

**ZONING ORDINANCE**

**CITY OF GEM LAKE**

**Ordinance No. 43  
With Amendments through December, 2003  
Enacted 15 December 2003**

**Replaces Zoning Ordinance No. 5 dated 2/19/63 which should be considered the original effective date of this Ordinance.**

**\$ 16.25**

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**ORDINANCE NO. 43**

**With Amendments  
through  
24 January 2000**

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

The City of Gem Lake does ordain as follows:

**SECTION 1 - TITLE**

This Ordinance shall be known, cited and referred to as the GEM LAKE ZONING ORDINANCE except as referred to herein, where it shall be known as "this Ordinance".

**SECTION 2 - INTENT AND PURPOSE**

This Ordinance is adopted for the purpose of:

- . . . protecting the public health, safety, morals, comfort, convenience and general welfare.
- . . . dividing the City into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land.
- . . . promoting orderly development of the residential, business and industrial areas.
- . . . providing adequate light, air, and convenience of access to property.
- . . . preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them.
- . . . providing for the compatibility of different land uses and the most appropriate use of land throughout the City.

## SECTION 3 - RULES AND DEFINITIONS

### Section 3.1 Rules

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

3.1 (1) The singular number includes the plural and the plural the singular.

3.1 (2) The present tense includes the past and future tenses, and the future the present.

3.1 (3) The word "shall" is mandatory, and the word "may" is permissive.

3.1 (4) The masculine gender includes the feminine and neuter genders.

3.1 (5) Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition thereof.

3.1 (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.

### Section 3.2 Definitions

The following words, and terms, whenever they occur in this Ordinance, are defined as follows:

#### **ACCESSORY USE OR STRUCTURE**

A use or structure or portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

#### **ACCESSORY AND SECONDARY USE ANTENNAS**

Radio and television receiving antennas, satellite dishes, TVRO antennas three (3) meters or less in diameter, short wave radio receiving antennas, those antennas necessary for the operation of a Federally licensed Amateur Radio station, and towers/antennas for radio systems operated by the City of Gem Lake.

#### **ANTENNA**

A device used to transmit and/or receive telecommunications, television or radio signals which is located on the exterior of or outside of any building or structure. Such antennas include, but are not limited to, broadcast radio or television, wireless communications, cellular, personal communications systems or any other dispatch type system, microwave or satellite dish, short-wave receiving or Amateur Radio transmit/receive, and other Accessory and Secondary use antennas.

#### **ALLEY**

A public right-of-way which affords a secondary means of access to abutting property.

#### **BASEMENT**

That portion of a building located partly underground but having less than half its floor-to-ceiling height below the average grade of the adjoining ground.

#### **BOARDING HOUSE**

A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed eight (8) persons.

#### **BUILDABLE AREA**

A contiguous area of real property within a lot deemed suitable by best engineering practices for construction of a principal use structure with no part of said area of real property within delineated wetlands, right-of-ways, set-backs, or easements.

#### **BUILDING**

Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

#### **BUILDING HEIGHT**

A distance to be measured from the mean curb level along the front lot line or from the mean ground level for all of that portion of the structure having frontage on a public right-of-way, whichever is higher, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the upper-most point on a round or other arch type roof, to the height of the highest gable on a pitched or hip roof.

#### **CARPORT**

An automobile shelter having one or more sides open.

#### **CELLAR**

That portion of the building having more than one-half (½) of the floor-to-ceiling height below the average grade of the adjoining ground.

**COMMERCIAL BROADCAST SERVICES**

Licensed commercial radio or television services transmitting signals for reception by the general public.

**COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES**

Licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**CONTIGUOUS**

Areas of real property actually in contact with one another or touching along a boundary and also touching or connected throughout in an unbroken sequence. Real property separated by a body of water or designated wet land shall not be considered contiguous regardless of whether the real property under the body of water or wetland has common ownership. The routing of a driveway through a parcel of real property shall not be considered as separating same so as to make the portions created by the driveway not contiguous.

**CURB LEVEL**

The grade elevation as established by the City, of the curb in front of the center of the building. Where no curb level has been established, the City Engineer shall determine a curb level or its equivalent for the purpose of this Ordinance.

**DWELLING**

A building or one (1) or more portions thereof occupied or intended to be occupied exclusively for residence purpose, but not including rooms in motels, hotels, nursing homes, boarding houses, nor trailers, tents, cabins or trailer coaches.

**DWELLING-ATTACHED**

A dwelling which is joined to another dwelling.

**DWELLING-DETACHED**

A dwelling which is entirely surrounded by open space on the same lot.

**EROSION CONTROL PLAN**

A plan developed in accordance with the requirements of Gem Lake, Ramsey County, Regional, State of MN and Federal guidelines that includes all proposed alterations to real property and the methods to be employed before undertaking the proposed alterations to prevent potential erosion and contamination of shorelands, wetlands and watershed areas, streets and by-ways, and adjacent private and public real property using accepted best practices.

**ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance of public utilities or municipal departments of underground or overhead telephone, gas, electrical, communication, water and/or sewer. Radio and television broadcast, cellular and PCS transmission/reception support structures shall not be considered an essential service.

**ESSENTIAL SERVICE STRUCTURES**

Structures including, but not limited to, buildings such as telephone exchanges, substations, wells, pumping stations and elevated tanks.

**FAMILY**

An individual, or two or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of persons not so related, maintaining a common household and using common cooking and kitchen facilities.

**FLOOR AREA**

The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines, basements and attached accessory buildings, but excepting that area primarily devoted to window display, storage, fitting rooms, stairs, escalators, unenclosed porches, detached accessory buildings utilized for dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the outside of exterior walls.

**GARAGE-PRIVATE**

A detached accessory building or portion of the principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or one (1) truck of a rated capacity not in excess of seven thousand (7,000) pounds.

**HARDSHIP-UNDUE HARDSHIP.**

A situation in which real property in question cannot be put to reasonable use under the conditions allowed by official controls; the plight of the owner of the real property is due to circumstances unique to the owner's real property that were not created by the owner; the essential character of the locality will not alter if a variance

is granted. Economic considerations alone shall not constitute undue hardship if a reasonable use for the real property exists under the terms of the official controls.

**HOBBY ACTIVITIES**

Any activity or interest pursued for pleasure or relaxation and not as a main occupation and meeting all of the following requirements: when normally engaged in only by the persons residing in the dwelling where the hobby is pursued; when evidence of the hobby is not visible from the street, or if visible is not offensive or such as to lower neighborhood property values; when pursuit of the hobby does not interfere with enjoyment of neighboring property by its owners.

**HOME OCCUPATION**

Any gainful occupation of non-residential nature conducted entirely within the dwelling or accessory building and carried on only by the inhabitants and no more than one (1) non-resident thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes. No articles may be sold or offered for sale except as may be produced on the premises by members of the immediate family residing therein. Home occupations shall not include the repair of internal combustion engines (other than small engine repair), body shops, machine shops, welding shops, or other objectionable uses as determined by the City Council. The home occupation shall not be conducted in more than twenty-five (25) percent of the floor area of the dwelling or four hundred (400) square feet, whichever is less. There shall be no outside display of goods or storage of equipment or material used in the "Home Occupation".

**KENNEL-ANIMAL**

Any place where three (3) or more of any single type of domestic animals, over four (4) months of age, are owned, boarded, bred or offered for sale.

**LOT**

A parcel of land occupied or used or intended for occupancy or use by a use permitted in this Ordinance.

**LOT OF RECORD**

Any lot which is one (1) unit of a plat heretofore duly approved and filed, or one (1) unit of an Auditor's Subdivision or a Registered Land Survey, or a parcel of land not so platted, subdivided or registered, for which a Deed, Auditor's Subdivision or Registered Land Survey has been recorded in the Office of the Register of Deeds or Registrar of Titles for Ramsey County, Minnesota, prior to the effective date of this Ordinance.

**LOT AREA**

The area of a lot in a horizontal plane bounded by the lot lines.

**LOT AREA PER FAMILY**

The number of square feet of lot area required per dwelling unit.

**LOT-CORNER**

A lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

**LOT DEPTH**

The mean horizontal distance between the front lot line and the rear lot line of a lot.

**LOT LINE**

A lot line is the property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line for applying this Ordinance.

**LOT LINE-FRONT**

That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot lines shall be designated by the owner and filed with the City.

**LOT LINE-REAR**

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

**LOT LINE-SIDE**

Any boundary of a lot which is not a front lot line or a rear lot line.

**LOT-OPEN SALES OR RENTAL LOT**

Any land used or occupied for the purposes of buying, selling, or rental for use away from the premises, any goods, materials or merchandise and for the storing of same in the open prior to sale or rental.

**LOT-OPEN STORAGE LOT**

Any land used or occupied for storing in the open any materials, equipment, vehicles of any kind or articles of any nature.

**LOT-THROUGH**

A lot which has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this Ordinance.

**LOT WIDTH**

The maximum horizontal distance between the side lot lines of a lot measured within the first thirty (30) feet of the lot depth.

**MOBILE HOME**

Any type of structure or vehicle which can be readily adapted to or does provide facilities for a person or persons to eat or sleep which is mounted on wheels, has provisions for wheels or may be loaded on any ordinary flat bed truck, such as a house trailer, converted bus or truck, tent or small building.

**MOTOR SERVICE STATION**

A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.

**NOXIOUS MATTER MATERIAL(S)**

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

**OPEN SPACE**

An area of real property on a lot which is not covered by impervious surfaces, structures, unpaved storage, or designated parking areas.

**PERFORMANCE STANDARD**

Qualitative or quantitative criterion established to control for the benefit of public health, safety and welfare such things as noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated or inherent in particular or ordinary uses of land or buildings.

**PERMIT - INTERIM USE.**

A permit allowing for the temporary use of real property issued by the City for a fee in accordance with the definitions and provisions contained in this Ordinance.

**PERMIT - SPECIAL USE.**

A permit allowing for the special use of real property issued by the City for a fee in accordance with the definitions and provisions contained in this Ordinance as a flexibility device to enable the assignment of dimensions to or conditions surrounding a proposed use after consideration of adjacent uses, their functions, and the special problems the proposed use presents.

**PUBLIC FACILITIES**

Parks, playgrounds and similar uses owned and operated by the City of Gem Lake; or, libraries and other City of Gem Lake owned facilities.

**PRIVATE CHILD CARE AND EDUCATION FACILITIES**

Child Care Facilities currently licensed by the State of Minnesota and Education Facilities with:

- i) an enrollment with an age not to exceed twelve (12) years;
- ii) a total enrollment of not less than twenty-five (25) nor more than one-hundred fifty (150);
- iii) a maximum of one-hundred twenty (120) "full-day equivalent" students with a full-day\* defined as ten (10) hours.

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

**PUBLIC UTILITY**

Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone services to the general public. For the purposes of this Ordinance, commercial broadcast services and commercial wireless telecommunications services shall not be considered public utility uses and are defined separately.

**RECREATIONAL EQUIPMENT (RESIDENTIAL)**

Play apparatus such as swing sets and slides, sand boxes, poles for net games, unoccupied boats and trailers, picnic tables, lawn chairs, barbecue stands, and similar equipment.

**SHORELAND**

Real property immediately adjacent to and abutting but not contained within the mean high water mark of any Shoreline.

**SHORELAND IMPACT PLAN**

A plan detailing current and future use of Shorelands and the potential impact of said uses; an assessment of current and future conditions and impact on those conditions for: vegetation and trees, soil and water, human and animal habitat, natural aesthetics and environmental quality.

**SHORELAND ZONE 1**

All real property located within and waterward of any Shoreline in the City of Gem Lake as determined by a federal, state, regional or local regulatory agency with the authority to make such determinations.

**SHORELAND ZONE 2**

All real property located within and landward fifty (50') feet of any Shoreline in the City of Gem Lake as determined by a federal, state, regional or local regulatory agency with the authority to make such determinations.

**SHORELAND ZONE 3**

All real property located within and landward fifty (50') feet to one hundred fifty (150') feet of any Shoreline in the City of Gem Lake as determined by a federal, state, regional or local regulatory agency with the authority to make such determinations.

**SHORELINE**

The mean high water mark of the body of water known as Gem Lake and any lake, pond, or flowage in the City of Gem Lake as determined by a federal, state, regional or local regulatory agency with the authority to make such determinations, along with all wetlands attendant to each body of water.

**SIGN-ADVERTISING**

A sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

**SIGN-BUSINESS**

An identification sign which directs attention to a business, profession or corporation or to the commodity, service or entertainment sold or offered on the premises where such sign is located or to which it is attached.

**SIGN-CONSTRUCTION**

A temporary free standing sign erected on a site denoting proposed or future construction on this particular site. This sign may indicate: 1) The particulars of the proposed construction, 2) the company, firm or individual for whom it is being constructed, 3) the architect, engineer and contractor, and 4) rental, sales or lease information.

**SIGN-CROSS AREA OF**

Shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case, passing through or between any adjacent elements of same. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of the display.

**SIGN-ELECTRIC**

Any sign containing electrical wiring, but not including signs illuminated by an exterior unattached light source.

**SIGN-ENTRANCE/EXIT**

A privately owned traffic directional sign erected on private property by the owner of such property for the purpose of guiding vehicles and pedestrians.

**SIGN-FLASHING**

Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color during which time such sign is in use.

**SIGN-GENERAL**

Any object which indicates a name, identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure, or piece of land and which directs attention to an object, product, place, activity person, institution, organization or business. However, a "sign" for application of this Ordinance shall not include any display of official court or public office notices or highway directional signs.

**SIGN-GROUND MOUNTED**

A sign supported by one or more uprights, poles or braces in or up from the ground.

**SIGN-IDENTIFICATION**

In a Residential Zoning District, a nameplate sign identifying a resident (Name, address and profession or occupation), school, church or other non-business use.

b) In a Business Zoning district, a nameplate or sign identifying the business, industry or occupant of the lot ( Name, address, business(s), industry or lot occupant).

**SIGN-ILLUMINATED**

Any sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

**SIGN-MOBILE**

A free standing sign on wheels, trailers or framework that is capable of being transported from place to place and is not permanently attached to the ground or any other structure.

**SIGN-NAMEPLATE**

A sign indicating the name and address of a building or the name of an occupant therein.

**SIGN-REAL ESTATE**

A sign offering property (land and/or buildings) for sale, lease or rent.

**SIGN-REVOLVING**

A sign which has moving structural but does not include flashing signs that blink on and off. It does include signs which produce moving effects through use of illumination. This definition shall include searchlights.

**SIGN-ROOF**

A sign erected upon a roof or parapet of a building.

**SIGN-SHOPPING CENTER**

A business sign which identifies a group of stores, shops or offices that number three (3) or more.

**SIGN-TEMPORARY**

A sign that is not solidly affixed to a building, structure or land that announces an event such as a bazaar, garage/rummage and estate sale and/or a sporting or special event of duration of not greater than ninety (90) days out of a twelve (12) month calendar period. Promotional and franchise-type banners and pennants, which advertise products or services sold on the site, are also defined as temporary signs.

**SIGN-WALL**

A sign attached to or erected against the wall of a building with the exposed face of the sign is in a plane parallel to the plane of said wall.

**STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story.

**STREET**

A public or private right-of-way not less than forty (40) feet in width which affords a primary means of access to abutting property.

**STRUCTURE**

Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, or fences.

**STRUCTURE, NON-CONFORMING**

Any structure which is legally existing upon the effective date of this Ordinance, which would not conform to the applicable regulations if the structure were to be erected under the provisions of this Ordinance.

**STRUCTURAL ALTERATION**

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

**TOWER OR ANTENNA SUPPORT STRUCTURE**

Any mast, pole spire, lattice structure or similar structure including any lines, cables, wires or braces supporting the structure intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade. Towers may be ground or roof mounted. The term "tower" includes any antenna attached to the tower.

**USE.**

The purpose or activity for which the land, structure, or building thereon is designed, arranged, or intended, or for which it is occupied or maintained and shall include the performance of such activity as defined by the performance standards of this Ordinance. Uses shall be classified as principal or accessory and as permitted, special, interim and prohibited.

**USE-INTERIM.**

A temporary use of real property requiring a permit issued by the City which shall be allowed until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow for said temporary use.

**USE, NON-CONFORMING**

A use of land, buildings or structures lawfully existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any use of land, building or structure lawfully existing prior to the adoption of an amendment which would not comply with all of the regulations.

**USE, PERMITTED**

A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district.

**USE, PRINCIPAL**

The main use of land or buildings as distinguished from subordinate or accessory uses.

**USE-SPECIAL.**

Either a public or private use as listed which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. This includes those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning district, which for the respective conduct or

performance in such designated districts may require reasonable, but special, unusual, or extraordinary limitations peculiar to the use for the protection, promotion, and preservation of the general public welfare, health, and safety as well as the integrity of the City's Comprehensive Municipal Plan. Consideration of each case of special use shall be given to impact of such use on neighboring real property and of the public need for the particular use at the particular location.

**VARIANCE.**

A relaxation of the terms of this Ordinance such that deviation will not be contrary to the public interest and where, owing to physical conditions unique to the individual real property under consideration and not the results of actions of the owner, a literal enforcement of this Ordinance would result in an undue hardship.

**VEHICLE-MOTOR VEHICLE**

Any self-propelled vehicle not operated exclusively upon railroad tracks and any vehicle propelled or drawn by a self-propelled vehicle, but excepting snowmobiles and mobile homes.

**VEHICLE-JUNKED MOTOR VEHICLE**

Any motor vehicle which is either abandoned, wrecked, partially dismantled or legally inoperative, or which is not currently licensed for operation within the State of Minnesota.

**VEHICLE-COMMERCIAL VEHICLE**

A motor vehicle exceeding one and one-half ton or equivalent in load capacity or a motor vehicle not displaying passenger car or RV license plates.

**WETLANDS**

An area where water stands near, at or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

- i) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1,2,3,4,6,7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.").
- ii) Mineral soils with grey horizons of organic soils belonging to the Histosol order (peat and muck).
- iii) Soil which is water logged or covered with water at least three (3) months of the year.
- iv) Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may be at times sufficiently dry to permit tillage, but would require drainage to be made arable. The edge of a wetland is commonly that point where natural vegetation changes from predominantly aquatic to predominately terrestrial.

**YARD**

A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky except as expressly permitted in this Ordinance. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

**YARD-FRONT**

A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such a lot is located.

**YARD-REAR**

A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

**YARD-SIDE**

A yard extending along a side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

**ZONING DISTRICT**

An area or areas within the limits of the City for which the regulations and requirements governing use are uniform.

## SECTION 4 - GENERAL PROVISIONS

### Section 4.1 Application of this Ordinance

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

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

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

4.1 (4) When land is proposed to be annexed to the City of Gem Lake the Planning Commission shall hold a public hearing upon the permanent zoning of said land. The results of the hearing, along with a recommendation, shall be presented to the City Council. In the event of annexation proceedings becoming final before the permanent zoning is determined, the annexed area shall be placed in the "R-1" District and such classification shall be considered as an interim step pending permanent classification.

4.1(5) In accordance with the Gem Lake Comprehensive Municipal Plan, Section 12.1.3, when making application for development of real property in the City of Gem Lake, the developer shall submit twelve (12) sets of all plans, variance requirements, and permit requirements in forms acceptable to the Zoning Administrator or City officials including, but not limited to, the following:

- a) a Site Plan; and
- b) a Grading And Filling Plan; and
- c) a Landscape Plan; and
- d) a Tree Preservation Plan; and
- e) an Erosion Control And Runoff Plan; and
- f) a Description of the Project; and
- g) a Description of Future Expansion Plans; and
- h) all other such plans or information as may be required for specific zoning districts.

4.1(6) In accordance with the Gem Lake Comprehensive Municipal Plan, Section 12.1.4, when making recommendations and decisions considering land use, the Planning Commission and City Council shall review and measure the impact of such uses including , but not limited to, the following as criteria:

- a) The impact of the use on adjacent uses; and
- b) the impact of the use on air and water quality; and
- c) the impact of the use on traffic generation; and
- d) the impact of the use on public safety, health and welfare; and
- e) the impact of the use on the area economy

Section 4.2 Separability.

4.2(1) It is hereby declared to be the intention of the Mayor and City Council that the several provisions of this Ordinance are separable in accordance with the following:

- a) If any court of competent jurisdiction shall adjudge any provision of this Ordinance or application thereof to be invalid, such judgement shall not affect any other provision of this Ordinance not specifically included in said judgment.

Section 4.3 Non-Conforming Uses and Structures

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

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

4.3 (3) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

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

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

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

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

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

4.3 (9) Uses Not Provided For Within Zoning Districts.

- a) Whenever, in any Zoning District, a use is neither specifically allowed or denied, the use shall be considered as prohibited. In such cases, the City Council or the Planning Commission may, by their own initiative, or upon request of the property owner, conduct a study to determine if: 1) the use can be deemed consistent with the Comprehensive Municipal Plan; 2) the use is acceptable to and will not adversely affect adjacent property owners; 3) the use is in the public interest and is not determined to be offensive; 4) which defined Zoning District would be most appropriate for the use; 5) what conditions and standards relating to development of the use should be imposed. Upon completion and consideration of the study, the City Council or Planning Commission or the real property owner may initiate a request for an amendment to the Zoning Ordinance to provide for the particular use under consideration in accordance with the definitions and provisions contained in this Ordinance.

Section 4.4 Lot Provisions

4.4 (1) A lot or parcel of land of record upon the effective date of this Ordinance which is in an "R" District and which does not meet the requirements of this Ordinance as to area, width, or other open space, may be utilized for single family detached dwelling purposes provided the measurements of such area, width or open space are within seventy-five percent (75%) of the requirements of this Ordinance; but said lot or parcel shall not be more intensively developed.

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

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

#### Section 4.5 Accessory Buildings

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

4.5 (2) No accessory building shall exceed the height of the principal building. However, in no case, shall such accessory building exceed fifteen (15) feet in height.

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

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

4.5 (5) No combinations of accessory buildings shall be allowed to exceed 1000 square feet in size, except by special use permit from the City Council.

#### Section 4.6 Required Yards and Open Space

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

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

4.6 (3) The following shall be considered as permitted encroachments on set-back and height requirements:

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

b) In front yards: service station pump islands and fences at least 80% open.

c) In side and rear yards: fences or walls six feet in height or less. However, in a corner lot no obstruction higher than three feet above curb level shall be located within twenty feet of the lot corner formed by any two streets, or within fifteen feet of any street right-of-way.

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

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

#### Section 4.7 Traffic Visibility

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

#### Section 4.8 Farming Operations

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

#### Section 4.9 Essential Services

4.9 (1) Essential services shall be permitted as authorized and regulated by state law and ordinances of the City of Gem Lake.

#### Section 4.10 Land Reclamation

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

- a) Completed Special Use Permit form and necessary fees
- b) Survey of the site where Land Reclamation is to occur showing land contours before and after Land Reclamation. This survey shall be large enough in scale to allow for at least the inclusion of the immediate adjacent parcels of land.
- c) A sketch showing current water drainage from/to the site and any modifications of such drainage after Land Reclamation is complete.
- d) A description or sketch showing the soil erosion control measures to be used during this Land Reclamation activity.
- e) Description of the amount, origin and types of materials to be placed on the land as part of this Land Reclamation.
- f) A sketch and/or description of the final cover material to be placed on the fill deposited by this Land Reclamation. The City Council may require a monetary deposit be placed with the City to insure that the final grading and landscaping be completed per the supplied sketches and description.
- g) Statement of when this Land Reclamation is to occur including the hours of the day and days of the week of such planned activities. The City might further limit these hours and days of operation.
- h) A route map showing the route for the trucks moving to and from the site. Copies of any special permits needed from the county or state highway departments should be attached.

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

#### Section 4.11 Mining

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

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

- c) A sketch showing current water drainage from/to the site and any modifications of such drainage after Land Mining is complete.
- d) A description or sketch showing the soil erosion control measures to be used during this Land Mining activity.
- e) A sketch and/or description of the final cover material to be placed on the land exposed by this Land Mining. The City Council may require a monetary deposit with the City to insure that the final grading and landscaping be completed per the supplied sketches and description.
- f) Statement of when these Land Mining activities are to occur including the hours of the day and days of the week of such planned activities. The City might further limit these hours and days of operation.
- g) A route map showing the route for trucks moving to and from the site. Copies of any special permits needed from the county or state highway departments should be attached.

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

#### Section 4.12 Relocation of Dwelling Units

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

4.12 (2) In addition, such relocations shall require a special permit from the City Council wherein the following provisions shall be met:

4.12 (3) Application shall be made on forms provided by the City Clerk.

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

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

4.12 (6) At least ten (10) days before such hearing, the Council shall mail a notice of said hearing to property owners within three hundred (300) feet of the relocation premises. Failure of the Council to mail the notice, or failure of the title holder to receive the notice shall not invalidate the proceedings.

4.12 (7) The Planning Commission shall make a report to the Council before, or at the public hearing.

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

## SECTION 5 - ADMINISTRATION AND ENFORCEMENT

### Section 5.1 Enforcing Officer

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

### Section 5.2 Building Permit

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

### Section 5.3 Duties of the Zoning Administrator

5.3 (1) The Zoning Administrator shall enforce this Ordinance and in addition thereto and in furtherance of said authority he shall:

- a) Conduct inspections of building and use of land to determine compliance with the terms of this Ordinance;
- b) Maintain permanent and current records of this Ordinance, including but not limited to, all maps, amendments, and conditional uses, variances, appeals and applications, thereto;
- c) Receive, file and forward all applications for amendments, variances, conditional use or other matters to the Planning Commission and City Council;
- d) Institute in the name of the City of Gem Lake any appropriate actions or proceeding against a violator as provided by law;
- e) Approve all building permits, submitted by the Building Inspector, after determining that the permit is in compliance with this Ordinance. This approval must be made before the permit is issued.

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

### Section 5.4 Variances

5.4 (1) Purpose and Intent. The City Council may grant Variances from the strict applications of the provisions of this Zoning Ordinance and impose conditions and safeguards in the Variances so granted. These Variances shall be considered in cases where by reason of narrowness, shallowness, or shape of a lot or where by reason of exceptional topographic or water conditions or where other extraordinary and exceptional conditions of such lot exist, the strict application of the terms of the Zoning Ordinance would result in an undue hardship upon the owner of such lot in developing or using such lot in a manner customary and legally permissible within the zoning district in which said lot is located. Economic considerations alone shall not constitute undue hardship for which a Variance will be considered or issued if a reasonable use for the real property exists under the terms of the Zoning Ordinance.

5.4 (2) Application. An application for any Variance from the Zoning Ordinance shall be made on a form provided by the City. If the Variance is to be considered in association with any other building permits, special or interim use permits, or subdivision, all related applications shall be submitted simultaneously with the Variance application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the Variance as required and communicated by the Zoning Administrator. An application will be considered complete

on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, the City shall act on the application within sixty (60) days of the date a complete application is accepted unless said required period is extended or waived.

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

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

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

5.4 (6) Action by City Council. Upon receipt of the written recommendation of the Planning Commission and public comment but not earlier than thirty (30) days following the first consideration by the Planning Commission, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than sixty (60) days after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. The City Council shall, in the form of a resolution, make a written finding of fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

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

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

## Section 5.5            Special Use Permits

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

5.5 (2) Application. An application for a Special Use permit shall be made on a form provided by the City. If the Special Use Permit is to be considered in association with any other building permits, variances, interim use permits, or subdivision, all related applications shall be submitted simultaneously with the Special Use Permit application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the application as required and communicated by the Zoning Administrator. An application will be considered complete on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, the City shall act on the application within sixty (60) days of the date a complete application is accepted unless said required period is extended or waived.

5.5 (3) Referral to Planning Commission. The matter along with all related information shall be referred to the Planning Commission which shall review the application(s) and hear the applicant or representative thereof at its first regular meeting following receipt of complete application(s). To insure preservation or health, safety, and

general welfare of the public, the Planning Commission shall have authority to request additional information from the applicant concerning the application or to retain expert testimony with the consent and at the expense of the applicant concerning the application. The Planning Commission shall review the matter determining the effect of the proposed Special Use on: the Comprehensive Municipal Plan; the character and development of the neighborhood and Zoning District; conformance with the Performance Standards and other provisions of this Ordinance; compliance with other applicable law, regulations, and provisions which may affect the Special Use.

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

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

5.5 (6) Action by City Council. Upon receipt of the written recommendation of the Planning Commission and public comment but not earlier than thirty (30) days following the first consideration by the Planning Commission, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than sixty (60) days after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. In considering the application, the City Council shall determine that the proposed Special Use: 1) will not be detrimental to public health, safety, and general welfare; 2) is in harmony with the general purpose and intent of the Comprehensive Municipal Plan; 3) is in compliance with this Ordinance. The City Council shall, in the form of a resolution, make a written finding of fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

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

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

## Section 5.6 Interim Use Permits

5.6 (1) Purpose and Intent. The purpose and intent of allowing an Interim Use by providing an Interim Use Permit is to allow a use or activity that is presently acceptable but that with anticipated development, redevelopment or identifiable change may not be acceptable in the future.

- a) Existing Uses. Uses defined as Interim Uses which presently exist and which were legally established within a respective zoning district and which are in accordance with standards and procedures set forth in this Ordinance shall be considered approved.
- b) New Uses. Uses defined as Interim Uses which do not presently exist within a respective zoning district shall be processed as new applications in accordance with standards and procedures set forth in this Ordinance.

5.6 (2) Application. An application for an Interim Use permit shall be made on a form provided by the City. If the Interim Use Permit is to be considered in association with any other building permits, variances, special use permits, or subdivision, all related applications shall be submitted simultaneously with the Interim Use Permit application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of

the application as required and communicated by the Zoning Administrator. An application will be considered complete on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. As required by law, the City shall act on the application within sixty (60) days of the date a complete application is accepted unless said required period is extended or waived.

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

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

5.6(5) Referral to City Council. The Planning Commission shall make written findings of fact in accordance with Section 12.1.5 C. Of the Comprehensive Municipal Plan and recommendation to approve or deny the application to the City Council which shall include such actions or conditions relating to the request as may be deemed necessary to carry out the intent and purpose of this Ordinance.

5.6 (6) Action by City Council. Upon receipt of the written recommendation of the Planning Commission and public comment but not earlier than thirty (30) days following the first consideration by the Planning Commission, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than sixty (60) days after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. In considering the application, the City Council shall determine that the proposed Interim Use: 1) will not be detrimental to public health, safety, and general welfare; 2) will not seriously depreciate adjacent and surrounding property values; 3) is in harmony with the general purpose and intent of the Comprehensive Municipal Plan; 4) is in compliance with this Ordinance. The City Council shall, in the form of a resolution, make a written finding of fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

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

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

5.6 (9) Termination of Interim Use Permits. An Interim Use Permit shall terminate on the happening of any of the following events, whichever shall occur first:

- a) The date or event stated on the application and the Interim Use Permit; or
- b) Upon violation of any condition(s) under which the Interim Use permit was issued; or
- c) Upon adoption of any amendment to the City's zoning regulations which renders the use non-confirming; or

- d) The redevelopment of the use and property upon which it is located to a permitted use as allowed within the respective zoning district.

5.6 (10) General Standards. All Interim Uses shall comply with the following general standards.

- a) Existing Uses. Shall be in accordance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.
- b) New Uses. Shall conform as follows: 1) compliance with all zoning and other regulations as may otherwise be applicable; 2) the date or the event that will terminate the use can be identified with certainty; 3) the existence of the Interim Use will not impose additional costs on the public if it becomes necessary for the public to take the property in the future; 4) the user agrees to any conditions of approval associated with the approval of the Interim Use Permit by the City Council.
- c) Existing and New Uses. Shall conform as follows: 1) shall maintain harmony and compatibility with surrounding uses and with the architectural character and design standards of existing uses and development; 2) shall meet or exceed all Performance Standards contained elsewhere in this Ordinance; 3) shall not generate such additional traffic associated with the use that would overburden or exceed the capabilities of streets and other public services and facilities including, but not limited to, parks, schools, and utilities serving the area.

#### Section 5.7 Amendments

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

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

5.7 (3) Application. An application to Amend The Zoning Ordinance shall be made on a form provided by the City. If the application to Amend The Zoning Ordinance is to be considered in association with any other building permits, variances, special or interim use permits, or subdivision, all related applications shall be submitted simultaneously with the application so as to represent the full intent of the applicant. The application(s) shall be accompanied by a fee payable to the City in an aggregate amount as established in the City's fee schedule. The application(s) shall state fully all facts relied upon by the applicant and shall be supplemented by such maps, plans, or additional data for consideration of the application as required and communicated by the Zoning Administrator. An application will be considered complete on the date the application(s), fee(s), and all supplemental materials requested have been received by the Zoning Administrator. The City shall act on the application within sixty (60) days of the date a complete application is accepted unless said required period is extended or waived.

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

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

place and a summary of the application. A similar notice shall be mailed to all owners of real property located within three hundred fifty (350') feet of the Interim Use site based upon a list and mailing labels secured from Ramsey County Property Records and Revenue by the applicant and within the same time frame.

5.7(6) Referral to City Council. The Planning Commission shall make written findings of fact in accordance with Section 12.1.5 A. Of the Comprehensive Municipal Plan and recommendation to approve or deny the application to the City Council which shall include such actions or conditions relating to the request as may be deemed necessary to carry out the intent and purpose of this Ordinance.

5.7 (7) Action by City Council. Upon receipt of the written recommendation of the Planning Commission and public comment but not earlier than thirty (30) days following the first consideration by the Planning Commission, the matter shall be placed on the agenda for a regular meeting of the City Council, the date of such meeting to be not more than sixty (60) days after the date of receipt of a completed application unless such date is extended or waived. If no recommendation is transmitted to the City Council by the Planning Commission within thirty (30) days of its receipt, the City Council may take action without further communication from the Planning Commission. In considering the application, the City Council shall determine that the proposed amendment: 1) will not be detrimental to public health, safety, and general welfare; 2) is in harmony with the general purpose and intent of the Comprehensive Municipal Plan; 3) is in compliance with this Ordinance. The City Council shall, in the form of a resolution, make a written finding of fact, convey its decision to approve or deny the application, and impose such conditions on approvals as may be necessary to protect the public health, safety, and welfare. Approvals shall require a majority vote of the City Council.

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

#### Section 5.8 Appeals

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

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

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

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

#### Section 5.9 Fees

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

5.9 (2) Supplemental Fees. In addition to application fees, the City may require payment of supplemental fees related to an action or application including, but not limited to: attorney's fees, fees of outside experts; staff time; direct expenses exceptional to the effort and as identified by City staff.

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

Section 5.10        Violations and Penalties

5.10 (1) Any person, firm, corporation, or voluntary association which violates or refuses to comply with any of the provisions of this Ordinance shall be charged with a misdemeanor and, upon conviction thereof, subject to a fine of not more than One Hundred (\$100.00) Dollars and costs for every offense or to imprisonment not exceeding ninety (90) days. Each day that a violation is permitted to exist shall constitute a separate offense.

## SECTION 6 - ZONING DISTRICTS AND MAP

### Section 6.1 Districts

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

#### Residence Districts

- "R-1" Lake Residence
- "R-2" Acre Estate Residence
- "R-3" Low-Density Residence
- "R-4" Medium-Density Residence

#### Business Districts

- "R-B" Retail Business
- "G-B" General Business
- "LD-B" Low-Density Business
- "G-B II" General Business II

### Section 6.2 Map

6.2 (1) The boundaries of the above districts are hereby established on that certain map entitled "Zoning District Map of Gem Lake, Minnesota," dated 24 January 2000, which map is properly approved and hereinafter referred to as the "Zoning Map". This map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth and described herein.

### Section 6.3 Boundaries

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

## **SECTION 7 - "R-1" RESIDENTIAL DISTRICT**

### **Section 7.1 Permitted Uses**

Within the "R-1" Residential District, no structures or land shall be used except for one (1) or more of the following uses:

7.1 (1) One family detached dwellings

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

7.1 (3) Agricultural activities, provided that no building in which farm animals or fowl are to be housed is nearer than one hundred (100) feet of a lot line.

### **Section 7.2 Permitted Accessory Uses**

Within any "R-1" Use District, the following uses shall be permitted accessory uses.

7.2 (1) Attached or detached housing for domestic servants

7.2 (2) Private garage, car port or parking space

7.2 (3) The keeping of not more than two (2) roomers

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

7.2 (5) Home occupation

7.2 (6) Signs as regulated by this Ordinance

7.2 (7) Buildings temporarily located for purposes of construction on the site for a period of time not in excess of such construction.

7.2 (8) Conservatories for plants and flowers, not including any business, trade or industry.

7.2 (9) Decorative landscape features including but not limited to pools, arbors, hedges, walls, shrubs, trees, etc.

7.2(10) Essential services

### **Section 7.3 Special Uses**

Within any "R-1" Residential District, no structures or land shall be used for the following uses except by Special Use Permit:

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

7.3 (2) Essential Service Structures

### **Section 7.4 Height Regulations**

7.4 (1) No principal structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, whichever is the lesser, and no accessory structure shall exceed two stories or twenty-five (25) feet in height, whichever is lesser.

Section 7.5 Area, Frontage and Yard Requirements

7.5 (1) The following minimum requirements shall be observed

TABLE 7.5 (1)

TOTAL AREA	BUILDABLE AREA	FRONTAGE*
3.0 acres	50% total area	200 feet
FRONT YARD**	SIDE YARD	REAR YARD***
50 foot set-back	30 foot set-back	50 foot set-back

\* All lots located on the lake shore shall be considered as having two frontages; that portion of the lot which abuts on the lake and such other lot line as determined by the City Council.

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

\*\*\* All Residential structures shall be set back at least 100' from the ordinary high water level of the lake. The ordinary high water level of the lake shall be as determined by the City Council.

**SECTION 8 - "R-2" RESIDENTIAL DISTRICT**

Section 8.1 Permitted Uses

8.1 (1) Within any "R-2" Residential District, no structure or land shall be used except for one (1) or more of the following uses:

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

Section 8.2 Permitted Accessory Uses

8.2 (1) Within any "R-2" Residential District, the following uses shall be permitted as accessory uses:

- a) Those uses or structures permitted in Section 7.2 and as regulated therein shall be a permitted accessory use, except as herein amended.

Section 8.3 Special Uses

8.3 (1) Within any "R-2" Residential District, no structure or land shall be used for the following uses except by special use permit.

- a) Those uses or structures listed as special uses in Section 7.3 and as regulated therein, except as herein amended.

Section 8.4 Height Regulations

8.4 (1) No principal structure shall exceed two (2) stories or twenty-five (25) feet in height whichever is lesser, and no accessory structure shall exceed fifteen (15) feet in height.

Section 8.5 Area, Frontage and Yard Requirements

8.5 (1) The following minimum requirements shall be observed TABLE 8.5 (1)

TOTAL AREA	BUILDABLE AREA	FRONTAGE*
1.0 acres	75% total area	150 feet
FRONT YARD**	SIDE YARD*	REAR YARD***
40 foot set-back	15 foot set-back	35 foot set-back

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

**SECTION 9 - "R-3" RESIDENTIAL DISTRICT**

Section 9.1 Permitted Uses

9.1 (1) Within any "R-3" Residential District, no structure or land shall be used except for one (1) or more of the following uses:

- a) All uses permitted in Section 8.1 and as regulated therein except as herein amended.

Section 9.2 Permitted Accessory Uses

9.2 (1) Within any "R-3" Residential District, the following uses shall be permitted as accessory uses:

- a) Those uses or structures permitted in Section 8.2 and as regulated therein except as herein amended.
- b) Swimming pools provided such pool is fenced so as to control access and is located not less than fifteen (15) feet from any other lot in an "R" District, and subject to Council approval.

Section 9.3 Special Uses

9.3 (1) Within any "R-3" Residential District, no structure or land shall be used for the following uses except by special use permit.

- a) Those uses or structures listed as special uses in Section 8.3 as regulated therein, except as herein amended.
- b) Two-family dwellings

Section 9.4 Height Regulations

9.4 (1) No principal structure shall exceed two (2) stories or twenty-five (25) feet in height whichever is lesser, and no accessory structure shall exceed fifteen (15) feet in height.

Section 9.5 Area, Frontage and Yard Requirements

9.5 (1) The following minimum requirements shall be observed TABLE 9.5 (1)

TOTAL AREA	BUILDABLE AREA	FRONTAGE*
36,000 square feet	75% total area	100 feet
FRONT YARD	SIDE YARD*	REAR YARD
35 foot set-back	15 foot set-back	25 foot set-back

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

**SECTION 10 - "R-4" RESIDENTIAL DISTRICT**

Section 10.1 Permitted Uses

10.1 (1) Within the "R-4" Residential District, no structure or land shall be used expect for one (1) or more of the following uses:

- a) All uses permitted in Section 9.1 and as regulated therein except as herein amended.

Section 10.2 Permitted Accessory Uses

10.2 (1) Within any "R-4" Residential District, the following uses shall be permitted as accessory uses:

- a) Those uses or structures permitted in Section 9.2 and as regulated therein except as herein amended.

Section 10.3 Special Uses

10.3 (1) Within any "R-4" Residential District, no structure or land shall be used for the following uses except by special use permit.

- a) Those uses or structures listed as special uses in Section 9.3 and as regulated therein except as herein amended.
- b) Off-street parking for adjacent non-residential uses.

Section 10.4 Height Regulations

10.4 (1) No principal structure shall exceed two (2) stories or twenty-five (25) feet in height whichever is lesser, and no accessory structure shall exceed fifteen (15) feet in height.

Section 10.5 Area, Frontage and Yard Requirements

10.5 (1) The following minimum requirements shall be observed:

- a) When on-site septic systems will be used for structures constructed in the R-4 zoning district the following applies TABLE 10.5 (1) a)

TOTAL AREA	BUILDABLE AREA	FRONTAGE*
36,000 square feet	75% total area	100 feet
FRONT YARD	SIDE YARD*	REAR YARD
35 foot set-back	15 foot set-back	25 foot set-back

- b) When city sewer is currently available and will be used for the structures constructed in the R-4 zoning district the following applies: TABLE 10.5 (1) b)

TOTAL AREA	BUILDABLE AREA	FRONTAGE*
24,000 square feet	100% total area	100 feet
FRONT YARD	SIDE YARD*	REAR YARD
35 foot set-back	15 foot set-back	25 foot set-back

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

## SECTION 11. REGULATION OF GEM LAKE WATERS, WETLANDS AND SHORELANDS

### 11.1 General Provisions.

11.1(1) Descriptions Of Gem Lake Waters, Wetlands and Shorelands. For purposes of application of the provisions of this Section, the following classifications shall be based upon those found in Section 2, Table 2 and Figure 4 of the Local Water Management Plan section of the Gem Lake Comprehensive Municipal Plan.

- a) WWS Class I. Waters, wetlands and shorelands identified as Class I shall be those contained within Wetland No 9 (DNR Protected Water/Wetland No. 62-0037P, the body of water known as Gem Lake and it's attendant wetlands) and No. 10 (DNR Protected Water/Wetland No. 62-0128W).
- b) WWS Class II. Waters, wetlands and shorelands identified as Class II shall be those contained within Wetland No. 23 (DNR Protected Water/Wetland No. 62-0035W) and No. 24.
- c) WWS Class III. Waters, wetlands and shorelands identified as Class II shall be those contained within all remaining Wetlands numbered 1 - 8, 11 - 22, and 25 - 26.

11.1 (2) Aesthetics of Gem Lake. Gem Lake is a small body of water as well as an adjoining marsh area that, by informal agreement of the riparian owners, has been used and enjoyed as a passive nature preserve. Only canoes, row boats, and small sailboats have been used on the lake in the past. Gem Lake is a unique urban wildlife wetland and forest refuge and is home to an abundance of birds, animals, amphibians, and fish. It's highest and best use is as a nature area and visual amenity that is graced by occasional swimmers, canoeists, sail boaters, snow skiers, and walkers. It is not suited for motorized or other more intense uses. The shorelands of Gem Lake and it's attendant wetlands presents a pleasing balance of open spaces as well as groves of woodlands with trees and shrubs of a range of age and sizes which, in turn, provide ideal natural screening of man-made structures. The islands located within the area of Gem Lake and it's attendant wetlands are wooded with no man-made structures and the presence of such structures would adversely affect the natural appearances to be preserved.

### 11.1(3) Application Of This Section.

- a) Unless otherwise specified, the various provisions of this Section 11 of this Ordinance No. 43 shall be applied only to WWS Class I.

### 11.1(4) Additional Provisions.

- a) In addition to the Gem Lake Watershed Management Plan section of the Gem Lake Comprehensive Municipal Plan and this Ordinance, additional regulations may apply to all WWS Class I, WWS Class II and WWS Class III including, but not limited to, other Ordinances of the City of Gem Lake, agencies of the United States, the State of MN, and Ramsey County as well as Regional Watershed Districts.

### 11.1(5) Standards For Review

- a) For purposes of this section, all viewing criteria will be based upon viewing from the opposite shore and natural or vegetation screening shall be determined based upon summer growth.

11.1(6) Existing Non-Conforming Uses, Structures And Placements. Subject to compliance with all other provisions of all City Ordinances, the following provisions shall apply:

- a) Uses which are prohibited by this Ordinance but which are in existence prior to the effective adoption of these regulations shall be considered as non-conforming uses and may continue as lawful, non-conforming uses. Such uses shall not be intensified, enlarged or expanded upon beyond the permitted or delineated boundaries of the use, activity or reclamation plan as stipulated in the most current permit issued prior to the adoption of this section of the Ordinance.
- b) All structures and uses in existence prior to the adoption of this section of the Ordinance which do not meet structure set-back requirements or other dimensional standards of this section of this Ordinance shall be considered as lawful non-conforming structures or uses.

c) Extension, enlargement or alteration of an existing lawful non-conforming structure, use or sanitary facility shall meet the set-back standards of this section of this Ordinance.

d) An extension, enlargement or alteration of an existing lawful non-conforming structure or sanitary facility may be permitted on the side of the structure or facility facing away from the lake.

e) An improvement to an existing lawful non-conforming structure or facility may be allowed to extend laterally (parallel to the shoreline) when the improvement is otherwise in compliance with the dimensional and set-back standards of this Ordinance.

f) Exterior decks attached to an existing lawful non-conforming structure which do not extend any roof or foundation may be permitted to extend laterally (parallel to the shoreline) and shall be constructed to be visually inconspicuous in summer months when viewed from the lake or opposite shore.

g) Existing lawful non-conforming structures which do not meet the set-backs of the various shoreland zones shall not be raised in elevation or roof line.

h) Reconstruction of an existing historic lawful non-conforming, it's appurtenances and site development to preserve it's historic character shall be allowed if the structure is recognized as an historic site on the National Register of Historic Places.

i) Any existing lawful non-conforming structure that needs replacing due to destruction, deterioration or obsolescence may be replaced, restored or rebuilt as necessary to remain the same as they existed on the date of enactment of this section of this Ordinance except that any change beyond established structural dimensions of each such structure shall be in compliance with the set-back requirements of this Ordinance or any variance that may be obtained or issued due to such increase in dimension.

11.1 (7) Application. All real property currently and in the future delineated as Shoreland shall be subject to these use and alteration regulations. These regulations and requirements shall be in addition to those imposed by federal, state, regional wetland conservation district agencies, and all local ordinances governing land use, all of which shall jointly apply. Under joint application, the more restrictive requirements shall apply.

## 11.2 Lake Use Restrictions

11.2 (1) No Motorized Use. Gem Lake shall not be used by any motorized craft or traffic including, but not limited to, motorized boats, snowmobiles, all-terrain vehicles (ATVs) and excluding equipment used for cleaning, plowing snow or other occasional maintenance uses.

11.2 (2) Controlled Access Lots. Riparian lots or parcels of real property intended to provide owners of non-riparian lots or parcels of real property with access to the body of water known as Gem Lake are permissible provided each of the following standards are met or exceeded:

a) The riparian access lot or parcel of real property must meet the minimum area, buildable area, frontage, depth, width and other such requirements for residential lots and must be suitable for the intended use of a riparian access lot or parcel of real property.

b) The riparian access lot or parcel of real property must be jointly owned by all purchasers of non-riparian lots or parcels of real property in the subdivision who are provided riparian access rights.

c) Covenants or other equally effective legal instruments in form acceptable to the Gem Lake City Attorney and approved by the City Council must be developed and recorded with the County Recorder or Registrar of Titles of Ramsey County, Minnesota, specifying, among other items, which non-riparian lot or real property parcel owners have authority to use the access lot and what activities are allowed and what restrictions are imposed.

d) The riparian access lot or parcel of real property and it's use shall comply with the Zoning and Building Codes of the City of Gem Lake in the same manner as a single contiguous riparian lot or parcel of real property containing a principal structure.

Except for riparian lots or parcels of real property which meet the foregoing standards, no other riparian lot or parcel of real property shall be utilized to provide access to non-riparian lot or real property parcel owners whether by direct conveyance, easement, license or the like.

11.2 (3) No Wet Storage Of Boats. Boats shall not be moored in Gem Lake for more than forty eight (48) hours at any one time. Regular storage of boats shall be on the shore of and not in Gem Lake with same properly secured and stored out of view from neighboring properties and Gem Lake while not in use.

11.2(4)Docks.

- a) Docks are seasonal and temporary in nature and, therefore, shall not be permanently affixed to the shore or lake bottom.
- b) Docks shall not be greater than four (4'0") feet in width, two (2'0") feet in height above the water and twenty (20'0") feet in length from the lake shore.
- c) Docks shall not be covered with any roof structure, awnings or any other type of enclosure.
- d) Only one (1) dock shall be allowed for each parcel of real property defined as a single contiguous riparian lot which complies with the Zoning and Building codes of the City of Gem Lake and containing a principal structure.

11.2(5) Swimming Rafts

- a) Swimming rafts are seasonal and temporary in nature and therefore shall not be permanently affixed to the lake bottom.
- b) Swimming rafts shall not exceed one hundred (100s.f.) square feet in total area and shall not be more than two (2'0) feet higher than the water surface.
- c) Swimming rafts shall not be located more than fifty (50') feet from the lakeshore.
- d) Swimming rafts shall not be covered with a roof structure, awning or any other type of enclosure.
- e) Only one (1) raft shall be allowed for each parcel of real property defined as a single contiguous riparian lot which complies with the Zoning and Building codes of the City of Gem Lake and containing a principal structure.
- f) Swimming rafts shall not be moored in Gem Lake for more than forty eight (48) hours at any one time. Regular storage of swimming rafts shall be on the shore of and not in Gem Lake with same properly secured and stored out of view from neighboring properties and Gem Lake while not in use.

11.2(6) Irrigation Equipment

- a) If used solely for the purpose of irrigation, a pipe not to exceed two (2") inches in diameter and forty (40') feet in length may be placed along the lake shore bottom.
- b) During times of drought, the City of Gem Lake may, by resolution and at the recommendation of competent authority, temporarily suspend or restrict the amount of water drawn from Gem Lake for irrigation.
- c) Housing and placement of irrigation equipment shall be restricted as set-forth in Section 11.4(2)e).

11.3 Shoreland Zone 1 Restrictions (0' to 50' waterward of Shoreline). Within Shoreline Zone 1, the following restrictions shall apply:

11.3(1) No material, fill, debris or any other materials shall be deposited anywhere in this zone except for the depositing of clean beach type sand in accordance with state regulations for the sole purpose of establishing a beach of limited size.

11.3(2) No structures shall be erected except for those listed in Section 11.2.

11.3(3) No removal of vegetation without written approval of the Zoning Administrator.

11.3(4) No lighting or other electrical appurtenances of any kind shall be permitted.

11.4 Shoreland Zone 2 Restrictions (0' to 50' landward of Shoreline): Within Shoreline Zone 2, the following restrictions shall apply:

11.4(1) No cutting or removal of vegetation unless appropriate written approval is first obtained from the Zoning Administrator for purposes including, but not limited to:

- a) as minimally necessary to construct an approved structure, roadway or utility easement; or
- b) as may be necessary for maintenance trimming to aid in the health of the vegetation and which does not result in a substantial reduction of the vegetative screen.
- c) Removal of buckthorn and other vegetation identified by the State of MN Department of Natural Resources as invasive and for which abatement plans have been encouraged shall be allowed, presuming proper disposal of materials in accordance with accepted best practices is employed.

11.4(2) No storage of materials of any type intended for the creation of compost including, but not limited to, garbage, debris, or lawn and garden waste, shall be allowed.

11.4(3) No structures except walkways, stairways, decks or irrigation housings are allowed except as follows:

- a) A permanent deck or combination of decks containing not more than two hundred (200 s.f.) square feet, not more than two (2'0") feet in height determined by the average distance from the ground surrounding the deck to the highest platform and for which a Gem Lake Building Permit has been issued shall be allowed if located more than thirty-five (35') feet from the shoreline.
- b) A deck or combination of decks may be sited in such a manner that they are unobtrusive to the natural topography, vegetation and shoreland.
- c) A deck or combination of decks shall not be covered with roof structures, awnings or any other type of enclosure and shall only contain railings as required by Gem Lake Building Codes.
- d) A deck or combination of decks may be required to be screened with natural vegetation.
- e) A housing for irrigation equipment not greater than four (4'0") feet wide, four (4'0") feet deep, and three (3'0") feet high and for which a Gem Lake Building Permit has been issued shall be allowed if located more than five (5'0") feet from the shoreland and fully screened from Shoreland Zone 1 by natural vegetation.
- f) A permanent deck, combination of decks or irrigation housing may be constructed of wood, metal, fiberglass, plastic, or any combination thereof provided they are visually unobtrusive and limited to color(s) that blend with the environment.
- g) No manicured lawns or the use of fertilizers attendant to the maintenance of such lawns shall be allowed except that those lawns in existence at the time of passage of these provisions may be retained, but not increased in total area within this shoreland zone.
- h) Stairways, landings and lifts are preferred as alternatives to major topographical alterations for achieving access up and down bluffs or steep slopes to shoreland areas. Stairways and walkways shall not exceed four (4'0") in width, landings shall not exceed thirty-two (32 s.f.) square feet, and all should be located on the site in visually inconspicuous locations with natural screening as possible.
- i) No lighting shall have its source directly visible from the opposite shore except for lights located inside a structure. The use of reflected light may be acceptable providing the effect is subtle and does not contaminate the scene.

j) No driveway or parking areas shall be allowed.

11.5 Shoreland Zone 3 Restrictions (50' to 150' landward of Shoreline): Within Shoreline Zone 3, the following restrictions shall apply:

11.5(1) No Building Permit shall be issued for any structure nor shall any structure be built within Zone 3 if said structure constitutes a substantial feature of the landscape when viewed from the opposite shore or less than fifty (50%) percent of said structure is screened by natural vegetation.

11.5(2) No driveway or parking areas are allowed.

11.5(3) No cutting of vegetation if:

a) the general density of a grove when viewed from the opposite shore will be visibly reduced so that man made structures are more obvious when viewed from the opposite shore except that the Zoning Administrator may allow such cutting if a replacement vegetation plan is submitted for approval, approved in writing and scheduled for completion within a predetermined acceptable period of time.

b) such cutting involves the removal of live trees with a diameter of over five (5") inches measured at a point five (5') feet above the ground except that the Zoning Administrator may allow such cutting if a reforestation plan is submitted for approval, approved in writing and scheduled for completion within a predetermined acceptable period of time.

#### 11.6 Shoreland Lot Restrictions

11.6(1) The following standards shall apply to all Shoreland lots defined as a single contiguous riparian lot which complies with the Zoning and Building codes of the City of Gem Lake:

a) a minimum buildable area above the shoreline of not less than two (2.0) acres; and

b) the lot has minimum frontage on an improved private way or public street of two hundred (200') feet; and

c) the minimum lot width at the building set back line of two hundred (200') feet; and

d) the minimum lot width at the shoreline of two hundred (200') feet;

e) the minimum set back from the shoreline of structures and uses of one hundred (100') feet; and

f) the minimum set-back for on-site individual sewage treatment system (ISTS) is two hundred (200') feet from the Shoreline; and

g) the maximum total lot coverage by buildings and impervious surfaces of twenty-five (25%) percent; and

11.6(2) Removal or alteration of any vegetation or trees for development of any shoreland lot shall not be conducted without first submitting a tree and vegetation inventory for each building site submitted for review and approval by the City Forester and Zoning Administrator and until receipt of a Vegetation Removal And Alteration Permit from the City. Criteria for issuance of a Vegetation Removal And Alteration Permit shall include, but not be limited to:

a) a detailed inventory of existing trees and vegetation by type and size, details of trees and vegetation to be removed, and details of reforestation and vegetation replacement plans to be implemented within twelve (12) months of final building inspector approval;

b) verification that vegetation cutting areas shall be set-back five (5') feet on slopes less than twelve (12%) percent; and

c) verification that vegetation cutting shall not be allowed within fifty (50') feet of the shoreland or on slopes greater than twelve (12%) percent unless specifically allowed by a Vegetation Removal And Alteration Permit.

d) all cutting, including topping, involves trees less than five (5") inches in diameter measured at a point five (5') above the ground; and

e) verification that all cutting, including topping, involves only vegetation which is not currently providing or proposed to provide screening of any structure from view from the lake; and

f) verification that the essential character, quality, health and density of existing growths will be preserved and a continuous canopy cover will be maintained; and

g) verification that all diseased trees or nuisance species of vegetation such as buckthorn that require removal will be removed and that their removal is in the public interest; and

h) verification that the cutting is necessary for the maintenance or installation of transportation or utility rights-of-way or an otherwise specifically approved structure for which a Gem Lake Building Permit has been issued.

I) verification that the various provisions of Ordinance No. 66 shall be jointly applied.

11.6(3) Grading, filling and excavating or changing the topography landward from Shoreline shall not be conducted without review and approval of a Grading and Filling Plan by the City Engineer and Zoning Administrator and issuance of a Grading And Filling Permit by the City.

a) Criteria for issuance of a Grading And Filling Permit shall include, but not be limited to:

1) slopes greater than twelve (12%) percent shall be preserved to the greatest extent possible; and

2) earth moving, erosion, vegetation removal, drainage, filling of wetlands, and destruction of natural amenities is minimized; and

3) the smallest amount of ground shall be disturbed for the shortest amount of time; and

4) temporary ground cover is provided for and which shall remain in place until final landscape cover is installed; and

5) best practices suitable to the City Engineer are demonstrated and shall be employed to generally prevent and control erosion and trap sediment and specifically to prevent pollution of the lake by said erosion and leaching; and

6) best practices suitable to the City Engineer are demonstrated and shall be employed to stabilize all filling to accepted engineering standards; and

7) all areas on the property to be disturbed including, but not limited to, areas for structures, roads and driveways, and ISTS's are identified and the work is to be undertaken subject to the issuance of a Gem Lake Building Permit.

b) All work and disturbance of the vegetative cover within one hundred fifty (150') feet of the shoreland shall be done as quickly as possible employing best practices to prevent erosion.

11.6(4) Placement and design of public and private roads, driveways and parking areas on all Shoreland shall:

a) be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the lakes waters and the opposite shore; and

b) include for purposes of Site Plan approval by the City Engineer, Building Official and/or Zoning Administrator that all roads, driveways and parking areas have been designed so that when constructed they will minimize and control erosion to the lakes waters consistent with the guidelines of the local soil and water conservation district or other applicable technical guidelines; and

c) for purposes of Site Plan approval by the Zoning Administrator shall be subject to structural set backs from property lines and shoreland and shall not be placed within Shoreland Zones 1, 2 and 3 unless no alternative exists at which time they may be placed within these areas employing designs that minimize adverse effects.

d) Access ramps, approach roads and parking areas for purposes of launching private water craft are prohibited.

e) Controlled pedestrian or water craft access lots for use by non-riparian lot owners or the public is prohibited.

#### 11.7 Shoreland Lot Building Restrictions For All Shoreland

11.7(1) Each building site must be served by city sewer constructed in accordance with Ordinance No. 64 or be capable of supporting an on-site individual sewage treatment system (ISTS) providing each such ISTS is designed by a qualified engineer, approved by the City's Building Official, and constructed in accordance with the provisions of Ordinance No. 67; and

11.7(2) No lighting shall have their source directly visible from the opposite shore except for lights located inside a structure. The use of reflected light may be acceptable providing the effect is subtle and does not dominate the scene.

11.7(3) Parking areas shall have vegetative screens so that vehicles are not visible from the opposite shore. Parking areas and roads/driveways to parking areas shall be oriented so that lights from vehicles do not shine on the lake when cars are parked.

11.7(4) Water Supply. Any private water supply for domestic purposes shall be placed up slope from any source of contamination and in areas not subject to flooding. Water shall not be drawn from any lake, pond or flowage for any purpose except for the purposes of irrigation and fire protection for the benefit of the fee title owner of real property defined as a single contiguous riparian lot which complies with all Zoning Codes of the City of Gem Lake.

#### 11.8 Wetland Uses And Regulations

11.8 (1) Purpose and Intent. The City Council finds that wetlands within the City, as part of the natural ecosystem, are critical to the present and future health, safety, and general welfare of the land, wildlife, and people of the City. These wetlands conserve surface waters, provide flood water retention, and improve water quality in accordance with Federal, State, Regional and City objectives. Wetland protection through use and alteration regulation also improve subsoil moisture and serve to recharge the aquifers critical to the community. The City Council recognizes that wetlands and their natural functions, when properly maintained, provide important ecological, educational, and recreational assets as well as enhancing property value and preserving the natural beauty of the landscape.

11.8 (2) Authorization. The City recognizes its statutory obligation to comply with Minnesota Statutes Chapter 103 A-G, MN Rules 8420 "Wetland Conservation Act of 1991", Section 404 of the Federal Clean Water Act, NPDES Phase II, the goals and policies of the City of Gem Lake Local Water Management Plan, and policies established by VLA WMO and RWMWD all as adopted and, from time to time, amended.

11.8 (3) Application. All real property currently and in the future delineated as wetland in the Gem Lake Watershed Management Plan and other federal, state and regional delineations shall be subject to these use and alteration regulations. These regulations and requirements shall be in addition to those imposed by federal, state, and regional wetland conservation district agencies, all of which shall jointly apply. Under joint application, the more restrictive requirements shall apply.

11.8 (4) Wetland Alteration. Any wetland alteration shall be in accordance with Minnesota Statutes Chapter 103 A-G, MN Rules 8420 "Wetland Conservation Act of 1991", Section 404 of the Federal Clean Water Act, goals and policies established in the City of Gem Lake Local Water Management Plan, and policies established by VLA WMO and RWMWD each as adopted and, from time to time, amended. Each of the aforementioned is by reference incorporated as if the full text and regulations were set forth herein.

a) In addition to all other regulations, the City encourages retention or installation of a natural buffer around all wetlands where practical.

11.8 (5) Permits Required. No wetland shall be altered or developed in any manner without first obtaining all necessary permits and written approvals from the City of Gem Lake and such watershed management organizations with jurisdiction of the area. For purposes of this section, all requirements of Sections 11.2 through 11.7 inclusive of this ordinance shall apply as if fully restated here.

11.9 Development and Alteration Regulations. In addition to the provisions of all other City Ordinances, all proposals for development or alteration of Shorelands shall include:

11.9(1) Erosion Control Plan. All plans for development of real property which includes shoreland zones shall include an "Erosion Control Plan" which shall set forth proposed provisions for sediment control, water management, maintenance of landscaped features, and any additional matters intended to improve or maintain the quality of the environment. Such a plan shall set forth proposed changes requested by the applicant and disclose what, if any, change will be made in the natural condition of the earth, including loss or change of ground cover, destruction of trees, grade courses, and marshes. The plan shall minimize ground cover alteration, loss of natural vegetation, and grade changes as much as possible. The purpose of the Erosion Control Plan is to eliminate, to the greatest extent possible, the potential pollution, erosion, and siltation attendant to development and maintain the natural environment. The Erosion Control Plan shall demonstrate currently accepted "best practices" and shall be presented to the Zoning Administrator for review and approval by the Gem Lake Planning Commission and City Engineer.

- a) The "Ramsey County Soil Erosion and Sediment Control Handbook" with all amendments as of the time of application accepted as best practices and is by reference incorporated as if the full text and regulations were set forth herein.
- b) The provisions of the Gem Lake Subdivision Ordinance are hereby incorporated as if the full text and regulations were set forth herein.

11.9(2) Tree And Vegetation Preservation Plan. In addition to the provisions of Gem Lake Ordinance No. 66, all plans for development of real property which includes shoreland zones shall include a Tree And Vegetation Preservation Plan which includes a tree inventory, tree removal plan, and a relocation or replanting plan for all trees to be removed from and vegetation alteration upon the real property. The Tree And Vegetation Preservation Plan shall be presented to the Zoning Administrator for review and approval by the Gem Lake Planning Commission, the City Forester, and the City Engineer.

11.9(3) Shoreland Impact Plan. All plans for development or alteration of real property which includes Shoreland zones shall include an approved "Shoreland Impact Plan" which shall set forth proposed results of the alterations proposed. The Shoreland Impact Plan shall be presented to the Zoning Administrator for review and approval by the Gem Lake Planning Commission, the City Forester, and the City Engineer. Each Shoreland Impact Plan shall include, but not be limited to:

- a) How the removal of natural vegetation shall be restricted to prevent erosion into the water and to preserve shoreland aesthetics and how natural vegetation shall be restored to the greatest extent feasible after any construction project.
- b) Grading and filling activities shall be evaluated to determine how extensively the proposed activity will affect sediment and pollutant trapping and retention, storage of surface runoff to prevent or reduce flood damage, fish and wildlife habitat, recreational use, and shoreland or bank stabilization.
- c) Grading and filling which are consistent with the City of Gem Lake Local Water Management Plan. Fill or excavated material shall not be placed in areas prone to erosion or where they could run off into the shoreland area.
- d) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible. Mulches or similar material shall be used, where necessary, for temporary bare soil coverage. A permanent vegetation cover shall be established as soon as possible.
- e) Clear cutting of trees and shrubs is prohibited. Invasive non-natural vegetation is excepted.

11.9(4) Subdivision. In addition to the requirements of Gem Lake Subdivision Regulations, no Shoreland shall be subdivided if it is determined by the City or agency of competent jurisdiction to be unsuitable for subdivision by reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or general welfare of the future residents of the proposed subdivision or the community and the environment.

11.9(5) Administration. No building permits shall be issued without proof of conformance to all requirements of this Ordinance including, but not limited to, Grading Permits, Erosion Control Plans, and Tree And Vegetation Preservation Plans reviewed and approved in writing by a competent authority.

#### 11.10 Enforcement, Approvals And Appeals

11.10(1) The Zoning Administrator appointed by the Gem Lake City Council will, in concert with other City officials and consultants as necessary, enforce the various provisions of Section 11 and will also cooperate with county, regional, state and federal authorities authorized to carry out enforcement of the regulations established to protect bodies of water, shorelands and wetlands.

11.10(2) All plans submitted in accordance with this section shall be reviewed by the Planning Commission who, in turn, shall recommend approval of, amendment to, or denial of all plans to the City Council.

11.10(3) All plans submitted in accordance with this section shall require City Council approval.

11.10(4) All appeals regarding approval, denial, or amendment of plans submitted shall be addressed by the City Council.

**SECTION 12 - "R-B" RETAIL BUSINESS DISTRICT**

Section 12.1 Permitted Uses

12.1 (1) Within the "R-B" Use District, no structure or land shall be used expect for one (1) or more of the following uses:

- a) The following retail sales or service businesses: Appliance store, auto accessory store, banks, beauty shop, office supplies, photo supplies, drug store, furniture store, grocery, hardware store, jewelry store, laundromat, clinic, offices, tavern, liquor stores, restaurants, shoe store and repair, theater, variety store, wearing apparel and similar uses.
- b) Hotels & Motels, Hospital or Clinic for human beings, Dental Services, Medical Services, Funeral Home or Mortuary, Private Clubs.

12.1 (2) Single Family dwelling

12.1 (3) Churches

Section 12.2 Permitted Accessory Uses

12.2 (1) Within any "R-B" Use District, the following uses shall be permitted as accessory uses:

- a) Any incidental repair or processing necessary to conduct a permitted principal use, however, such accessory use shall not occupy more than fifty percent (50%) of the floor area nor require more than fifty percent (50%) of the gross man hours required to conduct the permitted use.
- b) Essential Services

Section 12.3 Special Uses

12.3 (1) Within any "R-B" Use District, no structure or land shall be used for the following uses except by special use permit.

- a) Auto Repair
- b) Motor service station
- c) Essential service structures
- d) Commercial recreation such as bowling alleys, jump centers, and live entertainment
- e) Commercial Broadcast/telecommunication towers and/or antennas

Section 12.4 Height Regulations

12.4 (1) No principal structure shall exceed thirty-five (35) feet in height and no accessory structure shall exceed fifteen (15) feet in height.

Section 12.5 Area, Frontage and Yard Requirements

12.5 (1) The following minimum requirements shall be observed TABLE 12.5 (1)

AREA	FRONTAGE	FRONT YARD*	SIDE YARD**	REAR YARD***
1,000 sq. ft.	25 feet	10 foot set-back	None	20 foot set-back

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

\*\* Except 15 feet when abutting an "R" District and 30 feet when abutting a street.

\*\*\* Except 30 feet when abutting an "R" District.

Section 12.6 Rezoning for "R-B" Retail Business

12.6 (1) No area shall be rezoned for retail business by amendment to this Ordinance unless such area is an extension of an existing "R-B" District or contains at least two (2) acres of land.

**SECTION 13 - "G-B" GENERAL BUSINESS DISTRICT**

Section 13.1 Permitted Uses

13.1 (1) Within the "G-B" Use District, no structure or land shall be used except for one (1) or more of the following uses:

- a) Those uses permitted in Section 12.1 and as regulated therein except as hereinafter modified shall be a permitted use.
- b) The following retail sales and service businesses: Auto sales and repair, boat and marine sales, bakery, business and trade school, bottling of soft drinks and creameries, building material yard, provided it is conducted within a building or within a fence of such construction as to prevent view from the public right-of-way, cabinet and carpentry shops, electrical service, heating/plumbing, commercial greenhouse, dry cleaning plant, farm machinery sales and supplies, dairy farm and milk products processing, packaging and storage, garden supply store, motels, motor hotels and hotels provided the site shall contain not less than four hundred (400) square feet of lot area per unit, printing shops, upholstery shop, warehousing, except the storage of inflammable fluids, wholesale offices and showrooms, and similar uses.
- c) Open sales or rental lots, subject to the lot being surfaced or landscaped to control the dust, and all materials located on said lot shall meet front yard requirements. Should the lot be lighted, such lights shall be so located as not to have a direct source visible from the public right-of-way. Permitted uses include model homes and garage display.
- d) Veterinary clinic or animal hospital.
- e) Miniature golf course, driving ranges, archery ranges, trampoline centers.
- f) Car wash, provided off-street parking space is constructed to accommodate that number of vehicles which can be washed during a maximum fifteen (15) minute period.
- g) Essential service structures
- h) Lumber yards

Section 13.2 Accessory Uses

13.2 (1) Within any "G-B" Use District, those uses or structures subordinate to the principal use or structure on the same lot and serving a purpose customarily incidental thereto shall be permitted.

- a) Essential Services

Section 13.3 Special Uses

13.3 (1) Within any "G-B" Use District, no structure or land shall be used for the following uses except by special use permit.

- a) Service and light industries which manufacture, process, store, and distribute foods and materials not likely to create offensive noise, odors, vibrations, dust, smoke, heat, glare or other objectionable influences and are in general dependent upon raw materials defined elsewhere.
- b) Truck and motor freight terminal
- c) Inflammable materials sales and storage
- d) Commercial Broadcast/telecommunications towers and/or antennas

Section 13.4 Height Regulations

13.4 (1) No principal structure shall exceed thirty-five (35) feet in height and no accessory structure shall exceed fifteen (15) feet in height.

Section 13.5 Area, Frontage and Yard Requirements

13.5 (1) The following minimum requirements shall be observed

TABLE 13.5 (1)

AREA	FRONTAGE	FRONT YARD*	SIDE YARD**	REAR YARD***
12,500 sq. ft.	100 feet	20 foot set-back	10 foot set-back	None

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

\*\* Except 20 feet when abutting a street or residential district.

\*\*\* When abutting an "R" District, then it shall be 20 feet.

## SECTION 14 - PERFORMANCE STANDARDS

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

### Section 14.1 Requirements for Consideration

14.1 (1) Prior to the start of building or any remodeling that will change the outside dimensions of a building or structure in any district, other than a Residential District (R1, R2, R3 and R4), or for construction or remodeling of any structure(s) allowed by a Special Use Permit in the Residential Districts, three (3) copies of the following data must be furnished to the Zoning Administrator. This information will be presented for review by the Planning Commission and if the Planning Commission deems necessary the City Engineer, as well as for final approval by the City Council. All data required by this section must be reviewed and approved by the Planning Commission before a building permit can be issued.

- a) Copies of a Registered Surveyors report for the lot where these structure(s) will be constructed, which shall have marked on it the location(s) of the planned structure(s), driveways, sidewalks and parking spaces. The dimension of the lot area, all building setback lines and dimensions of the front, back and side yards as required shall also be shown.
- b) Preliminary architectural floor plans and elevations of the proposed structure(s) complete with details of the exterior wall finishes.
- c) A complete site plan which shall include:
  - i) A topographical survey of the proposed site including existing and proposed topography and natural features with a minimum scale of one (1) inch equaling 20 feet. The location of the planned structure(s) should also be indicated on this survey.
  - ii) Landscape plans showing size, quantity and species of shrubs and trees to be included. All fences, walls or other screening devices shall also be shown including identification of the materials of construction.
  - iii) Suggested plans for a storm water drainage system sufficient to drain and dispose of all surface water accumulation within the proposed development area. This plan will need to be approved by the City Engineer.
  - iv) Details showing the entrances and exits from the development area, including an indication that they have been reviewed by Ramsey County, if they will connect to a County road.
  - v) Interior driveway and road details showing traffic flow, fire department access, etc.
  - vi) Lighting plans for all exterior and parking, display and storage lot lighting. Location and type of lighting fixtures shall be given.
  - vii) Locations and dimensions of planned signs for the development.
- d) Any additional information which may be requested by the Zoning Administrator, Planning Commission or City Council due to conditions peculiar to a particular site.

### 14.1 (2) Cost of data review

- a) All costs incurred by the City in the review of the data supplied, such as City Engineer plan review costs, shall be paid by the person presenting the plans, prior to any review. The final approval of these plans will not be voted on by the City Council until all costs have been paid.

b) Whenever the proposal may involve a potential for significant environmental impact, or if an Environmental Impact Statement or an Environmental Assessment Worksheet may be needed by state law or applicable regulation, the City will require the applicant to prepare or pay for the professional assistance needed in the preparation of these statements or worksheets.

14.1 (3) Procedures for review

a) The Zoning Administrator will forward one copy of this data to the Planning Commission for their review and approval. The second copy shall be sent to the City Engineer, if the engineer's review is found necessary by the Zoning Administrator or Planning Commission. The Planning Commission shall review this information and the City Engineer's comments on this project at their next meeting. The details of this review, as well as a copy of the data supplied by the applicant and the Engineer (if needed), shall be forwarded to the City Council for final approval before the proposed project shall to allowed to start.

b) All of parts of this review may be waived by the City Council after consideration of the recommendations of the Planning Commission or the Zoning Administrator.

Section 14.2 Exterior Storage

14.2 (1) Residential Districts

a) In Residential Districts, all materials and equipment shall be stored within a building or fully screened (so as not to be visible) from adjoining properties or a street, except for the following; laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks, except inoperative automobiles and trucks may be parked once for a period of time not to exceed fourteen (14) days.

14.2 (2) Business Districts

a) In business districts all materials, equipment and vehicles shall be stored in a building or fully screened (so as not to be visible) from adjoining properties or a street except for:

i) Temporary storage of construction and landscaping materials currently being used on the premises.

ii) Open Storage Lots where screening but not a building shall be required.

iii) Open Sales or Rental Lots where merchandise for retail sales or rental may be displayed in areas designated by the required Site Plan or Special Use Permit.

Section 14.3 Refuse

14.3 (1) In All Districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Farms may be excluded from this requirement providing the waste material is that commonly associated and incidental to normal farm operations. The owner of vacant land shall be responsible for keeping such land free of refuse, and weeds.

14.3 (2) In All Districts, no person shall store, park or permit the parking or storage of any junked vehicle, external to any structure, on any property within the city.

Section 14.4 Screening

14.4 (1) Screening shall be required in all zones where:

a) any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential use or zone; and,

b) where the driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

14.4 (2) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a developed residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Inspector).

14.4 (3) In all districts all exterior storage shall be screened. The exceptions are:

- a) retail merchandise being displayed in front of the structure;
- b) materials and equipment being used for construction on the premises;
- c) merchandise located on service station pump islands.

14.4 (4) The screening in this section shall consist of a solid fence or wall not less than 5 feet high, but shall not extend within 15 feet of any street, right-of-way or driveway. The screening shall be placed along property lines or in case of screening along a street, 15 feet from the street right-of-way with landscaping between the screening and the pavement. A louvered fence shall be considered "solid" if it blocks direct vision. Planting of a type approved by the Council may also be used as a screening.

#### Section 14.5 Landscaping

14.5 (1) In All Districts, all developed uses shall provide a landscaped yard along all streets. This yard shall be kept clear of all structures, storage, and off-street parking. This yard shall be at least 20 feet in depth along all streets, measured from the street right-of-way. Except for driveways, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot.

#### Section 14.6 Maintenance

14.6 (1) In All Districts, all structures, landscaping and fences shall be maintained so as not to be unsightly or present harmful health and safety conditions to the adjoining areas.

#### Section 14.7 Lighting and Glare

14.7 (1) In All Districts, any lighting shall be arranged as to deflect light from all adjoining property, and from the public streets and highways. Direct or sky-reflected glare, whether from lighting or from high temperature processes such as welding, shall not be directed into any adjoining property.

14.7 (2) Glare or Heat - Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located.

14.7 (3) Outdoor lighting - All outdoor lighting shall be so designed and installed so that light will not be directed onto adjoining property or public streets and highways. Lighting units shall be properly shielded to give no upward component of light to create a sky-glow.

- a) Outdoor lighting fixtures shall be mounted at the lowest possible level above ground, but in no case shall any pole or structure for mounting such fixtures exceed the maximum principal structure height restrictions.
- b) Prior to installing or remodeling any outdoor lighting, a site plan showing type, location and configuration details and proposed area of direct illumination must be submitted to the Zoning Administrator for his approval.
- c) After completion of any outdoor lighting system the property owner may be required to submit an affidavit, by a registered lighting engineer, that the completed project does not exceed the requirements of this section.

14.7 (4) Lighting used to illuminate sales lots - Lighting used to illuminate sales lots for new or used cars shall be arranged and designed so as to comply with the following limitations:

- a) Maximum maintained lighting level at any point within the boundaries of the lot, measured 36 inches above grade, shall not exceed 120 foot candles.
- b) Maximum maintained vertical illumination, measured 30 feet out from the property line with the meter directed toward the lot, shall be 5 foot candles.
- c) The maximum point brightness, measured with a brightness meter from a point 30 feet out from the property line, shall be no greater than 600 foot Lamberts.

14.7 (5) Lighting for outdoor storage areas - Lighting for outdoor storage areas shall comply with the following limitations:

- a) Maximum maintained lighting level at any point within the area, measured 36 inches above grade, shall not exceed 15 foot-candles.
- b) Maximum maintained vertical illumination, measured five feet out from the property line with the meter directed toward the area in question, shall be two foot-candles.
- c) Maximum point brightness, measured with a brightness meter from a point 5 feet out from the property line, shall be no greater than 300 foot Lamberts.

14.7 (6) Lighting for off street parking - Lighting for off street parking lots shall comply with the following limitations:

- a) Maximum maintained lighting level at any point within the boundaries of the parking area, measured 36 inches above grade, shall not exceed 2 foot- candles.
- b) Limitations on the hours of lighting operation may be imposed by the City Council.

#### Section 14.8 Vibration

14.8 (1) Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction.

#### Section 14.9 Off-Street Loading

14.9 (1) In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space on the basis of adequate space for loading and unloading all vehicles used incidental to the operation of the use.

- a) No loading berth of vehicles over two-tons capacity shall be closer than 100 feet to any residence district unless completely enclosed by building walls not less than eight (8) feet in height.
- b) Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7 a.m.

#### Section 14.10 Traffic Control

14.10 (1) The traffic generated by any use shall be channeled and controlled in a manner that will avoid: (a) congestion on the public streets, (b) traffic hazards, and (c) additional truck traffic through residential areas. Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of business and industrial areas shall avoid residential areas and in all cases be forward-moving with no backing into streets.

Section 14.11 Drainage and Lot Flooding

14.11 (1) No land shall be developed and no use shall be permitted that results in water run-off, flooding, or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, water course, ponding area or other public facility, and shall be consistent with overall city drainage plans.

14.11 (2) Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width as required to assure that building sites are not subject to flooding.

Section 14.12 Architecture

14.12 (1) It is hereby affirmed as public policy that the appearance of this community is a proper matter for public concern and that all developed open spaces, and all buildings, signs, plantings, surfaces and structures which may be seen from the public ways are subject to the provisions of this Ordinance.

14.12 (2) In All Districts, all principal buildings other than one-family dwellings must be designed or approved by a registered architect and certified in accordance with the appropriate Minnesota State statutes.

14.12 (3) In All Business Districts, a building permit shall not be issued unless the proposed use is designed, sited, oriented and landscape-planned to produce a harmonious relationship of building and grounds with adjacent buildings and grounds and with the environment of the neighborhood.

14.12 (4) In All Residential Districts, a building permit shall not be issued if the proposed building is so similar or dissimilar to the other homes in the area as to result in depreciation of property values in the neighborhood.

Section 14.13 Explosives

14.13 (1) No activities involving the storage, utilization or manufacture of materials or products, such as TNT or dynamite, which could decompose by detonation shall be permitted except such as are licensed by the Council.

Section 14.14 Radiation and Electrical Emissions

14.14 (1) No activities shall be permitted that emit dangerous radio-activity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

Section 14.15 Other Nuisance Characteristics

14.15 (1) No noise, odors, vibration, smoke, air pollution, dangerous wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property.

14.15 (2) All wastes shall be disposed of in a manner that is not dangerous to public health and safety.

Section 14.16 Consistency with Plans and Policies

14.16 (1) The proposed use shall preserve the intent and purpose of this Ordinance and shall be consistent with the goals, plans and policies of the City's Comprehensive Plan.

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## SECTION 15 - SIGNS

### Section 15.1 Signs - General Provisions

15.1 (1) Signs are a permitted accessory use in all use Districts, subject to the following regulations:

- a) A sign is a structure or a part of a structure for the purpose of applying yard and height regulations.
- b) Signs are prohibited within the public right-of-way or easements except that the City Council may grant a conditional permit to locate signs and decorations on or within the right-of-way for a specified time not to exceed sixty (60) days.
- c) Signs and parts of the super structure may not extend into the yards required by the Zoning Ordinance.

### Section 15.2 Prohibited Signs

15.2 (1) No illuminated signs (either interior or external illumination) are permitted within the "R" Zoning Districts.

15.2 (2) Illuminated signs or other devices rotating or otherwise, giving off an intermittent, or rotating beam consisting of a collection or concentration of rays of light shall not be permitted in any Zoning District.

15.2 (3) Any sign that obstructs the vision of drivers, obstructs or detracts from the visibility of any traffic sign or control device on the public streets and roads by reason of the size, location, coloring or illumination of the sign shall not be permitted in any Zoning District.

15.2 (4) Any sign unlawfully installed, erected and maintained.

15.2 (5) Any sign that now or hereafter exists which identifies a discontinued business, activity, campaign, service or product at any location.

15.2 (6) Any sign that obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

15.2 (7) Advertising signs are not permitted in any Zoning District in the City of Gem Lake.

### Section 15.3 Real Estate Signs

15.3 (1) For purpose of selling or leasing property, in the Residential Zoned areas of the City, a sign not in excess of ten (10) square feet total surface area may be placed within the front yard of the property to be sold or leased.

15.3 (2) For purpose of selling or leasing property in the Business Zoned areas of the City, a sign not in excess of thirty-two (32) square feet total surface area may be placed within the front yard of the property to be sold or leased.

15.3 (3) Such signs shall not be located less than fifteen (15) feet from the right-of-way line, unless mounted flat against the structure. Such property identified as for rent, sale or lease by a real-estate sign must be in conformance with City Ordinances.

### Section 15.4 Existing Signs

15.4 (1) Signs existing on the effective date of this Ordinance which do not conform to the regulations set forth in this Ordinance are a non-conforming use.

### Section 15.5 Method of Calculating Sign Size

15.5 (1) The square footage of a sign shall be calculated by measuring the area within the frame. If the width of a frame exceeds twelve (12) inches it shall constitute sign space. If letters or graphics are mounted directly on a wall or fascia or in such a way as to be without a frame, the dimensions for calculating the square footage shall be the area extending six (6) inches beyond the periphery formed around such letters or graphics in a plane figure, bound by straight lines connecting the outer most points.

15.5 (2) Each surface utilized to display a message or to attract attention shall be measured as a separate sign. Any symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walks, awnings, free standing structures, suspended by balloons or kites or on persons, animals or vehicles shall be considered as a sign.

#### Section 15.6 Sign Permits

15.6 (1) A Sign Permit shall be required for construction, alteration, rebuilding or relocating of all signs within the City of Gem Lake, except for certain types of signs identified in the Ordinance. All requests for signs shall be made on the approved "Sign Permit Form" available from the City's Zoning Administrator. The Sign Permit may be approved by the Zoning Administrator, without the approval of the Planning Commission, except for any Permit that would require a Variance or Special Use permit.

15.6 (2) A fee made payable to the City in an amount established by resolution of the City Council and as amended from time to time for issuance of Sign Permits shall accompany all applications. This fee shall be non-refundable unless the application is withdrawn prior to consideration and approval by the Zoning Administrator and City Clerk.

15.6 (3) The following signs ARE EXEMPT from obtaining a sign permit:

- a) Nameplate signs on residential property stating only the name, address and profession of the occupant.
- b) Real Estate signs with ten (10) square feet or less of display surface.
- c) Street, hazard and other official non-advertising signs erected by a government body or others where regulated pursuant to a legal authority.
- d) Campaign and election signs
- e) Newspaper boxes
- f) Construction signs with under ten (10) square feet of display surface.

15.6 (4) A temporary sign, including banner and pennants, is exempt from obtaining a Sign Permit, but the Zoning administrator must be notified , in writing, when each temporary sign, banners or pennants will be erected and when they will be taken down.

15.6 (5) The exemptions permitted by the preceding paragraphs shall apply only to the requirement for obtaining a Sign Permit. This exception of not requiring a Sign Permit shall not be construed as relieving the owner of the sign from the responsibility for its construction and erection in accordance with the other requirements of these Sign regulations and for the requirement for the maintenance of this sign to keep it in a state of good and safe condition.

#### Section 15.7 Use of Mobile Signs

15.7 (1) Mobile signs with a maximum of fifty (50) square feet of display surface may be used NOT MORE THAN two (2) times within a calendar year on the same lot within the City of Gem Lake. Display of such a sign shall be allowed for not greater than thirty (30) consecutive days or for the duration of the event, whichever is less. These signs do require a Sign Permit. This permit must be prominently displayed during the period of validity. The sign, supports and portable stand (trailer) shall be removed from public view at the end of the display period, No such sign will be allowed that interferes with the use and enjoyment of adjacent land or constitutes a hazard or endangerment to the public.

15.7 (2) Mobile signs of larger dimensions than fifty (50) square feet of display surface are not allowed in any Zoning District.

#### Section 15.8 Campaign and Election Signs

15.8 (1) Campaign or Election signs are permitted in any District on private property when owner approval has been given. Such signs shall be removed within ten (10) days following any public election. Election signs are regulated

in the size to a maximum provided by Minnesota State Statutes. Election signs are exempted from any other regulations in this Ordinance.

15.8 (2) The volunteer or political committee, however organized and required by law or ordinance to identify itself in support of a candidate or issue, shall be the responsible entity for conformance to this section of this Ordinance regarding size, display and removal of temporary Campaign and Election signs.

#### Section 15.9 Construction Signs

15.9 (1) One temporary free-standing single or double faced sign, with a total height no higher than eight (8) feet and with a total display area no larger than sixteen (16) square feet in size, denoting proposed or future construction on a particular site, will be allowed for a period not to exceed one (1) year prior to construction, with a right of renewal for an additional six (6) months. Said sign may indicate: 1) the particulars of the proposed construction, 2) the company, firm or individual instrumental in its creation, 3) the architect, engineer and contractor, and 4) rental, sale or lease information.

15.9 (2) If construction commences, said sign will be allowed to remain in place until seven (7) days after completion of the project, which will be determined from the day of the occupancy permit. If construction does not start, the sign must be removed immediately after such a decision is made.

#### Section 15.10 Temporary Signs

15.10 (1) Temporary signs, as well as banners or pennants, are permitted for a period not to exceed thirty (30) days for any one display, but not to exceed ninety (90) days of advertising by this type of display per year. Such signs, banners or pennants shall be kept in a neat and maintained state and shall not be counted as a portion of the allowable sign area for the structure.

#### Section 15.11 Entrance/Exit Signs

15.11 (1) One entrance/exit signs shall be allowed at each entrance or exit to a site. This sign shall not exceed four (4) feet in height or be over twelve (12) square feet in size.

#### Section 15.12 Structural Regulations For Signs

15.12 (1) Ground Mounted signs - All ground mounted signs shall meet the following requirements:

- a) No ground mounted sign shall be erected, constructed, altered, rebuild or relocated to a height exceeding thirty-five (35) feet above the ground.
- b) The uprights and basic sign structure of all ground mounted signs shall be of metal or other weather resistance material construction.
- c) The soil replaced after an anchor or post for these signs has been placed in the ground shall be thoroughly compacted. The anchors or posts shall penetrate to a depth below ground greater than that of the frost line.
- d) Signs supported by frames or posts rigidly attached to bases shall be so proportioned that the width and size of the bases are adequate to resist the wind pressure specified in the Uniform Building Code.

15.12 (2) Free Standing electrical signs

- a) All free standing electrical signs shall have electrical power fed to them with underground electrical wiring, in compliance with all building and electrical codes.

15.12 (3) Attachment to Building

- a) All signs attached to a building or other structure shall be thoroughly and rigidly secured in a manner approved by the Building Inspector, and shall be repaired and maintained as necessary to keep them secure, safe and free from danger.

15.12 (4) Unsafe and Unlawful signs

- a) Written notice will be given to the owner or permittee of any sign, found by the City's Building Inspector, that is unsafe or loose from its mounting, or has been constructed or erected in violation of the safety or structural provision of this Ordinance.
- b) If the sign owner or permittee fails to remove or alter the sign and related structure so as to comply with the standards herein, within thirty (30) days after such notice, such sign shall be removed or altered by the City to comply with the Building Inspector's notes. This work will be done at the expense of the permittee or owner or the property upon which it is located.
- c) If a sign is found to be an immediate peril to persons or property, such sign shall be subject to removal without notice, with the costs of such removal billed to the sign owner or permittee.

Section 15.13 Signs in Residential Zoning Districts

15.13 (1) Within Residential Districts only the following types of signs are permitted:

- a) One (1) nameplate sign for each dwelling and such sign shall not exceed one (1) square foot in area per surface and no sign shall be so constructed as to have more than two surfaces.
- b) One (1) nameplate sign for each dwelling group of three (3) or more units, and such sign shall not exceed three (3) square feet in area per surface and no sign shall be so constructed as to have more than two (2) surfaces.
- c) Real Estate signs
- d) Election and Campaign signs
- e) Constructions signs

Section 15.14 Signs in the Special "LD-B" Zoning District

15.14 (1) Within the "LD-B" District, which is a transitional business district located close to nearby residential areas, only the following signs are permitted:

- a) One nameplate sign for each major use of each structure not to exceed twenty (20) square feet per surface. No building shall have more than one hundred (100) square feet total of nameplate signs.
- b) One office park or similar area sign not to exceed six (6) square feet in size at each entrance to the office park or similar area.
- c) Real Estate Signs
- d) Construction Signs
- e) Temporary signs
- f) Entrance/Exit sign

15.14 (2) No sign in an "LD-B" District shall be placed in or face a required yard area abutting a Residential Zoning District.

15.14 (3) No ground mounted freestanding signs in the "LD-B" District shall exceed fifteen (15) feet in height. This height limit supersedes all other height limitation given in the Ordinance.

15.14 (4) Illuminated signs are not permitted in this Zoning District.

Section 15.15 Signs in the "RB, GB and GB-II" Business Districts

15.15 (1) Within the above listed Business Zoning Districts only the following signs are permitted:

- a) There shall be no more than one (1) business sign per principal entrance or frontage on road or parking area plus one over-all shopping center sign. Total sign area per principal entrance shall not exceed fifty (50) square feet plus one (1) square foot for each one hundred (100) square feet of building over 3,000 square feet.
- b) Business signs may not be over six (6) feet above the highest wall or parapet except that a over-all shopping center sign may extend thirty (30) feet above said wall or parapet. An over-all shopping center sign shall be no closer than ten (10) feet from a street right-of-way. Wall or projection signs may project two (2) feet into required set-back area.
- c) The aggregate square footage of sign space per lot shall not exceed the sum of two (2) square feet per front foot of building, plus one (1) square foot per front foot of property not occupied by a building. No individual sign surface shall exceed one hundred (100) square feet in size. Each business is limited to a maximum of three (3) signs.
- d) Real Estate Signs
- e) Construction Signs
- f) Temporary signs
- g) Mobile signs
- h) Entrance/Exit signs

## SECTION 16 - OFF-STREET PARKING AREAS

The purpose of this section of the Zoning Ordinance is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking in accordance with the utilization of various parcels of land and/or structures.

When applying for a building permit in all Districts for a new structure, the enlarging of a structure or a new or enlarged use of a parcel of land, the application shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking spaces in compliance with the following requirements:

### Section 16.1 General Provisions

16.1 (1) Existing off-street parking spaces and loading spaces upon the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.

16.1 (2) Should a building, structure or use in existence upon the effective date of this Ordinance be damaged or destroyed by fire or other cause, it may be re-established except that in doing so any off-street parking or loading which existed must be retained and should plans be effected for enlarging the floor area, seating capacity or other facilities which would affect the parking or loading requirements, the parking or loading spaces shall be enlarged accordingly.

16.1 (3) Floor Area - The term "Floor Area" shall mean the sum of all floor areas in a building as calculated from the outside dimensions of the building. It shall not include areas used primarily for non-public purposes such as storage, incidental repair, office of building management or maintenance, toilets, or rest rooms, utilities, or dressing, fitting or alteration rooms.

16.1 (4) Parking Spaces - Each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length exclusive of an adequately designed system of access drives.

16.1 (5) Use of Parking Facilities - Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed one and one-half (½) ton capacity for each dwelling unit except by Special Use permit. Required parking facilities accessory to residential structures shall not be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments except by Special Use permit. Required parking facilities accessory to residential structures shall not be used for the storage or repair of commercial vehicles.

16.1 (6) Required off-street parking space in the Residential Districts shall be on the same lot as the principal building.

16.1 (7) Joint Parking Facilities - Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any "District" in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use.

16.1 (8) Use of Parking Area - Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable or for sale or rent.

### Section 16.2 Design and Maintenance of Off-Street Parking Areas

16.2 (1) Parking Areas - shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.

16.2 (2) Calculating Space - When calculating the number of off-street parking spaces results in a fraction, each fraction of one-half (½) or more shall constitute another space. One parking space shall equal 300 square feet of parking and moving area.

16.2 (3) Signs - No signs shall be located in any parking area except as necessary for orderly operation of traffic movement.

16.2 (4) Surfacing - All of the area intended to be utilized for parking space and driveways shall be surfaced with a material to control dust and drainage. Parking area for less than three (3) vehicle spaces shall be exempt. Plans for surfacing and drainage shall be subject to approval of the City Council.

16.2 (5) Lighting - Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from the adjoining property, and shall comply with Section 14.7.

16.2 (6) Curbing and Landscaping - All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than three (3) feet from the side property line or guard of normal bumper height no less than one (1) foot from the side property line. When said area is for six (6) spaces or more, a curb or fence not over six (6) feet in height shall be erected along the front yard set-back line with grass or planting occupying the space between the sidewalk and curb or fence.

16.2 (7) When a required off-street parking space for six (6) cars or more is located adjacent to an "R" District, a solid fence of adequate design, not over six (6) feet in height nor less than three and one-half (3-1/2) feet in height shall be erected along the "R" District property line. Screen planting may also be required.

16.2 (8) Maintenance of Off-Street Parking Spaces - It shall be the joint and several responsibility of the operator and owner of the principal use, uses and/or building to maintain in a neat and adequate manner the parking space, access ways, landscaping and required fences.

Section 16.3 Required Off-Street Parking - shall be as follows:

16.3 (1) Single Family Dwellings - At least one (1) parking space for each dwelling unit, plus one (1) additional parking space for each two (2) roomers accommodated. A garage will fulfill this requirement. However, a building permit shall not be granted to convert a garage to living space unless other acceptable provisions are made to provide the required parking space.

16.3 (2) Two-Family Dwelling - At least one (1) parking space per dwelling unit, but not more than two (2) per unit.

16.3 (3) Boarding and Rooming Houses - At least two (2) parking spaces for each three (3) persons for which accommodations are provided for sleeping.

16.3 (4) Multiple Dwelling - At least one (1) parking space per dwelling unit plus one (1) additional space for each four (4) two-bedroom units and one (1) additional space for each two (2) three-bedroom units.

16.3 (5) Hotel or Apartment Hotel - At least one (1) parking space for each rental unit provided in the design of the building.

16.3 (6) Motel, Tourist Home, Motor Hotel - At least one (1) space for each dwelling unit or lodging room.

16.3 (7) Church, Institution - At least one (1) parking space for each three and one-half (3-1/2) seats based on the design capacity of the main assembly hall.

16.3 (8) Sanitarium, Convalescent Home, Rest Home, Nursing Home or Institution - At least one (1) parking space for each six (6) beds for which accommodations are offered, plus one (1) parking space for each two (2) employees on maximum shift.

16.3 (9) Medical or Dental Clinic - At least three (3) parking spaces for each staff doctor or dentist.

16.3 (10) Drive-in Food Establishments - At least one (1) parking space for each fifteen (15) square feet of gross floor space in building allocated to drive-in operation.

16.3 (11) Bowling Alley - At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

16.3 (12) Motor Fuel Station - At least one (1) off-street parking space for each employee on maximum shift, plus two (2) off-street parking spaces for each service stall.

16.3 (13) Retail Store - At least seven (7) off-street parking spaces for each one thousand (1,000) square feet of gross floor space.

16.3 (14) Restaurants, Cafes, Bars, Taverns, Night Clubs - At least one (1) space for each three (3) seats based on capacity design.

16.3 (15) Banks, Offices and/or Public Office Building - At least four (4) parking spaces for each one thousand (1,000) square feet of gross floor space.

16.3 (16) Undertaking Establishments - At least five (5) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on premises. Aisle space shall also be provided off the street for making up a funeral procession.

16.3 (17) Furniture Store, Wholesale, Auto Sales, Repair Shops At least three (3) parking spaces for each one thousand (1,000) square feet of gross floor area. Open sales lots shall provide one and one-half (1-1/2) parking spaces for each employee on maximum shift, but not less than three (3) spaces.

16.3 (18) Warehouse, Storage, Handling of Bulk Goods - At least one (1) space for each two (2) employees on maximum shift or one (1) for each two thousand (2,000) square feet of gross floor area, whichever is the larger.

SECTION 17 -

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## SECTION 18 - "LD-B" LOW DENSITY BUSINESS DISTRICT

### Section 18.1 Purpose

18.1 (1) The purpose of this District is to provide a means by which a critical area of limited size interposed between districts of widely divergent permitted uses may be developed to provide a rational, reasonable transition between properties in the divergent districts in a manner that is orderly, environmentally acceptable, and in conformity with the goals, policies and plans of the Comprehensive Plan of the City.

### Section 18.2 Permitted Principal Uses

18.2 (1) Within the "LD-B" District, the following uses shall be permitted uses:

- a) Business and professional offices
- b) Banks and savings and loan association offices
- c) Churches and synagogues
- d) Governmental buildings and libraries
- e) Greenhouses and nurseries
- f) Fruit, vegetable and similar agricultural dispensaries

### Section 18.3 Permitted Accessory Uses

18.3 (1) Within the "LD-B" District, the following uses shall be permitted accessory uses:

- a) Any incidental repair or processing necessary to conduct a permitted principal or special use, however, such accessory use shall not occupy more than twenty percent (20%) of the floor area.
- b) Any supplemental retail use within the structure and related directly to a Permitted Principal or Special Use and conducted for the convenience of and use by the employees or clients of the permitted use. Such usage shall be limited to a maximum of twenty-five percent (25%) of the ground floor area or 400 square feet, whichever is less. No signage shall be displayed outside the building advertising this retail service to the public.
- c) Essential Services

### Section 18.4 Special Uses

18.4 (1) Within the "LD-B" District, no structure or land shall be used for the following uses except by Special Use Permit:

- a) Private clubs, including athletic
- b) Golf ranges, tennis clubs and the like
- c) Research laboratories and offices
- d) Nursery or day schools, so long as play area is totally fenced
- e) Those uses and structures permitted in Section 8.1
- f) Warehouses for small, high value items (e.g., electronic components)
- g) Essential Service Structure.
- h) Other activities deemed comparable with those named in Sections 18.2 and 18.4

Section 18.5 Height Regulations

18.5 (1) No principal structure shall exceed thirty-six (36) feet in height, and no principal structure any part of which is within 300 feet of an "R" District or a roadway bordering an "R" District shall exceed twenty-five (25) feet in height. No accessory structure shall exceed twenty-five (25) feet in height and no accessory structure any part of which is within 300 feet of an "R" District or a roadway bordering an "R" District shall exceed fifteen (15) feet in height.

Section 18.6 Area, Frontage and Yard Requirements

18.6 (1) The following minimum requirements shall be observed TABLE 18.6(1)

AREA	FRONTAGE*	FRONT YARD	SIDE YARD**	REAR YARD
24,000 sq. ft.	100 feet	35 foot set-back	10 foot set-back	20 foot set-back

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

\*\*35' when abutting a street

18.6 (2) The minimum open space requirement shall be 45%. This includes green areas and areas not covered by buildings, by parking lots, by access roads or by storage areas.

Section 18.7 Hours of Operation

18.7 (1) The hours of operation for any proposed business use in this district shall be principally during the normal work week (7 a.m. to 7 p.m. Monday through Friday).

Section 18.8 Uses Not Permitted

18.8 (1) The following list of uses, not intended to be complete, provides examples of principal uses not permitted in an "LD-B" District and that will not generally be permitted as special uses in an "LD-B" District.

- a) Uses requiring excessive parking, which is defined as such parking which cannot be screened by berms, plantings or the like.
- b) Uses resulting in excessive vehicle traffic which is defined as such traffic which is generally incompatible with the lands and roadways adjacent to the district.
- c) Business uses involving regular as opposed to occasional activity on Saturdays, Sundays and/or holidays, or before 7 a.m. and/or after 7 p.m. any days.
- d) Commercial manufacturing or processing or repairing of the type which emits noises or fumes inconsistent with abutting land uses or zones.
- e) Shopping center.
- f) Retail, except as permitted by Section 18.3 (b).

Section 18.9 Approvals

18.9 (1) In view of the extreme sensitivity of this transitional District, all plans for specific developments within the District must be approved in advance by the Planning Commission. In addition to the other provisions of this section and of this Ordinance, the following general criteria will be considered:

- a) Use must be generally compatible with the intent and purpose of this Zoning Ordinance and the Comprehensive Plan, and construction must meet the provisions of the Building Code.
- b) Use must be environmentally sound, compatible with adjacent land uses and zones, including sound, sight and smell, and compatible with the type and volume of traffic upon adjacent roadways.

c) Overall density of structures including parking areas, walls and roadways, front, side and rear yards, must reflect the transitional nature of this District from high density in business Districts to low density in residential Districts.

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## **SECTION 19 - "G-B II" GENERAL BUSINESS DISTRICT II**

### **Section 19.1 Permitted Uses**

19.1 (1) Within the "G-B II" Use District, no structure or land shall be used except for one or more of the following uses:

- a) Those uses permitted in Section 12.1 and as regulated therein except as hereinafter modified shall be a permitted use.
- b) The following retail sales and service businesses: Auto sales and repair including painting and body work, boat and marine sales, bakery, business and trade school, cabinet and carpentry shops, electrical service, heating/plumbing, commercial greenhouse, farm and general equipment rental providing it is conducted within a building, dairy products processing, packaging and storage, garden supply store, printing shops, upholstery shop, warehousing, except the storage of inflammable fluids, wholesale offices and show rooms, and similar uses.
- c) Veterinary clinic or animal hospital.
- d) Single family dwelling.
- e) Car wash, provided off-street parking space is constructed to accommodate that number of vehicles which can be washed during a maximum fifteen (15) minute period.
- f) Business offices.
- g) Funeral Home or Mortuary.

### **Section 19.2 Permitted Accessory Uses**

19.2 (1) Within any "G-B II" District, those uses or structures subordinate to the principal use or structure on the same lot and serving a purpose customarily incidental thereto shall be permitted subject to Section 4.5.

- a) Essential services.

### **Section 19.3 Special Uses**

19.3 (1) Within any "G-B II" Use District, no structure or land shall be used for the following uses except by special use permit:

- a) Essential service structures.
- b) Commercial recreation such as bowling alleys, miniature golf course, archery range, trampoline center.
- c) Dwelling for watchman and family.
- d) Open sales (or rental) lot.
- e) Open storage lot.
- f) Commercial Broadcast/telecommunications towers and/or antennas

### **Section 19.4 Height Regulations**

19.4 (1) No principal structure shall exceed thirty-five (35) feet in height and no accessory structure shall exceed fifteen (15) feet in height.

Section 19.5 Area, Frontage and Yard Requirements

19.5 (1) The following minimum and maximum requirements shall be observed

TABLE 19.5 (1)

AREA*	FRONTAGE**	FRONT YARD	SIDE YARD*	REAR YARD**
15,000 sq. ft.	80 feet	20 foot set-back	10 foot set-back	10 foot set-back

\* 75,000 sq. ft. maximum

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

19.5 (2) The minimum open space requirement shall be 50%. For purposes of this section only, this includes all areas not covered by buildings.

## SECTION 20 INSTITUTIONAL OVERLAY DISTRICT

### SECTION 20.1 Purpose

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

20.1 (2) This Overlay District shall be applied to and superimposed as an overlay upon any zoning district, defined in this Zoning Ordinance, as existing or amended by this Section and as shown on the official Zoning Map. This overlay district will remain in effect as long as the use and the user remains the same. If an overlay area is no longer used, changes uses or is rescinded the parcel will revert back to its original underlying zoning classification.

### Section 20.2 Permitted Uses

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

20.2 (1) Religious institutions, such as churches, chapels, temples and synagogues, but with activities limited to worship and related social activities.

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

### Section 20.3 Accessory Uses

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

20.3 (1) Accessory uses, customarily incidental to the uses permitted as a permitted or special use (if a special use is allowed), will be permitted.

20.3 (2) Off-street parking and loading areas.

20.3 (3) Accessory buildings as described in Section 4.5 of this Ordinance.

### Section 20.4 Conditional or Special Uses

Subject to applicable provisions of this Ordinance, the following are Conditional or Special Uses in the Institutional Overlay District. (These uses require a Special Use Permit as described in Section 5.6):

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

- a) The use shall not be used as rental property.
- b) The maximum of one (1) such dwelling shall be allowed.
- c) There shall be a demonstrated and documented need for such a facility.

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

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

b) Any equipment is completely enclosed in a permanent structure with no outside storage.

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

20.4 (3) Public recreational facilities provided that:

a) The site is landscaped.

b) The use is available to the "public"

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

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

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

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

b) All equipment is completely enclosed in a permanent structure with no outside storage.

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

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

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

b) All equipment is completely enclosed in a permanent structure with no outside storage.

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

20.4 (6) Accessory buildings with a cumulative total of greater than 1000 square feet.

#### Section 20.5 Lot Area and Setback Requirements

The following minimum requirements shall be observed in an Institutional Overlay District subject to additional requirements, exceptions, and modifications set forth in this Ordinance:

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

20.5 (2) Lot width:

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

20.5 (3) Setbacks

TABLE 20.5 (3)

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

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

20.5 (4) Accessory Structure(s) Setbacks

TABLE 20.5 (4)

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

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

Section 20.6 Lot Coverage and Height Requirements

The following lot coverage and height requirements shall be observed in the Institutional Overlay district:

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

20.6 (2) The minimum open space requirement for any proposed use shall be forty-five (45) percent, including green areas not covered by buildings, parking lots, access roads, storage areas or other areas covered by impervious surfaces

20.6 (3) No building structure shall exceed two and one-half (2 ½) stories or thirty-five (35) feet in height, whichever is lesser in height. For the purpose of this Section, building height means the height of a building measured from the average existing ground level prior to construction at any point on the perimeter of the building line to the top of the cornice of a flat or mansard roof and to the highest gable on a pitched or hipped roof.

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

Section 20.7 Landscaping and Screening

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

Section 20.8 Procedures for Requesting An Overlay

20.8 (1) Application for re-zoning for an overlay.

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

- a) A properly completed application and payment in full is received;
- b) A registered property surveyors report is provided properly identifying the parcel to be rezoned;
- c) All requirements of the Plan Review described in Section 14.1 of this Ordinance have been met. These plans must be reviewed and approved by the Zoning Administrator, Planning Commission and City Council before any overlay shall be granted. If this is a rezoning to initially define an overlay, the rezoning activities and the Plan Review shall occur at the same time;

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

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

#### 20.8 (2) Procedures

Pursuant to Minnesota Statutes 15.99 as may from time-to-time be amended, an application for an Institutional Overlay shall be approved or denied within sixty (60) days of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required state and federal agencies shall extend the review and decision making period an additional sixty (60) days unless this limitation is waived by the applicant. Additional City requirements are as follows:

a) Applications for rezoning for an Overlay District shall be filed with the Zoning Administrator on an official application form available from the City Clerk. Such applications shall also be accompanied by five (5) large scale copies and one (1) reduced scale copy of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for an Institutional Overlay shall be placed on the agenda of the first possible Planning Commission meeting occurring thirty (30) days after the date of submission of the application. The request shall only be considered officially submitted when all the informational requirements are complied with.

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

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

d) The Planning Commission shall consider possible adverse effects of the proposed rezoning. Its judgment shall be based upon (but not limited) to the following factors:

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

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

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

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

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

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

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

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

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

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

h) The City Council shall not act upon such an Overlay request until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after sixty (60) days from the first regular meeting at which the request was considered. the City Council may proceed with its consideration and action of the request.

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

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

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

#### 20.8 (3) Approvals

a) Approval of the Overlay request shall require passage by a two-thirds (2/3) vote (four of the five (4 of 5) votes) of the entire City Council.

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

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

#### 20.8 (4) Denials

a) If the City Council finds that a proposed use contemplated for the parcel which is the subject of an application for rezoning to Institutional Overlay Classification is likely to have a material adverse effect on the public health, safety of general welfare after considering possible adverse effects which man include , but no be limited to, those delineated in Section 20.7.2D (1-7) above, then such application shall be denied.

#### 20.8 (5) Recording of actions taken

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

20.8 (6) Actions if the overlay is denied

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

- a) Applications for an overlay are withdrawn prior to the City Council taking action on the matter
- b) If the City Council determines by a vote of not less than four of five (4 of 5) that the circumstances surrounding a previous application have changed significantly.

20.8 (7) Time period (duration) of this Institutional Overlay approvals

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

- a) Unless the City Council specifically approves a different time when action is officially taken on the request, the re-zoning for an Institutional Overlay shall become null and void twelve (12) months after the date of approval, unless the property owner or applicant has substantially started construction of any building, structure, addition or alternation, or use requested for this overlay. The property owner or applicant shall have the right to submit an application for time extension in accordance with this section.
- b) If any one of the following occur the overlay shall expire:
  - i) The use of the property is changed to not be in accordance with the uses outlined in this section of this Ordinance,
  - ii) The organization to which the permit for an Overlay District has been given is no longer the occupant of the building or facilities on the site. No leases or subletting of the building or facilities operating on an Institutional Overlay shall be permitted.
- c) If an institutional overlay is allowed to expire or is revoked for cause, the parcel of property shall revert back to the underlying zoning of the parcel.

## SECTION 21 - BROADCAST/TELECOMMUNICATIONS TOWER AND ANTENNAS

### Section 21.1 Purpose and Intent

21.1 (1) The purpose of this section is to establish predictable standards for siting and installing of wireless telephone, radio broadcast, television broadcast and communications antenna towers or supporting structures within the City of Gem Lake. It is the intent of this section to accommodate the communications needed of the residents and businesses while protecting the public health, safety and general welfare of the community.

21.1 (2) Specifically, the City Council finds the regulations set forth in this section necessary to:

- a) Facilitate the provisions for wireless telecommunication services to the residents and businesses of the City.
- b) Restrict the location of towers and antennas to designated areas of the City and impose design standards to minimize adverse visual effects of towers and antennas,
- c) Require evidence of structural integrity and impose setback requirements to avoid potential damage to adjacent properties from tower or antenna failure,
- d) Require applicants for towers and antenna to prove their need and to apply for permits for their construction,
- e) Maximize the use of existing and approved towers and buildings to accommodate new antennas and reduce the number of towers needed to serve the community.

### Section 21.2 Zoning Districts For Construction

21.2 (1) The following Zoning district preferences shall be followed when selecting potential commercial broadcast/telecommunications tower sites in the City of Gem Lake:

- a) General Business (GB)
- b) General Business II (GBII)
- c) Retail Business (RB)

21.2 (2) The following Zoning districts shall not be used for commercial broadcast/telecommunications tower/antenna SITES IN THE City of Gem Lake:

- a) Any R1, R2, R3, R4 or LD-B district
- b) Any Overlay district

### Section 21.3 Performance Standards

21.3 (1) All stand alone towers or antennas and/or supporting structures for the same must meet the design and performance standards identified in this section.

21.3 (2) A proposal for a new tower shall not be approved unless the City Council finds that the Broadcast/telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius of the proposed tower due to one of the following reasons:

- a) The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at reasonable cost.
- b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

21.3 (3) Any proposed commercial wireless telecommunications service tower shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred (100) feet in height or for at least one (1) additional user if the tower is over sixty (60) feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

21.3 (4) Structural design, mounting and installation of any tower or antenna shall be in compliance with the manufacturer's specifications and as may be necessary or as determined by the City Council. All such designs and installations shall be verified and approved by a qualified and licensed professional engineer employed by the applicant.

21.3 (5) All towers and antennas and related structures shall be designed and built in compliance with all City of Gem Lake building codes and electrical code requirements, and as applicable shall require related permits. Existing towers may continue in use but may not be structurally altered.

21.3 (6) The height and style of the tower and antenna shall be the minimum necessary to function satisfactorily, as verified by a communications engineer or other appropriate professional. However, no towers erected for Broadcast or Telecommunications service shall exceed 180 feet and no tower and accompanying antenna combined shall exceed 200 feet.

21.3 (7) All obsolete and unused towers and antennas shall be removed within six (6) months of cessation of operation at the site, unless an exemption is granted by the City Council. The City reserves the right to remove an unused tower/antenna at its expense then back charge the property owner to recover costs.

21.3 (8) Damaged existing towers and antennas may be rebuilt to the same physical dimensions and at the same location. Repairs and rebuilding shall be complete within one (1) year after receiving the building permit from the City. However, if the tower is destroyed due to any reason or cause whatsoever, so that repairs would be forty (40) percent or more of a new tower, then the tower may not be repaired or restored except in full compliance with this Ordinance.

21.3 (9) No advertising message shall be affixed to any tower and/or antenna structure.

21.3 (10) No tower or antenna shall be illuminated by artificial means and must not display strobe lights, unless such lighting is required by the Federal Aviation Administration, or other federal or state authority for that particular tower. When incorporated into the approved design, the tower may support light fixtures used to illuminate parking lights, ball fields, or similar areas.

21.3 (11) Towers and antennas must be designed to blend into the surrounding environment through use of color and camouflaging architectural treatment, except in instances where color is dictated by federal or state authorities such as the Federal Aviation Administration. Antenna support structures shall be painted light blue, gray, or silver or have a galvanized finish to reduce visual impact. All towers must be finished with a corrosion resistant material.

21.3 (12) Towers located closer to a property line than the distance equal to the height of the tower shall be designed and engineered to collapse progressively within the distance between the tower and property line. The applicant for any tower shall submit written documentation explaining tower construction and possible failure and provide assurance that blowing or falling ice from the tower/antenna can be contained on the subject property. At a minimum, the tower shall comply with the minimum setback requirement of the Zoning District in which it is located.

21.3 (13) A tower shall be located on a parcel of land so as to have the least impact on adjoining properties and any negative impact of the tower shall be confined onto the property on which it is located, to the greatest extent possible.

21.3 (14) The tower location shall provide the maximum amount of screening for off site views of the tower and/or antenna and related structure. Existing on site vegetation shall be preserved to the maximum extent possible.

21.3 (15) All utility buildings, structures, and equipment accessory to the tower or antenna must be architecturally designed to blend in with surrounding environment and must meet the minimum design requirements of the Zoning District in which they are located.

21.3 (16) No change in the use or ownership of an approved tower or antenna may be made without the written consent of the City Council.

21.3 (17) Co-location of antennas upon overhead power line poles or street light poles is encouraged provided the said antenna meets all applicable federal and state spacing requirements and interference regulations.

#### Section 21.4 Proof of Non-Interference

21.4 (1) Each application for construction of a commercial Broadcast or Wireless telecommunication facility shall include either a certified statement that the construction of the tower/antenna, including reception and transmission functions, will not interfere with the radio, television, or other service enjoyed by adjacent residential and non-residential properties. If interference is found after the facility has been erected, the applicant has to solve any problems his equipment has caused, at his cost.

#### Section 21.5 Tower Setbacks

21.5 (1) Where adjacent parcels are zoned for commercial or industrial uses, setbacks equivalent to those established for the principle structure shall be provided for any tower/antenna. Setbacks equal to the height of the tower shall be established on sites that are adjacent to parcels developed or able to be developed for residential use.

#### Section 21.6 Permit Applications and Plan Review

21.6 (1) Special Use Permit. Applicants for a tower/antenna Special Use Permit must file a Special Use Permit application with the City of Gem Lake and pay any and all associated fees.

21.6 (2) Planning Commission/City Council review. All applications for a Broadcast/Telecommunications tower must first be sent to the Planning Commission which shall review the application and may recommend to City Council approval or denial. The City Council will hold the necessary Public hearing(s) on this matter and will then approve or deny the request. The applicant is responsible for supplying a certified list of all of the property owners within 350 feet of the proposed tower/antenna site and pay all costs for notifying all such parties of the public hearing(s) needed.

#### Section 21.7 Exceptions

21.7 (1) The following towers and/or antenna supporting structures and antennas are not subject to the restrictions of Section 21 of this Ordinance:

- a) Towers and/or antennas identified as “Accessory and Secondary Antennas” in this Ordinance are exempt. All Amateur Radio “Accessory and Secondary” antennas and/or towers must be installed in accordance with instructions furnished by the manufacturer of the tower/antenna.
- b) Towers and antennas that are located entirely with a structure that complies with the height, bulk and density and area requirements of the City of Gem Lake Zoning Ordinance and are not visible from the exterior of the structure are also exempt.
- c) Towers/antennas for radio/telecommunications equipment owned and operated by the City of Gem Lake are also exempt.

ADOPTION AND ENACTMENT

The Ordinance changes contained herein will take affect immediately upon adoption by the City Council and publication of a summary of this document, but not later than thirty (30) days from the date below.

This Ordinance No. 43 as unanimously adopted with amendments defined in Ordinance No.79 by the City Council of the City of Gem Lake on the 15<sup>th</sup> day of December in year 2003 and ordered for summary publication in the City's official newspaper and incorporation into this Ordinance No. 43.

CITY OF GEM LAKE

*Paul R. Emeott*

Paul R. Emeott, Mayor

Updated: 12 / 15 / 2003

ATTEST:

*Frederic C. Magnuson*

Frederic C. Magnuson, City Clerk

Updated: 12 / 15 / 2003

CITY OF GEM LAKE  
ORDINANCE NO. 43 LEGEND

The Zoning Ordinance of the City of Gem Lake was originally enacted by the City Council as City of Gem Lake Ordinance No. 5 on 19 February 1963. Since that time, the Planning Commission has recommended and the City Council has adopted several changes in keeping with the changing times and needs and wishes of the community. The following table is added to Ordinance No. 43 as an historic reference to those changes. All changes shown have been incorporated into Ordinance No. 43, the City Zoning Ordinance.

ORDINANCE NO.	TITLE & DESCRIPTION	ENACTED
05	The City Zoning Ordinance	02/19/63
14	An Ordinance Amending The Official Zoning Map Of Gem Lake	07/18/67
17B	An Ordinance Amending Ordinance No. 5, The Zoning Ordinance	03/24/70
21	An Ordinance Amending The Zoning Ordinance	09/15/70
29	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As General Business	12/16/74
30	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As General Business	04/18/77
31	An Ordinance Amending Ordinance No. 5 And Changing Minimum Area Of Certain Property In An R-4 Residential District	06/20/77
33	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As Residential	11/20/78
34A	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As Retail Business	11/30/78
35	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As Retail Business	12/27/79
36	An Ordinance Amending Ordinance No. 5, The Gem Lake Zoning Ordinance	01/21/80
38	An Ordinance Amending Ordinance No. 5, The Gem Lake Zoning Ordinance	05/18/81
40	An Ordinance Amending Ordinance No. 5, The Gem Lake Zoning Ordinance	09/22/81
41	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As Retail Business	10/19/81
42	An Ordinance Amending Ordinance No. 5 And Changing The Boundaries Of The Zoning District Designated As LD-B Low Density Business District	10/19/81
43	An Ordinance Restating The Zoning Ordinance Of Gem Lake With All Amendments Thereto Enacted Through December 31, 1982	12/20/82
49	An Ordinance Making Amendments To Ordinance No. 43	09/19/88
51	An Ordinance Making Amendments To Ordinance No. 43, Including The Establishment Of A New District Known As GB II, General Business II	02/20/89
63	An Ordinance Amending Ordinance No. 43 And Replacing Ordinance No. 5	03/28/94
72	An Ordinance Making Amendments To Ordinance No. 43 Including Changes, Additions Or Deletions To The Zoning Ordinance No. 43 Of The City Of Gem Lake, MN Providing For An Institutional Overlay District Rezoning.	05/18/98
74	An Ordinance amending Ordinance No. 43, The Zoning Ordinance of the City of Gem Lake, regarding: 1) the addition of Section 21 establishing Commercial Broadcast/Telecommunication tower and antenna regulations and definitions and amendments attendant thereto; and, 2) the removal of all fee schedules from the Zoning Ordinance; and 3) the revision of Section 4.10 Land Reclamation and Section 4.11 Land Mining of the Zoning Ordinance.	11/15/99

75	An Ordinance Amending Ordinance No. 43, The Zoning Ordinance of the City of Gem Lake, regarding the rezoning of lands bordered on the west by Scheuneman Road and the East by the City's common boundary with White Bear Lake and on the South by State Highway 61 and on the North by lot identified as PIN Number	02/02/2000
76	An Ordinance amending City of Gem Lake Ordinance No. 43, hereinafter the "Zoning Ordinance", regarding: 1) adding provisions for minimum "buildable area" as Section 4.4 (3), definition for "buildable area" as Section 3.2 (4A), and amending Tables 7.5 (1), 8.5 (1), 9.5 (1), 10.5 (1) a), and 10.5 (1) b) to reflect said provisions; 2) amending definitions of and related to Variances and Special Use Permits and adding definitions for Interim Use Permits; 3) providing amended or additional provisions for the City's consideration of applications for Variances, Special Use Permits, Interim Use Permits, Redistricting or other Amendments to Ordinance No. 43; 4) modification of the lakeshore restrictions on the water body identified as Gem Lake. Now known as Ordinance No. 43E01.	02/20/2001
79	An Ordinance providing for amendment of Ordinance Number 43, the "Zoning Ordinance" as follows: 1) adding definitions to Section 3.2; and, 2) deleting Section 22, Regulation Of The Body Of Water Called Gem Lake, in it's entirety; and, 3) adding new Section 11, Regulation of Bodies Of Water, Wetlands, And Shoreland Zones to establish local controls that consistently reflect the purpose and intent stated in the Comprehensive Municipal Plan and it's attendant Watershed Management Plan; and, 4) amending tables for all districts defining Area, Frontage and Yard Requirements to include the term "foot set back"; and, 5) adding provisions for Vegetation Removal And Alteration Permits; and, 6) adding Sections 4.1(5) and 4.1(6); and, 7) amending Sections 5.4(5), 5.7(6), 5.5(5), 5.6(5); and 8) deleting Section 17 in it's entirety and copying the text of Section 17.1 to Section 12 as Section 12.6; and 9) amending the Legend of Ordinance No. 43 to record the date of all changes contained herein.	12/15/2003