transferable to a different property. Any change in ownership of the property shall terminate the Interim Use Permit and require a new application if the use is to continue.

(8) Any modifications to the property rendering the property unsuitable for residential use as per the Breezy Point Zoning Ordinance or State Building Code may be grounds for revocation of the Interim Use Permit upon notice of hearing and hearing by the Planning Commission.

(9) Violation of nuisance standards (§153.063) or other City Code violations may be grounds for revocation of the Interim Use Permit upon recommendation of the Zoning Administrator or the Breezy Point Police Department and notice of hearing and hearing by the Planning Commission.

(10) A Lodging License must be obtained from the Minnesota Department of Health, and provided to the City within 30 days of approval. Failure to provide an approved Lodging License within 30 days shall be grounds for possible termination of the Interim Use Permit upon notice of hearing, and hearing by the Planning Commission.

(11) Each vacation rental approved by the Commission by Interim Use shall be reviewed after two (2) years for compliance, with subsequent reviews every five (5) years thereafter.

(12) Privacy fencing, vegetative buffers, or other screening, as deemed necessary by the Planning Commission, may be required to protect other neighboring land uses.

(Ord. 10-008, 3rd Series, passed 06-07-2010, Ord. 13-02, 3<sup>rd</sup> Series, passed 02-04-2013; Ord. 15-01, 3<sup>rd</sup> Series, passed 10-05-2015)

**§153.101 SOLAR ENERGY SYSTEMS**

*(A) Definitions.*

***BUILDING-INTEGRATED SOLAR ENERGY SYSTEMS.*** A solar energy system that is an integral part of a principle or accessory building, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within or substitute for roofing materials, windows, skylights, awnings and shade devices.

***GROUND MOUNT or FREE STANDING SOLAR ENERGY INSTALLATIONS.*** Freestanding solar collectors mounted directly to the ground using a rack or a pole rather than being mounted on a building.

***ROOFTOP SOLAR ENERGY SYSTEMS.*** A solar energy system mounted on the finished roof of a building, either fastened to the structural roof components or ballasted.

***SOLAR FARM, SOLAR GARDEN.*** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale or retail sale of generated electricity. A solar farm or solar garden is the principle land use for the parcel on which it is located. Solar gardens include community solar systems that provide retail electric power (or a financial proxy for retail power) to community members or businesses residing or located off-site from the location of the solar energy system.

***SOLAR RESOURCES.*** A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

*(B) Solar Accessory Uses Permitted.* Solar energy systems that are accessory uses shall be permitted in all districts where buildings are allowed, and shall be subject to the following requirements:

- (1) *Height – Rooftop systems.* Rooftop solar energy systems shall not exceed the height limit for the building on which the collectors are mounted.

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(a) Solar energy systems on pitched roofs shall not be higher than the peak of the roof.

(b) Solar energy systems higher than the peak of the roof, but below the building height standard, may be allowed as a conditional use if demonstrated that the solar resource cannot otherwise be captured by the rooftop system.

(2) *Height – Ground-mounted systems.* Freestanding or ground-mounted solar collectors shall not exceed the height limit for accessory structures for the district in which the installation is done.

(3) *Setbacks.* Accessory solar energy systems shall not be installed or encroach into required yards except as noted below:

(a) Building-mounted solar collectors are an allowed encroachment into setbacks, provided the encroachment is less than 30 inches, and the entire system extends no more than 48 inches from the finished building wall.

(b) Ground-mount solar collectors and collectors mounted on buildings other than the principle structure must not encroach into required setback when oriented at minimum design tilt.

(c) The collector surface and mounting devices for rooftop solar energy systems shall not extend beyond the exterior perimeter of the finished roof on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(4) *Lot coverage.* Ground-mount solar energy systems are considered impervious surfaces and must not cause the lot to exceed impervious surface coverage standards.

(5) *Visual Standards.* Accessory solar energy systems should be designed to minimize visual impacts, provided that mitigating for visual impacts should allow the system to function within expected industry standards. Except as noted above in this standard, building-integrated solar energy systems shall not be considered to create a visual nuisance and are exempt from the provisions of 153.066.

(Ord. 13-06, 3<sup>rd</sup> Series, passed 7-01-2013)

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### **§153.102 TELECOMMUNICATIONS TOWERS, ANTENNAS AND RELATED FACILITIES.**

#### (A) Findings.

(1) The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 (“the Act”) governs the construction, placement, and modification of personal wireless service facilities. Consistent with the Act, the general purpose of this section is to regulate the placement, construction, and modification of telecommunication towers, antennas and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City.

(2) In furtherance of the goals of the City and within the framework of the Act and state law, the City will give due consideration to the City’s comprehensive plan, zoning districts, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are:

(a) To regulate the location of telecommunication towers and facilities;

(b) To protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;

(c) To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;

(d) To promote and encourage shared use and co-location of telecommunication towers and antenna support structures;

(e) To avoid damage to adjacent and nearby properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;

(f) To ensure that telecommunication towers and facilities are compatible with surrounding land uses; and

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(g) To facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

#### (B) Development of Towers; Approvals Required.

(1) Conditional Use Permits Required. A tower may only be constructed in the Commercial, Resort Commercial, Public, and Urban Reserve districts subject to the issuance of a conditional use permit issued by the Planning Commission.

(2) City Property. The City may authorize the use of city property for towers in accordance with the procedures of this Ordinance. The City has no obligation to allow the use of city property for this purpose.

(C) Application. A person desiring to construct a tower must submit an application for a conditional use permit to the Zoning Administrator.

#### (D) Co-Location Requirements

(1) All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements.

(2) Any proposed commercial wireless telecommunication service tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. Towers must be designed to allow for future arrangements of antennas upon the tower and to accept antennas mounted at varying heights.

(3) Proposals shall not be approved unless the applicant can document to the satisfaction of the Planning Commission that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing tower or building within a two-mile search radius of the proposed tower due to one or more of the of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by registered professional structural engineer and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

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(b) The planned equipment would cause interference materially impacting the usability of the existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment as a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) The applicant shall submit proof of best efforts to negotiate reasonable industry terms regarding the lease or purchase of space on an existing tower.

(e) Coverage objectives of the carrier cannot be met by using existing towers and/or other structures within a two-mile radius.

(f) Other unforeseen reasons that make it feasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(4) Setback Requirements. A tower must comply with the following setback requirements:

(a) Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.

(b) A tower must be located on a single parcel having a dimension equal to the height of the tower, as measured between the base of the tower located nearest the property line and the actual property line, unless an engineer specifies in writing that the collapse of the tower will occur within a lesser distance under reasonably foreseeable circumstances.

(c) Towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, unless otherwise provided in this ordinance.

(d) The minimum spacing between tower locations over 100 feet tall is one mile.

(e) Towers shall not be located within 2,640 feet of the Ordinary High Water Mark of any lake if they exceed 100 feet in height within the city.

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(E) Engineer Certification. Towers must be designed and certified by a registered professional structural engineer to be structurally sound and in conformance with the Uniform Building Code, structural building standards, and any other industry standards.

(F) Height Restriction. A tower may not exceed 195 feet in height. Measurement of tower height must include the tower structure itself and the base pad. Tower height is measured from grade.

(G) Lighting. Towers shall be illuminated by artificial means only as required by the Federal Aviation Administration, Federal Communications Commission, or state agency. Notwithstanding this provision, the city may approve the placement of an antenna on an existing or proposed lighting standard, provided that the antenna is integrated with the lighting standard.

(H) Exterior Finish. Towers not requiring Federal Aviation Administration painting or markings shall be designed to blend into the surrounding environment to the maximum extent practical through the use of color and the possible implementation of either stealth design.

(I) Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed in accordance with the applicable fencing requirements in the zoning district where the tower or antenna support structure is located.

(J) Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

(K) Accessory Buildings and Equipment. No more than one accessory building is permitted per antenna. Accessory buildings may be no more than 200 square feet in size.

(L) Security. Towers must be reasonably posted and secured to protect against

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trespass. All signs must comply with applicable sign regulations. Antennas, dish antennas and tower shall be protected to discourage climbing by unauthorized persons.

(M) Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information is prohibited.

(N) Base of Tower. The base of any tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.

(O) Tower Materials. All metal towers shall be constructed of, or treated with, corrosion-resistant material.

(P) Equipment Housing. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it should be situated as to be screened from view by landscaping and meet all applicable setbacks.

(Q) Non-Tower Facilities. Telecommunications facilities are permitted only as follows:

(1) Telecommunications facilities are a conditional accessory use in the Commercial, Resort Commercial, Public and Urban Reserve districts, provided that the owner of such a telecommunications facility, by written certification to the Zoning Administrator, establishes the following at the time plans are submitted to the Zoning Administrator:

(a) That the height of the antennae does not exceed the support structure itself by more than 20 feet;

(b) That the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and

(c) Antennas that are mounted to the exterior of antenna support structures below the primary roof may protrude no more than six inches from the side of the antenna support structure.

(2) Notwithstanding anything to the contrary contained in this section, telecommunications facilities are a permitted accessory use on antenna support

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structures owned or otherwise under the physical control of the City, a school district, or the state or federal government and provided further that the owner of such a telecommunications facility, by written certification to the Zoning Administrator, establishes the following facts at the time plans are submitted to the Zoning Administrator.

(a) That the height of the antennae does not exceed the support structure itself by more than 20 feet;

(b) That the antenna support structure and telecommunications facilities comply with the Uniform Building Code; and

(c) Antennas that are mounted to the exterior of antenna support structures below the primary roof may protrude no more than six inches from the side of the antenna support structure.

(R) Removal and Replacement of Towers or Telecommunication Facilities.

(1) If the use of a tower is discontinued by the tower owner, then the tower owner shall provide not less than ninety (90) days written notice to the City of its intent to discontinue use and the date when the use will be discontinued.

(2) Abandoned or unused towers and associated facilities must be removed within 12 (twelve) months of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the City Council. Any tower and associated telecommunication facilities that are not removed within 12 (twelve) months of the cessation of operations at a site are declared to be public nuisances and may be removed by the City and the costs of removal assessed against the property pursuant to state law and City ordinances.

(3) If a lease is signed between an applicant and property owner(s), It must identify the requirement that the tower and associated telecommunications facilities be removed upon cessation of operations on the leased site. If a lease does not yet exist, this provision must be included in the lease to be signed, to place the property owner on notice of such requirement.

(4) Replacement of towers. If a tower is to be replaced with one that is of the same height while keeping the old tower in service an Interim Use Permit shall be

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required to facilitate the time of construction and changeover to a replacement tower. If the tower is to be of a revised size, a Conditional Use Permit or amended Conditional Use Permit shall be required.

#### (S) Additional Requirements.

(1) Structural Inspections. The City may repair or conduct expert inspections, at any time, upon reasonable notice to the property owner and the tower owner, to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards, federal and state law. The expense related to such inspections will be borne by the tower owner, or responsible lessee, at the discretion of the City. Based upon the results of an inspection, the City may require repair, modification or removal of a tower.

(2) Maintenance. Towers and telecommunication facilities must be maintained in accordance with the following provisions:

(a) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.

(b) Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.

(c) Towers, telecommunications facilities, antenna support structures and grounds must be kept and maintained in good condition, order, and repair.

#### (T) Failure to Comply; Permit Revocation.

(1) If the permittee fails to comply with any provision of the City ordinances, federal or state law or the conditional use permit requirements, then the City may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions.

(2) Except as provided in (3), below, a permit revocation shall be preceded by

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written notice to the permittee of the alleged violation(s), the opportunity to cure the violation(s) during a period not to exceed thirty (30) days following receipt of the written notice and a hearing before the city council at least fifteen (15) days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show just cause why the permit should not be revoked.

(3) If the City finds that exigent circumstances exist requiring immediate permit revocation, then the City may revoke the permit and shall provide a post-revocation hearing at least fifteen (15) days after permittee's receipt of written notice of the hearing.

(4) Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.

(U) No Conditional Use Permits Required. No permits are required for the following:

(1) Antennas extending less than twenty (20) feet above the highest point of a structure.

(2) Satellite dish receiving antennas two (2) meters or less in diameter.

(3) Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.

(4) Antennas and antenna support structures used by the city for city purposes.

(5) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact, and provided that such work does not constitute a clear safety hazard.

(6) Two-way communication of towers of less than 100 feet and transmitters used by emergency services, including fire, police and emergency aid or ambulance service.

(7) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.

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(V) Right-of-Way. Except as approved by the city as to public utilities, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line. A provider of wireless telecommunications services within the meaning of the Act is not a public utility.

(W) Insurance. The applicant shall provide evidence satisfactory to the City that its tower and telecommunication facilities thereon are adequately insured for injury and property damage.

(Ord. 14-06, 3<sup>rd</sup> Series, passed 9-02-2014)

### **§153.103 PORTABLE ON-DEMAND STORAGE (PODS).**

(A) **A PORTABLE ON-DEMAND STORAGE (PODS) or PORTABLE STORAGE STRUCTURE** (structure) is any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed complying with all building codes and land use requirements, that can or is used for storage of personal property of any kind and which is located for such purpose outside an enclosed building.

(B) The use of PODS or a Portable Storage Structures are allowed under the following conditions:

(1) There shall be no more than one (1) structure per property.

(2) The structure must not remain at the property in any zoning district in excess of sixty (60) consecutive days nor more than sixty (60) days in a calendar year.

(3) The structure must be set back a minimum of 10 feet from the side or rear property lines and 30 feet from the road right-of-way property line except a unit may be placed 10 feet from the right-of-way property line if placed on an impervious surface.

(4) A structure associated with construction or remodeling, where a building permit has been issued, is permitted for the duration of the construction and shall be removed from the site within 14 calendar days of the end of construction. No Certificate of Occupancy will be issued until said structure is removed.

(5) The added structure shall be included in the impervious surface calculations requirements of the applicable zoning district.

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(6) The structure cannot be used as living quarters.

(7) The structure can be no greater than 20 feet in length.

(8) A zoning permit is required upon its establishment.

(Ord. 15-07, 3<sup>rd</sup> Series, passed 11-02-2015)

### **§153.104A FLOODPLAIN MANAGEMENT**

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### **SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**

1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Breezy Point, Minnesota, does ordain as follows.

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### 1.2 Purpose:

- 1.21 This ordinance regulates development in the flood hazard areas of the city of Breezy Point. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.
- 1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
- 1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

## SECTION 2.0 GENERAL PROVISIONS

- 2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of the city of Breezy Point within the boundaries of the Floodway, Flood Fringe and General Floodplain Districts. The boundaries of these districts are determined by scaling distances on the Flood Insurance Rate Map, or as modified in accordance with Section 3.2.
- 2.11 The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.
- 2.12 Where a conflict exists between the floodplain limits illustrated on the official floodplain maps and actual field conditions, the flood elevations shall be the governing factor in locating the regulatory floodplain limits.
- 2.13 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City of Breezy Point

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Planning Commission/Board of Adjustment and to submit technical evidence.

- 2.2 **Incorporation of Maps by Reference:** The Flood Insurance Study for Crow Wing County, Minnesota, and Incorporated Areas, and Flood Insurance Rate Map panels 27035C0150C, 27035C0175C, 27035C0275C, and 27035C0300C; all of these documents being dated August 15, 2017 and prepared by the Federal Emergency Management Agency, are hereby adopted by reference and declared to be a part of this ordinance and the Official Zoning Map. These materials are on file at the Breezy Point City Hall, 8319 County Road 11, Breezy Point, MN 56472.
- 2.3 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- 2.4 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the city of Breezy Point or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.
- 2.5 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.
- 2.6 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.
- 2.611 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- 2.612 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year.
- 2.613 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.
- 2.614 Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

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- 2.615 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
- (a) Certain conditions as detailed in the zoning ordinance exist, and
  - (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- 2.616 Critical Facilities – facilities necessary to a community’s public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.
- 2.617 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 2.618 Saved for future use
- 2.619 Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.
- 2.620 Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- 2.621 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- 2.622 Flood Fringe – the portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Crow Wing County, Minnesota.
- 2.623 Flood Insurance Rate Map – An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and

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the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

- 2.624 Flood Prone Area – any land susceptible to being inundated by water from any source.
- 2.625 Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- 2.626 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- 2.627 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- 2.628 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.
- 2.629 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."
- 2.630 New Construction - Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.
- 2.631 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- 2.632 One Hundred Year Floodplain – lands inundated by the "Regional Flood" (see definition).

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- 2.633 Principal Use or Structure – all uses or structures that are not accessory uses or structures.
- 2.634 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 2.635 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 2.636 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- 2.637 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood.
- 2.638 Repetitive Loss: Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 2.639 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
- 2.640 Start of Construction – includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit’s expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of

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temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

2.641 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, decks manufactured homes, recreational vehicles not considered travel ready as detailed in Section 10.22 of this ordinance and other similar items.

2.642 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.643 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

2.7 **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the city of Breezy Point at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the city of Breezy Point after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

### **SECTION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICTS**

#### **3.1 Districts:**

3.11 Floodway District. The Floodway District includes those areas within Zone A as shown on the Flood Insurance Rate Maps adopted in Section 2.2, as well as other delineated lakes, wetlands and other basins, and are determined to be at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.12 Flood Fringe District. The Floodway District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in Section 2.2, and are located below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.

3.13 RESERVED FOR GENERAL FLOODPLAIN DISTRICT (GF)

### **SECTION 4.0 REQUIREMENTS FOR ALL FLOODPLAIN DISTRICTS**

4.1 Permit Required. A permit must be obtained from the Zoning Administrator to verify if a development meets all applicable standards outlined in this ordinance prior to conducting the following activities:

4.11 The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

4.12 The construction of a dam, on-site septic system, or any fence not meeting the definition of farm fence outlined in Section 2.619 of this ordinance.

4.13 The change or extension of a nonconforming use.

4.14 The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

4.15 The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

4.16 Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for.

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- 4.17 Any other type of "development" as defined in this ordinance.
- 4.2 Minimum Development Standards. All new construction and substantial improvements must be:
- 4.21 Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 4.22 Constructed with materials and utility equipment resistant to flood damage;
  - 4.23 Constructed by methods and practices that minimize flood damage; and
  - 4.24 Constructed with electrical, heating, ventilation, ductwork, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- 4.3 Flood Capacity. Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
- 4.4 The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- 4.5 Critical Facilities, as defined in Section 2.616, are to be located, so that the lowest floor is not less than two feet above the regional flood elevation, or the 500 year flood elevation, whichever is higher.

### **SECTION 5.0 FLOODWAY DISTRICT (FW)**

- 5.1 **Permitted Uses:** The following uses, subject to the standards set forth in Section 5.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
- 5.11 Open space uses, including but not limited to boat launching ramps, swimming areas, parks, wildlife and nature preserves, fish hatcheries, hunting and fishing areas, and single or multiple purpose recreational trails.
  - 5.14 Residential yards, lawns and gardens
  - 5.15 Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

#### **5.2 Standards for Floodway Permitted Uses:**

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- 5.21 The use must have a low flood damage potential.
- 5.22 The use must not involve structures or obstruct flood flows. The use must not cause any increase in flood damages, nor any increase in flood elevations.

5.3 **Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 5.4, if otherwise allowed in the underlying zoning district.

- 5.31 Structures accessory to primary uses listed in 5.11 – 5.13 above and primary uses listed in 5.32 - 5.33 below.
- 5.32 Grading, extraction, fill and storage of soil, sand, gravel, and other materials.
- 5.33 Marinas, boat rentals, permanent docks, piers, wharves, water control structures, and navigational facilities.
- 5.34 Storage yards for equipment, machinery, or materials.
- 5.35 Fences that have the potential to obstruct flood flows.
- 5.36 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

### 5.4 Standards for Floodway Conditional Uses:

- 5.41 A conditional use must not cause any increase in flood damages, nor any increase in flood elevations in areas where a floodway has been established, as certified by a registered professional engineer.
- 5.42 Fill; Storage of Materials and Equipment:
  - (a) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
  - (b) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the Breezy Point Planning

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Commission has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

- 5.43 Accessory Structures. Accessory structures, as identified in Section 5.31, may be permitted, provided that:
- (a) Structures are not intended for human habitation;
  - (b) Structures will have a low flood damage potential;
  - (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
  - (d) Structures must be elevated on fill or structurally dry floodproofed and watertight to the regulatory flood protection elevation. Certifications consistent with Section 11.22 shall be required.
  - (e) As an alternative, an accessory structure may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. A floodproofing certification consistent with Section 11.22 shall be required.
- 5.44 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.
- 5.45 A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

### **SECTION 6.0 FLOOD FRINGE DISTRICT (FF)**

- 6.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 6.2. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

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### 6.2 Standards for Flood Fringe Permitted Uses:

- 6.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the community.
- 6.22 Accessory Structures. As an alternative to the fill requirements of section 6.21, structures accessory to the uses identified in Section 6.1 may be designed to accommodate the inundation of floodwaters, meeting the following provisions, as appropriate:
- (a) The accessory structure constitutes a minimal investment and satisfy the development requirements in Section 4.2.
  - (b) Any enclosed accessory structure shall not exceed 576 square feet in size, and only be used for parking and storage. Any such structure shall be designed and certified by a registered professional engineer, or be designed in accordance with the following floodproofing standards:
    - (1) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
- 6.23 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 6.21 of this ordinance, or if allowed as a conditional use under Section 6.33 below.
- 6.24 All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- 6.25 All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

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6.26 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the Breezy Point Planning Commission.

6.27 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

6.28 Manufactured homes and recreational vehicles must meet the standards of Section 10 of this ordinance.

**6.3 Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 11.4 of this ordinance and further subject to the standards set forth in Section 6.4, if otherwise allowed in the underlying zoning district(s).

6.31 The placement of floodproofed nonresidential basements below the regulatory flood protection elevation. Residential basements, are not allowed below the regulatory flood protection elevation.

6.32 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 6.21 of this ordinance.

6.33 The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 6.44.

**6.4 Standards for Flood Fringe Conditional Uses:**

6.41 The standards for permitted uses in the flood fringe, listed in Sections 6.24 through 6.28, apply to all conditional uses.

6.42 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be structurally dry floodproofed, which requires making the structure watertight with the

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walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A floodproofing certification consistent with Section 11.22 shall be required.

- 6.43 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
- (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
  - (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Breezy Point Planning Commission.
  - (c) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
- 6.44 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:
- (a) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The bottom of all openings shall be no higher than one foot above grade, and have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.
  - (b) Floodproofing certifications consistent with Section 11.22 shall be required. The structure shall be subject to a deed-restricted nonconversion agreement with the issuance of any permit.

### **SECTION 7.0 RESERVED FOR GENERAL FLOODPLAIN DISTRICT (GF)**

## **SECTION 8.0 SUBDIVISION STANDARDS**

- 8.1 **Subdivisions:** No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.
- 8.11 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.
- 8.12 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the Breezy Point Planning Commission. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
- 8.13 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.
- 8.14 Subdivision proposals must be reviewed to assure that:
- (a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
  - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
  - (c) Adequate drainage is provided to reduce exposure of flood hazard.

## **SECTION 9.0 UTILITIES, RAILROADS, ROADS, AND BRIDGES**

- 9.1 **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- 9.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 5.0 and 6.0 of this

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ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

- 9.3 **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

### **SECTION 10.0 MANUFACTURED HOMES AND RECREATIONAL VEHICLES.**

- 10.1 **Manufactured Homes:** Manufactured homes and manufactured home parks are subject to applicable standards for each floodplain district. In addition:
- 10.11 New and replacement manufactured homes must be elevated in compliance with Section 6 of this ordinance and must be securely anchored to a system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.
- 10.12 New manufactured home parks and expansions to existing manufactured home parks must meet the appropriate standards for subdivisions in Section 8 of this ordinance. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 8.12 of this ordinance.
- 10.2 **Recreational Vehicles:** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Recreational vehicles placed in existing recreational vehicle parks, campgrounds or lots of record in the floodplain must either:
- 10.21 Meet the requirements for manufactured homes in Section 10.1, or

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- 10.22 Be travel ready, meeting the following criteria:
- (a) The vehicle must have a current license required for highway use.
  - (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
  - (c) No permanent structural type additions may be attached to the vehicle.
  - (d) Accessory structures may be permitted in the Flood Fringe District, provided that they constitute a minimal investment, do not hinder the removal of the vehicle should flooding occur, and meet the standards outlined in Sections 4.2 and 6.22.

### **SECTION 11.0 ADMINISTRATION**

11.1 **Duties:** A Zoning Administrator or other official designated by the Breezy Point Planning Commission must administer and enforce this ordinance.

#### **11.2 Permit Application Requirements:**

- 11.21 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:
- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
  - (b) Location of fill or storage of materials in relation to the stream channel.
  - (c) Copies of any required municipal, county, state or federal permits or approvals.
  - (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.
- 11.22 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land

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surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect as being in compliance with applicable floodproofing standards in the State Building Code. Accessory structures designed in accordance with Section 6.22 of this ordinance are exempt from certification, provided sufficient assurances are documented. Any development in established floodways must not cause any increase in flood elevations or damages, as certified by a registered professional engineer.

11. 23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.
- 11.24 Recordkeeping of Certifications and As-Built Documentation. The Zoning Administrator must maintain records in perpetuity documenting:
  - (a) all certifications referenced in Section 11.22 of this ordinance as applicable
  - (b) Elevations complying with Section 6.21 of this ordinance. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations to structures are constructed or floodproofed.
- 11.25 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

### 11.3 Variances:

- 11.31 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable State Statutes and Section(s) \_\_153.120\_\_ of the zoning ordinance/code.
- 11.32 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation

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for the particular area, or permit standards lower than those required by state law.

11.33 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

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

11.34 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

11.35 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
- (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

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- (e) The importance of the services to be provided by the proposed use to the community;
- (f) The requirements of the facility for a waterfront location;
- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

11.36 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Breezy Point Planning Commission must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.37 Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

11.38 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

### 11.4 Conditional Uses:

11.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section §153.19 of the zoning ordinance/code.

11.42 Factors Used in Decision-Making. In passing upon conditional use applications, the Breezy Point Planning Commission must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 11.35 of this ordinance.

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- 11.43 Conditions Attached to Conditional Use Permits. In addition to the standards identified in Sections 5.4 and 6.4, the Breezy Point Planning Commission may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
- (a) Limitations on period of use, occupancy, and operation.
  - (b) Imposition of operational controls, sureties, and deed restrictions.
  - (c) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- 11.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Breezy Point Planning Commission must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- 11.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

## **SECTION 12.0 NONCONFORMITIES**

12.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.643(b) of this ordinance, are subject to the provisions of Sections 12.11 – 12.16 below.

- 12.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 12.12 below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
- 12.12 Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage

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potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 12.14 below.

- 12.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.
- 12.14 If any structure experiences a substantial improvement as defined in this ordinance, then the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. If the current proposal, including maintenance and repair during the previous 365 days, plus the costs of any previous alterations and additions since the first Flood Insurance Rate Map exceeds 50 percent of the market value of any nonconforming structure, the entire structure must meet the standards of Section 5.0 or 6.0 of this ordinance.
- 12.15 If any nonconformity is substantially damaged, as defined in this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 5.0 or 6.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.
- 12.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 2.638 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

### **SECTION 13.0 VIOLATIONS AND PENALTIES**

- 13.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.
- 13.2 **Other Lawful Action:** Nothing in this ordinance restricts the city of Breezy Point from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

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- 13.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Sections §153.999 and §10.99 of the zoning ordinance/code. In responding to a suspected ordinance violation, the Zoning Administrator and Breezy Point Planning Commission may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The city of Breezy Point must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

### **SECTION 14.0 AMENDMENTS**

- 14.1 **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Department of Natural Resources (DNR) if it is determined that, through other measures, lands are adequately protected for the intended use.
- 14.2 **Amendments Require DNR Approval:** All amendments to this ordinance must be submitted to and approved by the Department of Natural Resources (DNR) prior to adoption.
- 14.3 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 2.2 of this ordinance.

(Ord. 17-04, 3<sup>rd</sup> Series, passed 09-05-2017; Ord. 18-01, 3<sup>rd</sup> Series, passed 10-01-2018)

## Zoning

### ***ADMINISTRATION***

#### **§ 153.115 ZONING ADMINISTRATION.**

(A) The Zoning Administrator shall be appointed by the City Council.

(B) Duties of the Zoning Administrator:

(1) Determine if applications are complete and comply with the terms of the ordinance;

(2) Conduct or direct inspections of buildings, sewage systems and other uses of the land to determine compliance with the terms of the ordinance. Electrical inspections and plumbing inspections, if desired or required, shall be the responsibility of the builder to arrange with the State of Minnesota;

(3) Maintain permanent and current records of the ordinance including but not limited to maps, amendments, zoning or use permits, conditional use permits, variances, appeals and applications, and a separate file for future conditions or expirations of permits;

(4) Review, file and forward applications for appeals, variances, conditional uses and zoning amendments;

(5) Enforce the provisions of this chapter by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time; and with the approval of the Planning Commission and City Council instituting with the City Attorney in the name of the city, any appropriate actions or proceedings against any violator;

(6) To attend meetings and provide research and findings to the Board of Adjustment and/or Planning Commission;

(7) To issue permitted zoning permits upon application for structures on lots conforming to this chapter when the conditions of this chapter are met, to issue

## Breezy Point Land Usage

conditional use permits when directed by the Planning Commission and to issue notices of a zoning change when directed by the City Council;

(8) To mail a copy of the findings to an applicant;

(9) To file copies of conditional use permits and variances with the County Recorder;

(10) To communicate with the DNR where required by the ordinance, including notice and findings of all conditional use permits, variances, zoning changes and plats within shore lands; and

(11) To administer the local duties of the Environmental Review Program.

(C) The Zoning Administrator and his or her duly authorized inspectors and Commissioners shall have the right to enter onto privately owned property within the City of Breezy Point, without the authorization of the owner at all reasonable times in the necessary pursuit of their duties.

(Prior Code, § 8.08, Subd. 1)

### **§ 153.116 BOARD OF ADJUSTMENT.**

(A) The Board of Adjustment shall be the same body as the Planning Commission.

(B) Duties:

(1) To decide within a reasonable time appeals from the actions of the Zoning Administrator or Zoning Inspector;

(2) To hold hearings on variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within 350 feet distant of any variance in question. The notice shall be given at least ten days before the hearing date;

(3) To decide within a reasonable time requests for variance, with findings to explain the basis for the decision; and

(4) To keep a record of its proceedings, notifications and the rationale for its

## Zoning

actions.

(Prior Code, § 8.08, Subd. 2)

### **§ 153.117 PLANNING COMMISSION.**

(A) The Planning Commission shall be that body designated in § 33.36 of the city ordinance and the members shall be appointed as provided therein.

(B) Duties:

(1) To hold hearings after proper public notice in the official newspaper and individual notice by regular mail to any property owners within 350 feet of any land proposed to be used in any manner or for any purpose for which a conditional use permit, or re-zoning is required by this chapter. The notices shall be given at least ten days before the hearing date; and

(2) To decide within the allowable time the following:

(a) Recommendation to the City Council regarding requested zoning district boundary changes or amendments to the ordinance. The recommendations shall be made within 60 days of the initial referral;

(b) To review and approve proposed plats or floor plans and to provide recommendations on final plats and final floor plans to the City Council;

(c) To review and approve all metes and bounds property divisions within the city;

(d) To review and approve or deny requests for conditional use permits and explain the basis for the decision;

(e) To periodically review the zoning map and ordinances and determine their role in shaping the growth of the community and to recommend changes to the City Council of these documents to guide growth and current land use toward the goals of the Comprehensive Plan;

(f) To recommend on a timely basis that the City Council review the Comprehensive Plan when appropriate; and

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(g) To keep a record of its proceedings.  
(Prior Code, § 8.08, Subd. 3)

### **§ 153.118 COUNCIL.**

(A) The Council shall be that elected by the citizens of the community.

(B) Duties:

(1) Appoint the Zoning Administrator by a majority vote, or terminate by a four-fifths vote;

(2) Appoint the Board of Adjustment and Planning Commission members by majority vote or to remove members by majority vote;

(3) To decide to accept, modify or reject within the allowable time the following:

(a) Recommendations from the Planning Commission for changes in zoning district boundaries or amendments to the ordinance; and

(b) Recommendations from the Planning Commission for acceptance of final plats, condominium plans or other recommendations.

(4) To initiate and/or hear appeals from the actions of the Board of Adjustment and the Planning Commission where the Planning Commission decision is final.  
(Prior Code, § 8.08, Subd. 4) (Ord. 92, passed 9-2-1997)

### **§ 153.119 CONDITIONAL USE PERMITS.**

(A) *Conditional use permits.* Conditional use permits shall be issued to the property for structures or other specified uses upon approval by the Planning Commission after a public hearing. All applications for a conditional use permit shall be submitted to the Zoning Administrator not less than 25 days before the hearing date, accompanied by the required submission, along with the appropriate fee. The fee or contract owner of the property or his or her authorized agent shall sign the application. The Zoning Administrator shall notify all property owners within 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten days before of the public hearing. He or she shall send the same notice postmarked at least

## Zoning

ten days in advance of the hearing to the DNR if the proposed use is in shore land. At his or her option, the proposer may request a sketch plan review with no action by the Planning Commission and with no fee by giving at least five-days' notice thereof to the Zoning Administrator if meeting time permits.

(B) *Submissions for CUP.* All commercial applications shall require a Certificate of Survey (see requirements in Appendix A which is attached to Ordinance 04-02-08, a copy of these requirements is on file in the office of the City Clerk-Treasurer). The Certificate of Survey requirement may be waived by the Planning Commission in unique circumstances. As a minimum, the following items shall be submitted for all CUP applications:

(1) Legal description of site;

(2) Site plan drawn to scale showing parcel and existing structure dimensions and ten feet minimum contours and surface water features;

(3) Location of all existing and proposed structures and their square footage (proposed structures must be staked at least ten days prior to meeting date);

(4) Elevations for all existing and proposed structures drawn to scale showing height of buildings as defined by ordinance;

(5) Color scheme for all existing and proposed structures;

### **§ 153.119**

(6) Existing and proposed curb cuts, driveway, access roads, turn-a-rounds, parking including RV, boat and additional vehicle storage, off-street loading and sidewalks including size and type of surface;

(7) Proposed landscaping and screening plans:

(a) Garbage dumpsters;

(b) Areas preserved in natural state including buffer areas;

(c) Areas to be developed into lawn (grass);

(d) Areas to be covered by woodchips or mulch;

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- (e) Garden areas;
  - (f) Shrubbery;
  - (g) Types, size, age and number of proposed trees and their location;
  - (h) Exterior lighting proposed including location and type; and
  - (i) Any other items as may be deemed appropriate.
- (8) Outside storage proposal;
  - (9) Proposed drainage plan;
  - (10) Proposed and existing sanitary sewer and water supply plans with estimated usages on peak day;
  - (11) Soil data;
  - (12) Verification and staking of boundary monuments by a Minnesota Licensed Land Surveyor.
  - (13) Existing and proposed signage plan; and
  - (14) Location and dimensions of any easements on the property.

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(C) *Evaluation criteria.* A thorough evaluation of the water body and the topographic, vegetation and soils condition on the site must be made to ensure:

- (1) The prevention of soil erosion or other possible pollution of public waters both during and after construction;
- (2) The visibility of structures and other facilities as viewed from public waters is limited;
- (3) The site is adequate for water supply and on-site sewage treatment if necessary; and

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(4) The types, uses and numbers of water craft the project will attract are compatible in relation to the suitability of public waters to safely accommodate those water craft.

(D) *Additional conditions.* In permitting a new conditional use or alteration of an existing conditional use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this chapter, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area of the city as a whole. These conditions may include, but are not limited to the following:

- (1) Increasing the required lot size or yard dimension;
- (2) Limiting the height, size or location of buildings;
- (3) Controlling the location and number of vehicle access points;
- (4) Increasing the street width;
- (5) Increasing the number of required off-street parking spaces;
- (6) Limiting the number, size, location or lighting of signs;
- (7) Requiring diking, fencing, screening, landscaping or other steps to protect adjacent or nearby property; and

### **§ 153.119**

- (8) Designating sites for open space.

(E) *Decision on the issue.* The Planning Commission shall decide the issue within a reasonable time with consideration to the following:

- (1) The following must be met:
  - (a) The use or development is an appropriate conditional use in the land use zone;
  - (b) The use or development with conditions conforms to the Comprehensive Land Use Plan;

## Breezy Point Land Usage

(c) The use with condition is compatible with the existing neighborhood;  
and

(d) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.

(2) The following must be considered:

(a) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair property values in the immediate vicinity;

(b) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

(c) The conditional use will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;

(d) The conditional use will promote and preserve the Northwoods character of the community;

(e) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic

### **§ 153.119**

on surrounding public thoroughfares;

(f) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use;

(g) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner that no disturbance to neighboring properties will result;

(h) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance; and

## Zoning

(i) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

(F) *Findings and determinations.* If the property is in shore lands, the DNR shall be provided with the findings and determinations postmarked within ten days.

(G) *Transfers.* Conditional use permits shall be transferable.

(H) *Violations.* Violations of the conditions of a conditional use permit shall subject the holder to revocation and loss of the permit upon notice of hearing and hearing by the Planning Commission and further action consistent with the ordinance.

(I) *Voiding permit.* Failure by the owner to act on a conditional use permit within 12 months, or failure to complete the work under a conditional use permit within two years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any conditional use permit outstanding at the time of the ordinance adoption.

(J) *Appeals.* Appeals from the action of the Planning Commission shall be filed with the City Clerk-Treasurer within 15 days after Planning Commission action, or at the next regular meeting of the City Council, whichever is later. The City Council shall hear the appeal.

(K) *Filing.* The conditional use permit shall be filed with the County Recorder with the filing fee paid by the applicant.

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(L) *Costs.* The applicant shall be responsible for all the city's professional costs in reviewing the proposal, including but not limited to legal, engineering, planning and financing assistance.

(M) *Planned Unit Development procedure and submissions - procedure.*

(1) The applicant shall submit a concept plan to the Planning Commission for review and discussion at least five days prior to the meeting.

(2) Upon decision to proceed by the Planning Commission, the applicant shall submit preliminary documents, prepared with professional help, including as a minimum, the items listed under division (B) above, and further shall contain the following:

## Breezy Point Land Usage

- (a) Proposed concept plan of operation;
- (b) Proposed plat or floor plan, if applicable;
- (c) Proposed recreational amenities;
- (d) Proposed timing;
- (e) Proposed final security to be given to the city; and
- (f) Proposed development contract with the city.

(3) The Planning Commission shall review the above data and make a decision within a reasonable time with findings of fact to explain the rationale for its decision.

(4) The City Council may initiate an appeal and review the decision if desired, no later than the next regular Council meeting after the Planning Commission action.

(5) Once the approval is received, the applicant shall then proceed within the time frame accepted under the preliminary proposal to provide final documents as required, including:

- (a) Financial security;
- (b) Development contract;
- (c) Final plat or floor plan;
- (d) Final covenants and associated homeowners documents;
- (e) Final time schedule; and
- (f) Final site plan which will control development.

(Prior Code, § 8.08, Subd. 5) (Ord. 04-02-08, passed 4-7-2008)

### **§ 153.120 VARIANCES.**

## Zoning

(A) Variances shall not allow a use not provided for in a zoning district.

(B) Variances shall run with the land and are transferable with the real estate.

(C) Variances shall be issued for structures and/or uses as approved by the Board of Adjustment after a public hearing. All applications for a variance shall be submitted to the Zoning Administrator not less than 25 days ahead of the hearing date, accompanied by the appropriate fee. The fee or contract owner or his or her authorized agent shall sign the application. The Administrator shall notify all property owners within 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten days ahead of the public hearing. He or she shall send the same notice to the DNR postmarked at least ten days prior to the date of the hearing if the proposed use is in shorelands. At his or her option, the proposer may request a sketch plan review with no action thereon to the Zoning Administrator, meeting time permitting. If the property is in shore lands the Zoning Administrator shall provide the DNR with a copy of the Board of Adjustment's findings and determination postmarked within ten days of the Board's action.

(D) Submission shall be similar to § 153.119(B) in addition variance applications shall require a certificate of survey (see requirements of Appendix A which is attached to Ordinance 04-02-08, a copy of these requirements is on file in the office of the City Clerk-Treasurer), except as waived by the Board of Adjustment. Proposed structures shall be staked on the site, and lot corners shall be visible.

(E) Variances shall be decided within a reasonable time with considerations for the **§ 153.120** following:

(1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;

(2) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;

(3) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;

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(4) The land use created by the variance is permitted in the zoning district where the property is located;

(5) The variance will not alter the essential character of the locality; and

(6) The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.

(F) Variances shall be decided within a reasonable time according to application time frame.

(G) Failure by the owner to act in reliance on the variance within six months of receiving a variance, unless extended by the Board of Adjustment, shall void the variance. A second extension shall require a new public hearing. This provision shall apply to any variance outstanding at the time of the ordinance adoption.

(H) Appeals from the action of the Board of Adjustment shall be filed with the City Clerk-Treasurer within 15 days after Board action or at the next regular meeting of the City Council, whichever is later. The City Council shall hear the appeal.

(I) Violation of the conditions on a variance shall void the variance.

(J) The variance shall be filed with the County Recorder at the expense of the applicant.

(K) The applicant shall be responsible for all the city's professional costs in reviewing the proposal, including, but not limited to, legal, engineering, planning and financial assistance.

(Prior Code, § 8.08, Subd. 6) (Ord. 04-02-08, passed 4-7-2008)

### **§ 153.121 ZONING PERMITS.**

(A) Zoning permits shall be issued for all new structures and any change in structure exterior, installation or upgrade of driveways, any construction or repair of sewage systems and any grading and filling in shore lands not exempted by this chapter. No person shall assemble, install, remove or construct any structure prior to applying for and receiving a zoning permit including foundations. In order to obtain a permit for any improvement of any type, it shall be necessary to upgrade or replace any non-conforming sewage treatment to meet the standards for conforming systems.

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(B) Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, the action shall occur and the conditional use permit, variance, zoning district change, final plat plan approval and approval of metes and bounds division shall be issued and security posted before the zoning permit is issued.

(C) The zoning permit application shall contain the legal description of the property and the signature of the fee or contract owner of the property or his or her authorized representative and shall require a new survey when stakes are not visible or have been removed through erosion, construction or other action, and a new certificate with existing and record dimensions. Where a covenant is required by this chapter, evidence that such a covenant has been recorded shall be provided to the city.

(D) Unless extended by the Zoning Administrator, where a zoning permit has been issued but no action under the terms and conditions of the permit has occurred within 12 months, the zoning permit shall be null and void. The exterior of the structure shall be completed in 12 months. The time limits may be extended an additional 12 months by the Zoning Administrator for good cause. A maximum of one additional 12-month extension shall be decided by the Planning Commission. Extensions must be approved prior to expiration of the original permit.

(E) Granting of a zoning permit shall occur when all requirements of this chapter have been met, but shall not be considered a statement of compliance with regional, state or federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with this chapter.

(F) If the Zoning Administrator determines in writing that any violation of any permit or any section of the ordinance has occurred, then the permit shall be suspended effective on the third day after the date of mailing, not including the date of mailing, the mailing by the Zoning Administrator to be of notice of the determination to the violator at the violator's last known address, and the suspension shall remain in full force and effect until the violation is brought into compliance with the ordinance. Such a determination shall be appealable to the Board of Adjustment which shall consider the matter at its next meeting.

(Prior Code, § 8.08, Subd. 7) (Ord. 04-01-08, passed 4-7-2008)

## Breezy Point Land Usage

Penalty, see § 153.999

### **§ 153.122 FEES.**

By resolution of the Council it shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications shall require the payment of an additional fee, which shall be required whether the permit is issued or not.

(Prior Code, § 8.08, Subd. 8) (Ord. 10-003, 3<sup>rd</sup> Series, passed 5-03-2010; Ord. 10-015, 3<sup>rd</sup> Series, passed 10-04-2010) Penalty, see § 153.999

### **§ 153.123 APPLICATION TIME FRAMES.**

(A) Notwithstanding any statute or law to the contrary, the City Planning Commission, Board of Adjustment and City Council shall, in the case of recommendations for conditional use permits, zoning ordinance amendments, preliminary plats, preliminary CIC plats or any other action required by the Planning Commission, Board of Adjustment or City Council, shall approve or deny an application within 60 days of the receipt of a completed application. For purposes of this section, a complete application shall include all necessary documentation as required by ordinance, a completed application form and the payment of the appropriate fees.

(B) The time frame may be extended, if:

(1) A state or federal law or court order requires a process to occur prior to the city review of the application or if the federal or state law or court order make it impossible to act within 60 days;

(2) The city provides written notice within 60 days to the applicant that states the reasons for the extension and the anticipated length of the extension, not to exceed an additional 60 days; or

(3) The applicant consents in writing to a longer period of time.

(C) Failure to act on the completed application within the prescribed time frame shall constitute approval of the request.

## Zoning

(D) The applicant may grant an extension beyond the allowed time frame.  
(Prior Code, § 8.08, Subd. 9)

### **§ 153.124 INTERIM USE PERMITS.**

(A) *Purpose.* The purpose and intent of allowing interim uses is to:

(1) Allow for a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the Comprehensive Plan; and

(2) Allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

(B) *Application, public hearing, notice and procedure.* The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits.

(C) *Standards.* The Planning Commission shall issue the interim use permits only if it finds that the use at the proposed location:

(1) Meets the standards of a conditional use permit set forth in § 153.119 of the City Code;

(2) Conforms to the zoning regulations, performance standards and other requirements;

(3) Is allowed as an interim use in the zoning district;

(4) Will terminate upon a date or event that can be identified with certainty;

(5) Will not impose additional costs on the public; and

(6) Will be subjected to, by agreement with the owner, any conditions that the city has deemed appropriate for permission of the use, including a condition that the owner provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

## Breezy Point Land Usage

(D) *Termination.* An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

- (1) That date stated on the permit;
- (2) A violation of conditions under which the permit was issued; or

(Prior Code, § 8.08, Subd. 10; Ord. 16-01, 3rd Series, passed 05-02-2016)

### ***ENFORCEMENT***

#### **§ 153.140 LIABILITY OF CITY OFFICIALS.**

The failure of any officer of the city, board or employees of the city to act pursuant to this chapter except as an individual acting in his or her own behalf, shall not be an offense and shall not subject the officer, board or employee to any penalty except that provided for under performance of city personnel under the city personnel policies. The city shall not be liable for problems arising from reliance on lot corners, legal description or other information provided by the property owner.

(Prior Code, § 8.09, Subd. 2)

#### **§ 153.141 EQUITABLE RELIEF.**

In the event of a violation or threatened violation of any provision of this chapter or the conditions of any permit issued pursuant to the ordinance, the city, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate the violation or threatened violation.

(Prior Code, § 8.09, Subd. 3)

#### **§ 153.999 PENALTY.**

Any person violating any provision of this chapter shall be subject to § 10.99.