

CITY OF WHALAN

**ZONING ORDINANCE
ORDINANCE 06-2015**

**Adopted
2012**

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SECTION 1
TITLE

101.000 This Ordinance shall be known, cited and referred to as the City of Whalan Zoning Ordinance.

SECTION 2
INTENT AND PURPOSE

201.000 This Ordinance is adopted for the purpose of:

- 1) Protecting the public health, safety, comfort, convenience and general welfare;
- 2) Protecting and preserving agricultural land;
- 3) Promoting orderly development of the residential, commercial, industrial, recreational and public areas;
- 4) Conserving the natural and scenic beauty and attractiveness of the city;
- 5) Conserving the natural resources in the city;
- 6) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;
- 7) Conserving the value of properties; and
- 8) Protecting the environment.

SECTION 3
WORD USAGE AND DEFINITIONS

301.000. WORD USAGE:

Board of Adjustment: The “Board of Adjustment” shall mean the City of Whalan Board of Adjustment.

Commission: The “Commission” shall mean the City of Whalan Planning Commission.

Distances: Unless otherwise specified, distances shall be measured horizontally.

Lot: The word “lot” shall include the words piece, parcel, and plot.

Masculine and Feminine Gender: The masculine gender includes the feminine and neuter genders.

Person: The word “person” includes a firm, association, organization, partnership, trust, company or Corporation as well as an individual.

Shall and May: The word “shall” is mandatory and not discretionary; the word “may” is permissive.

Singular and Plural: Words used in the singular shall include the plural and the plural the singular.

Tenses: Words used in the present tense shall include the future. In the event of conflicting provisions, the more restrictive provision shall apply. All words not specifically defined herein shall be defined according to common usage.

302.000 DEFINITIONS:

For the purpose of this ordinance the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

AGRICULTURE: The science of cultivating the soil and activities incidental thereto; the growing of soil crops in the customary manner on open tracts of land; farming. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished outside the public right-of-way.

ALLEY: A public or private right-of-way less than 30 feet in width, which affords secondary means of access to abutting property.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

APARTMENT: A room or suite of rooms designed for, intended for, or used as a residence for one family or individual and equipped with cooking facilities.

APARTMENT BUILDING: Three or more apartments grouped in one building.

AUTOMOBILE OR TRAILER SALES AREA: An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

AUTOMOBILE REPAIR, MAJOR: General repair, rebuilding or recondition of engines, motor vehicles, or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop and vehicle steam cleaning. Incidental body or fender work, or other minor repairs, painting and upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding 1½ tons capacity, but not including any operation named under Automobile Repair, Major, or any other similar use, thereto.

AUTOMOBILE SERVICE STATION or FILLING STATION: A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale and delivered directly into motor vehicles, including greasing and oiling but excluding Automobile Repair, Major and Automobile or Trailer Sales Area.

BASEMENT: A story having part but not more than one-half its height below the average level of the adjoining finished grade. A basement is counted as a story for the purpose of height regulations, if subdivided and used for commercial or dwelling purposes.

BLOCK: A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, waterways, or boundary lines of the corporate limits of the city.

BOARD: The Zoning Board of Adjustment.

BOARDING HOUSE: A building other than a hotel or motel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding ten persons.

BUFFER: Open spaces, landscaped areas, fences, walls, berms or any combination thereof, used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDABLE AREA: The area of a lot remaining after the minimum yard or setback requirements of this ordinance has been met.

BUILDING: Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind; and when separated by party walls without openings, each portion of the building so separated shall be deemed a separate building.

(1) **BUILDING, ACCESSORY:** A building or structure on the same lot as resident home;

a) Garage unit (160 ft & higher)

b) Storage unit (160 ft or less)

(2) **BUILDING, PRINCIPAL:** A building which is conducted, as the main or principal use of the lot on which it is located – house/home.

BUILDING HEIGHT: The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

CONVALESCENT OR REST HOME: A home designed and licensed to provide care for aged or infirm persons requiring or receiving personal care or custodial care complying with the standards established by the State Board of Health.

COUNCIL: The City Council of the City of Whalan, Minnesota.

DWELLING: A building or portion thereof designed or used exclusively for residential occupancy with a continuous frost-free footing, including one-family, two-family, and multiple-family units, but not including hotels, motels, boarding or lodging houses.

(1) **DWELLING, MULTIPLE-FAMILY:** A dwelling containing three or more dwelling units, designed with more than one dwelling unit connecting to a common corridor or entranceway, originally constructed for that purpose; and not including converted dwellings or attached row dwellings (party- wall-type) as defined in this section.

(2) **DWELLING, SINGLE-FAMILY:** A detached dwelling containing accommodations for and occupied by one family only.

(3) **DWELLING, TWO-FAMILY:** A dwelling designed exclusively for occupancy by two families living independently of each other.

EASEMENT: A grant of one or more of the property rights by the property owner to and for the use by the public, or corporation, or another individual entity.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipe, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith; reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

FRONTAGE: All the property fronting on one side of a street between the nearest intersecting streets, or between a street and a right-of-way, waterway, or other similar barrier.

GARAGE, PRIVATE: An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC: Any premises used for the storage or care of motor-driven vehicles except private garages, or premises where any vehicles are equipped for operation, are repaired, or are kept for remuneration, for hire or for sale.

HOME OCCUPATION: Any use customarily conducted entirely within a dwelling and carried on by members of a family, residing therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Clinics, hospitals, barber shops, mortuaries, beauty parlors, motor vehicle repairing for hire, welding, animal hospitals and kennels shall not be deemed to be home occupations.

HOTEL: A building occupied as a temporary abiding place of individuals who are lodged with or without meals, in which there are more than five sleeping rooms, and wherein no provisions are made for cooking in any individual room or apartment.

JUNK YARD: Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including, but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other machinery.

KENNEL: Any structure or premises on which four or more domestic animals over four months of age are kept.

LAND USE PERMIT: A document issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this ordinance and for the purpose of carrying out and enforcement its provisions.

LOT: Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under this ordinance, and having its principal frontage upon a street or officially approved place.

LOT AREA: The land area within the lot lines.

MANUFACTURED HOME PARK: Any park, manufactured park, manufactured court, manufactured camp, court, campsite, lot, parcel or tract of land designed, maintained, or intended for the purpose of supplying a long-term location or accommodations for any manufactured home, and upon which any manufactured home, coach, or manufactured home coaches are parked, and shall include all buildings used or intended for use as a part of the equipment thereof, whether or not a change is made for the use of the manufactured home park and its facilities. MANUFACTURED HOME PARKS shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection, display, and sale.

NONCONFORMING BUILDING: A building or portion thereof lawfully existing at the time of adoption of this ordinance, which was designed, erected, or structurally altered for a use that does not conform to the use regulations of the district in which it is now located.

NONCONFORMING LOT: A lot which does not comply with the minimum lot area or frontage requirements of the district in which it is located.

NONCONFORMING USE: A use lawfully in existence on the effective date of this ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is not nonconforming if it would be authorized under a conditional use permit where located.

OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock gravel, refuse, till, structure or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area, which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

ORDINARY HIGH WATER MARK: A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The normal HIGH WATER MARK is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

PLANNING COMMISSION: The Planning Commission of the City of Whalan, Minnesota.

PUBLIC UTILITY: Any person, firm, corporation, municipal department, or board fully authorized to furnish and furnishing under municipal regulation to the public electricity, gas, steam, communication services, telegraph services, transportation, or water.

PUBLIC WATERS: A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of these regulations, any body of water which has the potential to support any type of recreational, pursuit or water supply purpose. A body of water created by a private user where there was no previous shoreline for a designated private use authorized by the Commissioner of Natural Resources shall be exempt.

RECREATIONAL CAMPING VEHICLE CAMP: Any area used on a daily, nightly or weekly basis for the accommodation of three or more occupied tents, expandable camp trailers, travel trailers and converted buses or trucks or Recreational Camping Vehicles; whether privately or publicly-owned; and whether use of the accommodations is granted free of charge or for compensation.

REST HOME or NURSING HOME: A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for treatment of disease or injury.

ROAD: A public right-of-way affording primary access by pedestrian and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane place or however otherwise designated.

SIGN: A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution or commercial. Warning signs or public identification signs such as street signs shall be exempt from these regulations when fewer than two square feet in size.

SIGN, SURFACE AREA: The entire area within a single continuous perimeter, enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of the sign and not forming an integral part of the display. Only one side of a double-face or V-type structure shall be used in computing total surface area.

STORY: That portion of the building included between the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

STREET: A public or private right-of-way 40 feet or more in width approved or accepted by the public authority or user, which provides a primary means of public access to abutting property. The term STREET shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

STRUCTURAL ALTERATION: Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

SUBDIVISION: A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than five acres in area and 300 feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel land. The term includes resubdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

TOWNHOUSE: A multiple-family dwelling which maintains private ingress and egress, attached to its own foundation, contains independent dwellings by a common wall.

USE: The purpose, for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

(1) USE, ACCESSORY: A use subordinate to the main use on the same lot and used for purposes customarily incidental to those of the main use.

(2) **USE, CONDITIONAL:** A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of the use upon neighboring land, and of the public desirability for the particular use at the particular location, a conditional use permit may or may not be granted. If granted, the Zoning Board of Adjustment may attach conditions and guarantees upon the zoning permit deemed necessary is for the protection of the public interest.

(3) **USE, PERMITTED:** A use which conforms to the purposes, requirements, regulations and performance standards of a particular district.

(4) **USE, PRINCIPAL:** A use which is permitted outright in a district for which a Land Use Permit may be issued by the Zoning Administrator in accordance with the provisions of this ordinance

VARIANCE: A modification or variation of the provisions of this code, as applied to a specific piece of property. A VARIANCE from the literal provisions of this code may be granted only in instances where the strict enforcement of these provisions would cause undue hardship because of circumstances unique to the individual property under consideration. VARIANCES shall be granted only when it is demonstrated that the granting of the variance will be in keeping with the spirit and intent of this code. UNDUE HARDSHIP as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. VARIANCES shall be granted for earth sheltered construction as defined in M.S. § 216C.06, Subdivision 2, as it may be amended from time to time, when in harmony with the ordinance. A use that is not permitted under the code for property in the zone where the affected person's land is located shall not be permitted by the granting of a variance. The temporary use of a one-family dwelling as a two-family dwelling may be permitted by a variance. Conditions may be imposed in the granting of variances to insure compliance and to protect adjacent properties.

YARD: An open space on the same zoning lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky.

(1) **YARD, FRONT:** A yard extending across the front of the lot between the side yard lines and lying between the front street line of the lot and the nearest line of the building.

(2) **YARD, REAR:** An open space occupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.

(3) **YARD, SIDE:** An open, unoccupied space on the same lot with a building, between the building and the side line of the lot, and extending from the front lot line to the rear yard.

ZONING ADMINISTRATOR: The designated Zoning Administrator of the city or his or her authorized representative.

ZONING DISTRICT: An area or areas within the limits of the community for which the regulations and requirements governing use are uniform.

ZONING MAP: The maps incorporated into this ordinance as a part hereof, designating the zoning districts.

SECTION 4
GENERAL PROVISIONS

400.010 SCOPE:

From and after the effective date of this ordinance, the use of all land and every building and the erection or structural alteration of any building or portion of a building in the city shall be in conformity with the provisions of this ordinance. Any structure or use lawfully existing at the passage of this ordinance, but not in conformity with the regulations of the appropriate zoning district, may be continued, subject to the regulations of this ordinance, Nonconforming Uses.

400.020 INTERPRETATION:

The provisions of this ordinance shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this ordinance impose greater restrictions than those of any statute, other ordinance or regulations, this ordinance shall apply. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this ordinance, those restrictions shall apply.

400.030 USES NOT PROVIDED IN ANY ZONING DISTRICT:

Whenever a use is neither specifically permitted nor denied, the use shall be considered prohibited.

400.040 LAND USE PERMIT:

A Land Use Permit shall be required in all zoning districts, for all construction activities, including but not limited to new construction, additions, and structural remodeling. Any Land Use Permit issued shall be valid for one year, for completion of the project for which the certificate was issued.

400.050 APPLICATION; FEES:

- 1) Application for a Land Use Permit, Conditional Use Permit, or a Variance shall be made to the city on blank forms to be furnished by the city. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale, showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications shall contain other information as may be deemed necessary for the proper enforcement of this ordinance or any other ordinance.
- 2) The city shall issue or may direct the Zoning Administrator to issue the Land Use Permit only after determining that the building plans together with the application comply with the terms of this ordinance.
- 3) An application is not complete unless accompanied by all supporting data and a fee as required by the City Council.

400.060 SCHEDULE OF FEES, CHARGES AND EXPENSE:

- 1) The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for all permits, appeals, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the city administrator, and may be altered or amended only by the City Council.

2) No permit, certificate, conditional use permit, or variance shall be issued unless or until any costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment, unless or until preliminary charges and fees have been paid in full.

400.070 COMPLAINTS REGARDING VIOLATIONS:

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis thereof, shall be filed with the City Administrator. He or she shall record properly the complaint, immediately investigate, and take action thereon as provided by this ordinance.

400.080 AMENDMENT; PROCEDURE:

1) Powers:

The Council may, on its own motion, or on request of the Planning Commission, or on petition or appeal of the affected property owners, do the following.

A) Transfer land, or a portion thereof, from the district in which it is situated onto another district, by changing the Zoning Map.

B) Change any of the regulations of this ordinance as to the use of land in any district, or as to the restrictions upon buildings or structures herein, by amendment to this ordinance

2) Procedure:

A) An applicant shall file a completed application form together with required exhibits with the Zoning Administrator, and shall pay a filing fee as established by the Council.

B) The Zoning Administrator shall review the application, and within ten commercial days after receiving the application shall notify the applicant in writing if the application is not complete, and shall inform the applicant of what additional information is required.

C) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing and shall have notices of the hearing published in the legal newspaper and shall notify all property owners within 350 feet of the outer boundaries of the property in question at least once, not less than ten days and not more than 30 days prior to the hearing; however, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of the hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing. This notice shall describe the particular amendment, date, time and place of hearing. The County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.

D) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may extend the time line for taking action before the end of the initial 60-day period by providing written notice of the extension and its anticipated length, which may not exceed 60 days, unless approved by the applicant in writing. Amendments to the zoning code must be adopted by a 2/3 vote of all of the members of the City Council, as provided by M.S. § 462.357, Subdivision 2, as it may be amended from time to time.

E) The Planning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of three actions: approval, conditional approval or denial.

F) The Council shall act upon the application within 30 days after receiving the recommendation of the Planning Commission.

G) No application of a property owner for an amendment to the text of this ordinance or the zoning map shall be considered by the Planning Commission within the one-year period following a denial of the request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

SECTION 5 **ADMINISTRATION AND ENFORCEMENT**

500.000 ADMINISTRATION:

In the administration of this ordinance the following shall apply:

1) Permit Required.

a) A permit issued by the Zoning Administrator shall be secured prior to the construction, addition, or alteration of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to excavation or the placement of an obstruction within the flood plain.

b) Any property shall be secured prior to operating any business within the city limits. Additionally, all residential/commercial businesses must notify the County Assessor's Office of the portion of the property that is used for the business and that portion of the property must be coded non-homestead with the Assessor's for property tax purposes prior to the issuance of the permit.

2) State and Federal Permits.

Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permit.

3) Certification of Lowest Floor Elevations.

The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with

the provisions of this ordinance. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations to existing structures in the flood plain district.

500.010 PENALTIES FOR VIOLATION:

Any person who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

501.000 ZONING ADMINISTRATOR:

A Zoning Administrator for the city shall be appointed or hired by the City Council, and the Zoning Administrator shall have the power and duty to enforce this ordinance and to perform the following duties.

- 1) Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms to the provisions of this ordinance.
- 2) Keep a record of all non-conforming uses.
- 3) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this ordinance
- 4) Notify, in writing, any person responsible for violating a provision of this ordinance, indicating the nature of the violation and ordering the action necessary to correct it.
- 5) Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.
- 6) Maintain permanent and current records of the Zoning, including all maps, amendments, conditional use, and variations.
- 7) Maintain a current file of all permits, all certificates, and all copies of notices of violations, discontinuance, or removal for such time as necessary to insure a continuous compliance with the provisions of this ordinance, and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.
- 8) Provide technical assistance to the Planning Commission.

502.000 PLANNING COMMISSION:

502.010 ESTABLISHMENT OF PLANNING COMMISSIONS:

A Planning Commission for the city is established. The commission shall be the City Planning Commission.

502.020 COMPOSITION AND TERMS:

1) Membership.

The Planning Commission shall consist of five members appointed by the Mayor with the approval of the City Council. One member may be a Council Member or the City Clerk-Treasurer, appointed by the Mayor with Council approval, for a one-year term to expire on December 31 of each year. If no member of the City Council is appointed to the Planning Commission, then one member of the Planning Commission shall attend at least one City Council meeting per month to advise the Council of the Planning Commission activities.

2) Terms and vacancies.

Of the members of the Planning Commission first appointed, one shall be appointed for the term of one year, two for the term of two years and two for the term of three years. Their successors shall be appointed for the terms of three years, commencing January 1 of the calendar year. Both original and successive appointees shall hold their offices until their successors are appointed by the Mayor and approved by the Council. Vacancies during their term shall be filled for the unexpired portion of the term.

502.03 ORGANIZATION, MEETINGS:

1) Officers.

The Commission shall elect a Chairperson from among its appointed members for the term of one year at the beginning of each calendar year. The Commission may create and fill other offices as it may determine.

2) Meetings, records, reports.

The Commission shall hold at least one regular meeting each year or as needed. It shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. The Chairperson or other person designated by the Commission shall submit a report to the City Council of its works during the preceding year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council. Three members shall constitute a quorum. A majority vote is required to approve or disapprove.

502.040 POWERS AND DUTIES OF THE COMMISSION:

1) Planning Commission.

The Planning Commission shall be the planning agency and shall have the powers and duties given such agencies generally by law. The Commission shall also exercise the duties conferred upon it by this ordinance.

2) Zoning.

No zoning or amendment thereto shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission upon notice, as provided in M.S. § 462.357, Subdivision 3, as it may be amended from time to time.

3) Conditional Uses.

The Planning Commission shall make recommendations on all requests for a conditional use permit under the terms of this ordinance. The Commission shall report its recommendations to the Council for action.

4) Subdivision/plats; approval.

Any plat of land shall be referred to the Planning Commission for review and recommendations prior to final approval by the Council. Any plat so referred shall be returned to the Council by the Commission within 30 days. Failure of the Commission to report within that period is deemed to have satisfied the requirements of this subdivision.

502.050 DISCHARGE OF POWERS:

In exercising the aforementioned powers, the Planning Commission may make recommendation to the City Council, so long as the action is in conformity with the terms of this ordinance, reverse or affirm, in whole or in part, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom any appeal is taken.

502.060 CONDITIONAL USE PERMITS; PROCEDURES:

502.061 APPLICATION:

1) Conditional use permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this ordinance.

2) An application for a conditional use permit shall be filled with the Zoning Administrator indicating the section of this ordinance under which the conditional use permit is sought, and stating the grounds on which it is requested. The application shall be accompanied by plans and elevations and site plans as prescribed by the Zoning Administrator to the Board. A copy of all applications for a conditional use under the provisions of the floodway and/or flood fringe portions of the Floodplain District shall be forwarded to the Commissioner of Natural Resources ten days prior to a public hearing.

3) The applicant shall submit the completed application to the Zoning Administrator, and shall pay an application fee as established by the Council.

4) The Zoning Administrator shall review the application and within ten commercial days after receiving the application, shall notify the applicant in writing if the application is not complete, and advise the applicant of what additional information is required.

5) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing, and shall have notices of the hearing published in the legal newspaper, and shall notify all property owners at least once, not less than ten days and not more than 30 days prior to the hearing within the affected zone and within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing. This notice shall describe the particular CUP, date, time and place of hearing. The current County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.

6) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may make a one-time extension of the time for taking action before the end of the initial 60-day period by providing written notice of the extension, the reasons for the extension, and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing. A valid reason for this extension may be that the city needs more time to consider the application. A motion to approve the application which fails to pass because of sufficient votes shall not be deemed to be a denial of an application. The passage of a motion to deny the application is required in order for an application to be denied. Additional extensions beyond the first extension will require the approval by the applicant in writing.

7) The Planning Commission shall hold the public hearing, and may table the application for further investigation if necessary, or the Commission shall recommend to the Council one of three actions: approval, conditional approval or denial.

502.062 PUBLIC HEARING; NOTIFICATION:

Upon receipt in proper form of the application and other requested material, the Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten days in advance of each hearing, a notice of the hearing shall be published in the official newspaper of the city and like notification at least ten days prior to the hearing to the owner or owners of property within 350 feet of the subject property. Notices of hearings shall be posted at the City Hall and in one other public place at least ten days prior to the public hearing. This notice shall describe the particular conditional use, date, time and place of the hearing. The County Assessor's current tax record shall be deemed sufficient for the location or certification of ownership of the adjacent properties.

502.063 FINDINGS:

No conditional use shall be recommended by the City Planning Commission unless the Commission shall find the following:

- 1) That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the immediate vicinity.
- 2) That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- 3) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
- 4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 5) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- 6) A copy of all decisions regarding conditional uses under the provisions of the Floodplain District shall be forwarded to the Commissioner of Natural Resources within ten days after the decision is made.

502.064 CONDITIONS AND SAFEGUARDS:

- 1) The Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance.
- 2) The Commission shall prescribe a time limit within which the action for which the conditional use is required shall commence or be completed, or both. Failure to commence, or complete, or both within the time limit set, shall void the conditional use permit.

503.00 BOARD OF ADJUSTMENT:

503.010 APPEALS FOR VARIANCE. OR ADMINISTRATORS DECISION:

- 1) Application for any Variance permissible under the hardship provision shall be made to the Zoning Administrator in the form of a written application for a permit to use the land or building or both, as set forth in the application. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of lands, structures or other buildings in other districts shall be considered ground for the issuance of a variance. No Use Variance shall be allowed.
- 2) The application shall present a statement and adequate evidence showing the following.
 - A) That there are exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, building, or uses in the same zoning classification, and that strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration
 - B) That the granting of the application is necessary for the preservation and employment of substantial property rights of the petitioner.
 - C) That the reasons set forth in the application justify the granting of the variance.
 - D) That the variance is the minimum variance that will make possible the reasonable use of land, building or structure.
 - E) That the granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare, or injurious to property or improvements in the neighborhood.
 - F) That the special conditions and circumstances do not result from the actions of the applicant.
 - G) That granting the application will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

503.020 PUBLIC HEARING; NOTIFICATION:

- 1) Application for any Variance under the provisions of this ordinance shall be made to the Zoning Administrator. Application for a variance shall be accompanied by payment of a fee as established by

the City Council.

- 2) All required information shall be submitted with the application, and the Zoning Administrator shall review the application, and within ten commercial days after receiving the application, he or she shall notify the applicant in writing if the application is not complete, and advise the applicant as to what additional information is required.
- 3) When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall set the date for a public hearing, and shall have notices of the hearing published in the legal newspaper, and shall notify all property owners within 350 feet of the outer boundaries of the property in question; not less than ten days and not more than 30 days prior to the hearing. However, failure of any property owner to receive notification shall not invalidate the proceedings. Notice of the hearings shall be posted at the City Hall and in one other place at least ten days prior to the public hearing, in addition to publishing the notice in the official newspaper. This notice shall describe the date, time and place of hearing. The current County Assessor's current tax records shall be deemed sufficient for the location or certification of ownership of the adjacent properties.
- 4) The city shall take action to approve or deny the application within 60 days of receiving a completed application. If the city cannot take action to approve or deny the application within 60 days of receiving the completed application, the city may make a one-time extension of the time for taking action before the end of the initial 60-day period by providing written notice of the extension, the reasons for the extension, and its anticipated length, which may not exceed 60 days unless approved by the applicant in writing. A motion to approve the application which fails to pass because of sufficient votes, shall not be deemed to be a denial of an application. The passage of a motion to deny the application is required in order for an application to be denied. Additional extensions beyond the first extension will require the approval by the applicant in writing.
- 5) Any person may appear or be represented by an agency or attorney.
- 6) Within a reasonable time after the hearing, the Planning Commission shall make its order deciding the matter and serve a copy of the order upon the applicant or the petitioner by mail.

503.040 ACTIONS ON APPEAL:

- 1) It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that questions shall be presented to the Board of Commissions only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board of Commissions shall be to the City Council, then to the courts, as established by M.S. Ordinance 462, as it may be amended from time to time.
- 2) The duties of the City Council in regard to this ordinance shall include hearing and deciding questions of interpretation and enforcement that may arise in any case where the decision of the Board of Commissions is challenged. The City Council shall also have the duties of considering and adopting or rejecting proposed amendments to the repeal of this ordinance as provided by law, and establishing a schedule of fees and charges.

504.000 NONCONFORMITIES:

504.010 INTERPRETATION:

- 1) This ordinance and the districts herein, or any later amendments, may create situations where structures, buildings or uses of the land previously permitted may become prohibited, regulated or otherwise restricted. It is the intent of this ordinance to permit the continuance of these nonconforming structures or uses until they are removed, but not to encourage their survival. These uses are declared by this ordinance to be incompatible with the permitted uses in the districts involved.
- 2) An existing building or premises devoted to a use not permitted by this ordinance in the district in which the building or premises is located, shall not be enlarged upon, extended, reconstructed or structurally altered, nor shall it be used as grounds for adding other buildings or structures prohibited elsewhere in the same district, except when required to do so by law or , unless the use is changed to one permitted in the district in which the building or structure or land is located.
- 3) A nonconforming use of a building may not be replaced with another nonconforming use.
- 4) No change from one nonconforming to another shall be made without first applying to and receiving a permit from the City Council to make the change, except as defined in division (E) below.
- 5) A nonconforming use may be changed to a more conforming use at any time.
- 6) Whenever a nonconforming use has been changed to a conforming use, the use shall not thereafter be changed to a less conforming use.
- 7) The extension or addition of a lawful use to any portion of a nonconforming building or structure or land shall not be deemed as the extension of the nonconforming use.
- 8) Where nonconforming status applies to a building or structure, the removal or destruction of same shall eliminate the nonconforming status of land.
- 9) If a building or structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
- 10) All uses which lawfully exist on the effective date of this ordinance and are classified as a conditional use by this ordinance for the district in which they are located shall be considered lawful conditional uses.
- 11) Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this section shall also apply to any nonconforming uses developing as a result of that action.

504.020 NONCONFORMING LOTS OF RECORD:

- 1) A single-family dwelling and customary accessory buildings, notwithstanding limitations imposed by other provisions of this ordinance, may be erected in any district in which single-family dwellings are permitted on any single lot of record at the effective date of adoption of or amendment to this ordinance. The lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located.

2) Variance of area, width, and yard requirements shall be obtained only through action of the Board of Adjustment.

504.030 DISCONTINUANCE:

When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used.

550.000

SECTION 6
ZONING DISTRICTS AND MAP

600.000 ESTABLISHMENT OF DISTRICTS:

For the purpose of this ordinance, the city is divided into the following districts.

- 1) One and Two-Family Residential District R-1
- 2) Commercial Districts. C-1
- 3) Industrial District. I-1.
- 4) Agricultural District A-1
- 5) Shoreland SH (Overlay)
- 6) Floodplain District. FP. (Overlay)

600.010 ZONING MAP:

1) The boundaries of the districts established by this ordinance are delineated on the Zoning Map; the map and all notations, references and data shown thereon are hereby adopted and made part of this ordinance and will be on permanent file and for public inspection in the office of the Zoning Administrator.

2) If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, the changes shall be made on the Map within 30 days after official publication of the amendment.

3) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of any kind by any person shall be considered a violation of this ordinance.

4) The Official Zoning Map on record in the Office of the Zoning Administrator shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the city.

5) Any disagreement over the exact location of the District Boundaries shall be decided by a majority vote

of the City Council. A decision by the City Council in determining District Boundaries shall be final.

601.000 R-1 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT:

601.010 PURPOSE:

The R-1 District is intended for low density residential development in those areas where such development already exists, where municipal utilities are available and in areas which are partially or wholly developed residentially. It is further intended that establishment of this district will accommodate residential development on scattered existing vacant lots, as well as redevelopment in some instances, within previously developed residential areas, using standards previously established.

601.020 PERMITTED PRINCIPAL USES:

1) Within an R-1 District, unless otherwise provided by this ordinance, no building or land shall be used except for the following:

A) One-family detached dwellings and manufactured homes which are not less than 20 feet in width regardless of construction type.

B) Two-family attached dwellings which are not less than 20 feet in width, regardless of construction type.

C) Churches, libraries, museums, schools, public buildings, memorial structures, water supply facilities and cemeteries, provided that no building shall be located within 10 feet of any lot line of an abutting lot within an R-1 Residential District.

D) Nurseries and greenhouses for growing plants.

E) Any structures used for sleeping quarters which are greater than 160ft shall obtain water, electrical and sewer/septic services.

2) Height, yard and area regulations shall be as permitted in the Appendix: Height, Area, and Yard Regulations.

601.030 PERMITTED ACCESSORY USES:

The following shall be permitted accessory uses in the R-1 District.

1) Private garages, carports, one of each designation subject to yard and setback requirements of this ordinance.

2) Off-street parking and loading-unloading facilities.

3) Signs.

4) Buildings and land uses customarily incidental to the uses permitted in this ordinance. Any accessory

use shall be located on the same lot with the principal use.

601.040 CONDITIONAL USES:

Within an R-1 District, buildings or land may be used for one or more of the following uses if granted a conditional use permit.

- 1) Multiple Family Dwellings.
- 2) Nursing Homes

602.000 C-1 COMMERCIAL DISTRICT:

602.010 PURPOSE:

The intent of the C-1 Commercial District is to provide suitable locations for, and to encourage the development of commercial facilities in those areas of the city which benefit the commercial needs of both residents and tourists, will avoid land use conflicts with residential areas, and restrict incompatible commercial and industrial uses.

602.020 PERMITTED PRINCIPLE USES:

The following uses shall be permitted in the C-1 Commercial District:

- A) Restaurants.
- B) Sporting goods and establishments, outfitters and suppliers; bait shops.
- C) Nature trails, snowmobile trails, ski trails and similar facilities.
- D) Commercial retail and service establishments.
- E) All apparel shops.
- F) Appliance and furniture stores.
- G) Banks and financial institutions including drive-up facilities.
- H) Pool and billiard parlors.
- I) Theaters.
- J) Taverns (.32 alcohol only).
- K) Government services and offices, including fire stations and utility buildings.
- L) Public utility service stores.
- M) Art centers.

N) Hotels, Motor hotels & Bed & Breakfast.

O) Service stations and repair garages for motor vehicles; tire and battery sales.

P) Laundromats.

Q) Municipal service and utility buildings, to include water treatment plants, transformer and relay stations, fire stations, highway department vehicle and equipment garages.

602.030 PERMITTED ACCESSORY USES:

The following shall be permitted accessory uses in the C-1 Commercial District.

- 1) Swimming pools, saunas, outdoor recreational equipment and structures.
- 2) Storage garages, rental goods establishments.
- 3) Signs.

602.040 CONDITIONAL USES:

The following uses may be permitted, subject to the issuance of a conditional use permit.

- 1) Single-family detached dwellings.
- 2) Campgrounds

602.050 C-1 DISTRICT PROVISIONS:

The following provisions shall apply in the C-1 District.

1) New structures. Any principal structure hereafter erected, constructed, altered, moved or substantially renovated in any manner, which includes in its function the providing of services, entertainment or lodging for residents or tourists, shall be equipped with indoor toilet and running water (hot and cold) facilities, and adequate heating system based on floor area and occupancy criteria, and facilities for maintaining access routes where operated on a year-round basis. No use shall be permitted unless it is provided with private septic system, water services, electrical services and adequate parking.

2) Recreational vehicle campground provisions. An applicant for a recreational vehicle camping area conditional use permit shall submit a general development plan for the proposed park including the following:

- A) The proposed site and existing development.
- B) Proposed size, location and arrangement of buildings.
- C) Parking areas and stall arrangements.
- D) Entrance and exit drives.

E) Proposed sewer and water system.

F) Recreation areas.

3) Submission of plans. No recreational vehicle camp shall be constructed, nor shall any system of plumbing, sewage system, water supply or swimming pool for the vehicle camp be installed or altered until four plans drawn to scale have been submitted to and approved by the City Council and the State Board of Health.

602.060 GENERAL REGULATIONS:

Additional regulations applicable in the C-1 Commercial District are set forth in the Appendix.

603.000 I-1 GENERAL INDUSTRIAL DISTRICT:

603.010 PURPOSE:

The purpose of the General Industrial District is to provide areas in the city which will permit industry at standards that will not impair the traffic-carrying capabilities of abutting thoroughfares and encourage development that is compatible with surrounding or abutting districts.

603.020 PERMITTED PRINCIPLE USES:

1) All new Industrial Development shall be permitted and further regulated. Unless otherwise provided by this ordinance, no building or land shall be used except for the following:

A) Building materials; storage and sales.

B) Cartage and express facilities.

C) Contractors offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.

D) Garages for storage, repair and servicing of motor vehicles and farm implements.

E) Gasoline and bulk oil stations and distributing plants.

F) Highway maintenance shops and yards.

G) Medical, dental and optical laboratories.

H) Monument works.

I) Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanger, elevated tanks, and water works.

2) Height, yard, lot width and lot coverage regulations shall be as permitted and regulated in the Appendix: Height, Area, and Yard Regulations.

603.030 PROHIBITED USES:

The following uses shall be prohibited in the I-1 District.

- 1) Manufacturing of cement, concrete, lime, gypsum or plaster.
- 2) Distillation of bone, coal, tar, petroleum, refuse, grain, or wood.
- 3) Explosive manufacture or storage.
- 4) Fertilizer manufacturing, compost or storage.
- 5) Garbage, offal, dead animals, refuses rancid fats, incineration, and glue manufacturing, size or gelative manufacturing where the processes include the refining or recover of products from animal refuse or offal.
- 6) Petroleum or asphalt refining, manufacturing or storage.
- 7) Smelting or refining of metals from ores.
- 8) Storing, curing and tanning of raw, green or salted hides or skins.
- 9) Corrosive acid manufacturing or bulk storage thereof.
- 10) Junkyards.
- 11) Mining.

603.040 GENERAL REGULATIONS:

Additional regulations applicable in the I-1 Industrial District are set forth in the Appendix.

604.000 A-1 AGRICULTURE DISTRICT:

604.010 PURPOSE:

To provide a district, whose primary purpose is to maintain, conserve and enhance agricultural land that has historically been tilled on a continuous basis.

604.020 PERMITTED PRINCIPLE USES:

The following activities shall be permitted in the A-1 District.

- 1) Dwellings.
- 2) Agricultural Uses
 - Raising crops to include but not limited to corn, beans, oats, grasses and legumes, sunflowers, wheat,

and sorghum.

- Horticulture and other similar agriculturally related uses.

3) Drainage systems, flood control and watershed structures and erosion control devices provided each will meet the appropriate safety laws and regulations.

4) Forestry and Wildlife Management Areas.

5) Electrical distribution lines and other essential services in accordance with Section 723.

604.030 CONDITIONAL USES:

The following activities shall be permitted with a Conditional Use Permit.

- 1) Public parks.
- 2) Commercial radio and television towers and transmitters.
- 3) Campgrounds.

605.040 PROHIBITED USES:

The following uses shall be prohibited in the A-1 District.

- 1) The establishment and operation of a rock quarry, sand pit or gravel pit.
- 2) Feedlots
- 3) WECS (Wind Energy Conversion Systems).

605.050 GENERAL REGULATIONS:

Additional regulations applicable in the A-1 Agricultural District are set forth in the Appendix.

SECTION 7
GENERAL REGULATIONS AND PERFORMANCE STANDARDS:

701.000 SCOPE OF REGULATIONS:

1) Nonconforming Structures and Uses, all buildings erected hereafter, all uses of land or buildings established hereafter, all exterior structural alterations or relocation of existing buildings occurring hereafter, and all enlargements or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which the buildings, uses or land shall be located.

2) No application for a building permit or other permit or license, or for a certificate of zoning compliance, shall be approved by the Zoning Administrator, and no permit or license shall be issued by any other city department which would authorize the use or change in use of any land or building contrary to the provisions of this ordinance, or the erection, moving, exterior alteration, enlargement, or occupancy of any

building designed or intended to be used for a purpose or in a manner contrary to the provisions of this ordinance.

3) No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations as herein provided, nor shall the area of any lot be reduced below the minimum requirements herein established except by variance granted by the Council.

702.000 NO MORE THAN ONE PRINCIPAL STRUCTURE:

In any district, no more than one principal structure may be erected on a single lot.

703.000 ACCESSORY BUILDINGS (Utility Shed less than 160 ft):

1) In case an accessory building is attached to the main building, it shall be made structurally a part of the main building, and shall comply in all respects with the requirements of this ordinance applicable to the main building. An accessory building, unless attached to and made a part of the main building, shall not be closer than 12 feet to the main building. Any person constructing a car port or hoop building shall get a permit from the city council before construction begins.

2) A detached accessory building shall not be located in any required front yard.

3) A detached accessory building may not be over one story and not be exceeding 12 feet in height and shall not occupy no more than 30% of the area of any side or rear yard, provided further that no detached accessory building shall be placed nearer than ten feet from any side or rear lot line.

4) A poured or floating slab of concrete/cement of 60 ft or larger will require a permit.

704.000 HEIGHT REGULATIONS:

The heights of all structures in the City of Whalan shall not exceed those put forth in the Appendix.

705.000 YARD REGULATIONS:

The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this ordinance. Measurements shall be taken from the nearest points of the wall of a building to the lot line question, subject to the following qualifications;

1) Corner lots. The setback requirements shall be observed on each street side of a corner lot; provided, however, that the buildable width of a lot shall not be reduced to less than 30 feet.

2) Setbacks in certain circumstances. A total setback requirement of 300 feet shall be mandatory for all land uses handling highly explosive or inflammable materials in quantity, such as gas service stations, bulk fuel or oil dealers and similar operations, from all schools, churches, hospitals, or any public meeting place having a seating capacity of 50 or more persons.

706.000 VISION CLEARANCE:

1) Fences, walls in front yard. In any residence zone on any corner lot, no fence or accessory structure or planting shall rise over 2½ feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall shrub planting of more than 2½ feet in height above the level of the public sidewalk shall be erected on any interior lot within ten feet of the front property line where it will interfere with traffic visible from a driveway.

2) Fences in side yard and rear yard. No fence or wall, other than a retaining wall, along a side or rear line of a lot in a residential zone, shall be higher than eight feet.

707.000 ESSENTIAL SERVICES:

Essential services shall be permitted as authorized and regulated by law and other ordinances of the city in any district, it being the intention hereof to exempt erection, construction, alteration, and maintenance from the application of this ordinance.

708.000 ACCESS TO STRUCTURES:

Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be as located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

709.000 SIGN REGULATIONS:

All signs hereafter erected or maintained, except official, public traffic, and street signs, shall conform to in the provisions of this section and other ordinances or regulation of the city.

709.010 GENERAL PROVISIONS FOR ALL DISTRICTS:

The following regulations shall apply to all signs hereinafter permitted in all districts.

- 1) Signs are not permitted within the public right-of-way or easements.
- 2) Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district.
- 3) No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure.
- 4) Upon notification by the City Council or Zoning Administrator that a sign is rotted, unsafe or unsightly, the owner of the sign or owner of property thereunder shall remove or repair same.
- 5) The owner, lessee or manager of any ground sign, and the owner of the land on which the same is located, shall keep grass or weeds and other growth cut, and debris and rubbish cleaned up and removed from the lot on which a sign is located.
- 6) All non-commercial signs of any size may be posted from August 1 in a state general election year until ten days following the state general election.
- 7) Rotating and/or flashing signs shall not be permitted.

709.020 SIGNS IN RESIDENTIAL DISTRICTS:

No sign shall be erected in any R-1 or R-2 District except as follows.

- 1) A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided the sign does not exceed two square feet in surface area. The sign may not be illuminated.
- 2) A sign pertaining to the lease or sale of the building or property; provided the sign does not exceed four square feet in surface area. The sign shall not be illuminated.
- 3) A temporary sign identifying an engineer, architect, contractor, or product engaged in or used in the construction of a building, provided the sign does not exceed four square feet in surface area and is removed prior to the occupancy of the building. The sign shall not be illuminated.
- 4) One identification sign not to exceed 24 square feet in surface area, displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar use. The sign may be illuminated.
- 5) Directional, unilluminated signs not exceeding two square feet in surface area displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries or similar uses, excluding office or commercial establishments, provided that each use shall be limited to one sign per thoroughfare approach.
- 6) Public street identification signs, traffic signs, and directional signs in any parking area where the signs are necessary for the orderly movement of traffic.

709.030 SIGNS IN COMMERCIAL DISTRICTS:

Signs may be erected in Commercial Districts subject to the following provisions.

- 1) The total surface area of all commercial signs on a lot shall not exceed two square feet per lineal foot of lot frontage, or 10% of the building frontage area, or 75 square feet in area, whichever is greater. Signs may be illuminated.
- 2) Advertising sign structures shall be limited to one for a lot of 100 foot frontage or less, and to only one for each additional 100 feet of additional lot frontage.
- 3) An advertising structure may not contain more than two signs per facing, nor exceed 55 feet in total length.
- 4) No advertising sign may be erected within 100 feet of an adjoining Residential District.
- 5) For corner lots, the frontage used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.
- 6) No sign shall project higher than six feet above the height of the building, or 32 feet above the average grade at the building line, whichever is greater.
- 7) Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the

opinion of the Council and/or Zoning Administrator, they are not so maintained.

8) Where a sign is illuminated, the source of light shall not be visual hazard from any public right-of-way, and the light shall be directed away from any Residential District.

(9) No signs shall project more than one foot perpendicular to the building.

709.040 SIGNS IN THE I-1 GENERAL INDUSTRY DISTRICT:

Signs may be erected in the I-1 Districts subject to the same provisions found in the C-1 District .

710.000 EXTRACTION OF MATERIALS AND MINERALS:

There shall be no commercial or industrial extraction of materials and minerals within the boundaries of the City of Whalan.

711.000 LANDSCAPING, LIGHTING, STORAGE AND OUTDOOR DISPLAYS:

1) Landscaping.

All exposed ground areas surrounding or within a principal or accessory use, including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses, shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.

2) Lighting.

All sources of artificial light situated in a Commercial or Industrial District site shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property. Glare, whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates.

3) Storage; displays.

All materials, supplies, merchandise or other similar matter not on display for a direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the Commercial or Industrial District, or within the confines of a 100% opaque wall or fence not less than eight feet high. Merchandise which is offered for sale as described above may be displayed beyond the confines of a building in the Commercial and Industrial Districts, but the area occupied by the outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless the merchandise is of a type customarily displayed outdoors, such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street or alley.

712.000 PERFORMANCE STANDARDS:

In order to insure compliance with the performance standards set forth below, the City Council may require the owner or operator of any permitted use to have made any investigations or tests as may be required to show adherence to the performance standards. Any investigation or tests as are required shall be carried out by an

independent testing organization selected by the city. Any investigations or testing shall be ordered by the owner or operator. The cost of same shall be shared equally by the owner or operator and the city, unless the investigation or tests disclose noncompliance with the performance standards, in which situation the entire costs shall be paid by the owner or operator.

The performance standards are as follows:

- 1) Noise. No person shall generate noise at any level that is offensive to neighbors or other people living or residing in the City of Whalan.
- 2) Odors. No odors shall be detectable beyond the limits of the property.
- 3) Exterior lighting. Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible the limits of the property.
- 4) Vibration. No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three or more minutes during any hour.
- 5) Smoke. The emission of smoke shall be regulated in accordance with the provisions of the Minnesota Pollution Control Agency.
- 6) Dust. The emission of dust shall be regulated in accordance with the provisions of the Minnesota Pollution Control Agency.
- 7) Fumes or gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive.
- 8) Sewer and water. The design and construction of water supply facilities and treatment of all sewage and waste water shall comply with the city, county and state health standards and requirements.

713.000 CAMPGROUNDS:

713.010 LOCATION:

All new campgrounds or expansion of existing campgrounds must be located outside the floodplain area.

713.020 RECREATIONAL CAMPING VEHICLES (RCV):

Recreational camping vehicles shall be subject to the provisions of this ordinance.

1) Recreational Camping Vehicles (RCV):

A) Must have current licenses plates attached at all times for highway use;

B) Must be highway ready at all times meaning the wheels and hitch (if constructed with a hitch) must be left on the RCV at all times.

- C) RCV may not be parked on a street for more than 2 consecutive days.
- D) RCV's may not be used as dwelling unless parked in an established campground.
- E) No RCV requiring a special permit to move on the highway may be located in a campground.

2) Allowable areas for placement of Recreational Camping Vehicles:

- A) Recreational Camping Vehicles may be parked in a side or rear lot
- B) Existing commercial recreational vehicle parks or campgrounds.

714.000 NUISANCES:

714.010 IDENTIFICATION AND ABATEMENT:

The following nuisances are recognized as injurious to public health, safety and the general welfare of the citizens of the City of Whalan.

1. Diseased Trees. Diseased or damaged trees are dangerous to persons and property in the vicinity. At the direction of the city council they must be removed.
2. Diseased Animals Running at Large. Diseased animals running at large are a threat to public safety. The owners (if known) must remove them from public access. In the event the owners cannot be identified, said animals shall be captured and disposed of in a humane way at the direction of the city council.
3. Exposed accumulations of decaying food matter, vegetable matter, animal manure and carcasses, and garbage cans that are not rodent and odor tight. Any nuisance that attracts rodents must be abated immediately upon receiving a letter from the city council.
4. Noxious weeds and other rank plant growth on public or private lands. The city council shall notify the offending land owner and allow 5 days to remove said growth of rank plants or noxious weeds. Failure to comply shall be grounds for enforcement.
5. Dense smoke or noxious fumes. Dense smoke or noxious fumes are a threat to all persons and especially those with respiratory problems. All persons creating dense smoke or noxious fumes must notify the local fire chief and take immediate steps to terminate the problem.
6. Accumulations of ice and snow on public sidewalks. All land owners in the city must keep their sidewalks clear of ice and snow. The landowner shall have 24 hours from the conclusion of a snow or ice event to remove the ice and snow from the sidewalks.
7. No hedge, tree, shrub, or other obstacle shall be allowed that will impair the vision of travelers and road signs in the City of Whalan.
8. Loud noises. Loud noises audible from a land owner's property line shall be prohibited. Any land owner who allows loud noises to go beyond his or her property line shall be guilty of a gross misdemeanor. Loud parties shall be controlled by the land owner. Any landowner who fails to control loud party noise shall be guilty of a gross misdemeanor.

9. Vehicle bodies or used appliances are an attractive nuisance for children and are prohibited. Upon notification by the city council, all Vehicle bodies and used appliances shall be removed from the land owner's property and properly disposed of.
10. No person shall operate a piece of power equipment such as a chainsaw, lawn mower, or hedge clipper after 8 pm and before 8 am.
11. No person shall store on their residential lot, any material that is commercial or industrial in nature.
12. All vehicles (cars, trucks, farm equipment, motor cycles, etc.) parked on a residential lot must have current licenses, be in operating order, and road worthy. All inoperable automobiles must be removed from a residential lot upon written notice from the city council.
13. All buildings in the city shall be maintained in a neat, well maintained condition. Any building that is deteriorating or posing a threat of toppling or falling down or parts of the structure breaking free of the structure shall be repaired or removed.

714.020 ENFORCEMENT:

All violators of this section shall be notified in writing of the violation they have committed. The notice shall describe the violation, and what course of action the violating landowner shall take to come back into compliance with this ordinance.

If the violating landowner fails to take action to correct the violation, the city shall bring charges against said violator. If the city determines that said violation is a threat to the community's health, safety and general welfare, the city may abate the nuisance and charge the landowner for all expenses. The violator shall pay the city for all expenses incurred in abating the nuisance.

**SECTION 8
SHORELAND AND FLOOD PLAINS**

800.000 SHORELAND DISTRICT (SH):

- 1) Lands to which this Section Applies.

This Section shall apply to all land designated as Shoreland area within the jurisdiction of the City of Whalan. This area includes lands three hundred (300) feet landward from the ordinary high water level of all protected watercourses as identified on the Protected Waters and Wetlands Map and listed in this Section of this Ordinance.

- 2) Compliance.

The use of any shoreland, the size and shape of lots, the building of new or the alteration of existing structures, the installation and maintenance of water supply or sewage treatment systems shall be in full compliance with the terms of this Section and other applicable regulations.

- 3) Interpretation.

In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statute.

Shoreland regulations shall apply to all lands located within 300 feet of all rivers and streams, except where the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances. The Root River, Sections ____, ____, ____, Townships ____ W - Range ____ N has been classified as Natural Environment Streams by the State Commissioner of Natural Resources:

800.010 PURPOSE

To provide an overlay district to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shoreland, and provide for the wise use of waters and related land resources.

800.020 PERMITTED PRINCIPLE USES:

1) In the Ag District:

A) Ag Buildings.

B) Dwellings.

C) General Ag Use.

- Raising crops
- Horticulture
- And other similar agriculturally related uses

D) Drainage systems, flood control and watershed structures and erosion control devices provided each will meet the appropriate safety laws and regulations.

E) Forest and Game Management areas.

F) Accessory uses incidental to any of the above permitted uses when located on the same property.

G) Electrical distribution and transmission lines and other essential services.

H) Publicly owned and operated buildings.

2) In the Single and Two Family Residential District (R-1):

A) One and two family residential dwellings.

B) Essential services and electrical distribution and transmission lines.

C) Churches and Chapels, including parish houses.

D) Home Occupations.

E) Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.

800.030 CONDITIONAL USES:

1) In the Ag District:

A) Public Parks.

B) Public Utility Buildings and Structures such as substations, transformer stations, regular stations, and communications stations.

C) Accessory Structures and Uses customarily incidental of any of the above conditional uses when located on the same property.

D) Campgrounds, including recreational camping vehicle, trailer and tent camps.

800.040 PERFORMANCE STANDARDS:

1) All new lots created in the Shoreland District must be 150 feet wide

2) All structures located within the Shoreland District must be 150 feet from the Ordinary High Water Level.

800.050 DESIGN CRITERIA FOR STRUCTURES:

Structures must be placed in accordance with any flood plain regulations applicable to the site.

800.060. SHORELAND ALTERATIONS:

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads are exempt from the vegetation alteration standards that follow.

1) Removal or alteration of vegetation is allowed with approval of the city council. Minimum clearing is allowed.

2) Use of fertilizer and pesticides in the Shoreland District must be done in such a way as to minimize run-off into the shore impact zone or public water by the use of earth, vegetation, or both.

3) Grading and filling and excavations necessary for construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and

driveways.

4) A grading and filling permit will be required for:

A) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

B) the movement of more than (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

5) The following considerations and conditions must be adhered to during the issuance of construction Permits, grading and filling permits, conditional use permits, and variances approvals:

A) Grading or filling in any type 2, 3, 4, 5, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the qualities of the wetland:

B) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

C) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and permanent vegetation cover must be established as soon as possible.

D) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

E) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

F) Fill or excavated material must not be placed in a manner that creates an unstable slope.

G) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30%) or greater.

H) Fill or excavated material must not be placed in bluff impact zones.

I) any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103 G.245.

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

K) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted with approval of the Minnesota DNR if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

801.000 FLOOD PLAIN DISTRICT (FP):

801.010. STATUTORY AUTHORIZATION AND PURPOSE:

The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters Chapter 462 delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 462 further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore, the City of Whalan Minnesota does ordain as follows.

Statement of Purpose.

The purpose of this section of the Whalan City Zoning Ordinance is to maintain the city's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Warning of Disclaimer of Liability.

This ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Section shall not create liability on the part of the City of Whalan or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decisions lawfully made hereunder.

801.020 GENERAL PROVISIONS:

Adoption of Flood Insurance Rate Map.

The Flood Insurance Rate Map for the City of Whalan, Fillmore County, dated November, 2008, or subsequent updates, developed by the Federal Emergency Management Agency is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this ordinance.

Lands to Which Ordinance Applies.

This ordinance shall apply to all lands designated as flood plain within the jurisdiction of the City of Whalan.

Interpretation.

The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the Zoning Administrator shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the city shall: 1)

require a floodplain evaluation to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

801.030 CONFLICT WITH PREEXISTING ZONING REGULATIONS AND GENERAL COMPLIANCE:

The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay-zoning district to all existing land use regulations of the city. The uses permitted in Section 100.123 of this ordinance shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this ordinance shall apply in addition to other legally established regulations of the community and where this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations, which apply to uses within the jurisdiction of this ordinance. Within the Floodway and Flood Fringe, all uses not listed, as permitted uses shall be prohibited.

A) New manufactured homes, replacement manufactured homes and Recreational Camping Vehicles are subject to the general provisions of this ordinance;

B) Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this ordinance; and

C) As-built elevations for elevated structures must be certified by ground surveys.

801.040 PERMITTED USES, STANDARDS, AND FLOOD PLAIN EVALUATION CRITERIA:

Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:

A) Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.

B) Any use of land located in the flood fringe portion of the flood plain involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are first approved by the DNR, the Zoning Administrator and the City Council

C) All structures or additions to existing structures in the flood plain must be flood proofed to 1 foot above the 100 year flood level or built on fill so the lowest level is 1 foot above the 100 year flood.

a. All electric features must be above the 100 year flood level.

b. Flood proofing materials include but are not limited to rock, brick, block, and treated wood.

Standards for Flood Plain Permitted Uses:

- A) The placement of fill dirt in the floodplain shall require a permit. Fill shall be properly compacted And the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable Method.
- B) Storage of Materials and Equipment:
- 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.
- C) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
- D) All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be one (1) foot above the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.
- E) All Uses. Uses that do not have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.
- F) On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

Flood Plain Evaluation:

- A) Upon receipt of an application for a permit within the flood plain district, the Zoning Administrator shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulator Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements for Floodplain Evaluation) and 6120.5700 (Minimum Floodplain Management Standards for Local Ordinance) shall be followed during the technical evaluation and review of the development proposal.
- B) The Zoning Administrator shall submit one (1) copy of all information of this Section to the respective

Department of Natural Resources' Area Hydrologist for review and comment at least twenty (20) days prior to the granting of a permit. The Zoning Administrator shall notify the respective Department of Natural Resources Area Hydrologist within ten (10) days after a permit is granted.

801.050 UTILITIES, ROADS, AND BRIDGES IN THE FLOOD PLAIN DISTRICT:

All utilities and transportation facilities, including scenic trails, roads, and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

No subdivisions or manufactured home park shall be developed or expanded in the Floodplain.

801.060 VARIANCES:

In the floodplain the following shall apply:

No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Appeals. Appeals from any decision of the Board may be made to the district court within 30 days of receiving notice of the Boards decision.

801.070 AMENDMENTS:

All amendments to this ordinance, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the areas is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

**SECTION 9
SEPARABILITY, SUPREMACY AND EFFECITIVE DATE**

900.010. SEPARABILITY:

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

900.020 SUPREMACY:

When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

This Ordinance is not intended to abrogate any easements, restrictions or covenants relating to the use of land or impose on lands within the community by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction or covenant or provision of any private agreement, the provisions of this Ordinance shall prevail.

901.03. EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law. Passed and approved this ____th day of _____, 2012 by the Whalan City Council.

Mayor, City of Whalan: _____ City Clerk: _____

APPENDIX: HEIGHT, AREA AND YARD REGULATIONS

Setbacks, Area, and Height in each District

District	Front Yard	Side Yard	Rear Yard	Max Height	Max. % lot coverage
R-1	10	10	10	35	30
C-1	1	1	10	35	75
I-1	20	20	20	35	50
A-1	40	10	10	170	25

