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### ORDINANCE 80      ZONING

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Section 80.01: NAME. This Ordinance shall be known and cited as the “Zoning Ordinance of the City of Albany”.

Section 80.02: DEFINITIONS OF CERTAIN WORDS. For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

- a) Words used in the present tense include the future tense.
- b) The singular number includes the plural.
- c) The word “person” includes a corporation, partnership, association, society or agency, as well as an individual.
- d) The word “lot” includes the word “plot” or “parcel”.
- e) The term “shall” is always mandatory.
- f) The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

Section 80.03: DEFINITION OF TERMS.

Subd. 1: Accessory. Shall mean a use, building or structure subordinate and incidental to the principal use, building or structure on the lot.

Subd. 2: Adult Arcade. Shall mean an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 3: Adult Bookstore. Shall mean an establishment that offers for use or sale, 1) books, magazines, periodicals, or other printed matter, or photographs, films motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

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Subd. 4: Adult Cabaret. Shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 5: Adult Motion Picture Theater. Shall mean an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Subd. 6: Adult Theater. Shall mean a theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

Subd. 7: Adult Use Establishments. Shall mean adult use establishments include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

Subd. 8: Basement. Shall mean that portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this section), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

Subd. 9: Bed and Breakfast. Shall mean a private, owner occupied dwelling with guest rooms where temporary lodging facilities and some meals are provided to paying lodgers where the lodging is subordinate and incidental to the main residential use of the dwelling. Indoor recreational facilities for the use of the residents and paying lodgers may be included.

Subd. 10: Board. Shall mean the City Council acting as the Board of Appeals and Adjustment of the City.

Subd. 11: Boulevard. Shall mean that portion of the public right-of-way not occupied by the improved street or roadway.

Subd. 12: Building. Shall mean any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation, for living, sleeping, recreating, cooking, or eating purposes or any combination thereof.

Subd. 13: Building Coverage. Shall mean that percentage of the total area of a lot which is covered by structures.

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Subd. 14: Building Height. Shall mean the vertical distance of a building measured from the average elevation of the finished grade of the street in front of the structure to the highest point of the roof, excluding mechanical or elevator penthouses, church spires and antennas.

Subd. 15: Building Line. Shall mean the edge or side of a building nearest a lot line, but not including the overhanging eaves or steps.

Updated 80.03, Subd. 15; 4/2002

Subd. 16: Building Official. Shall mean the officer charged with the administration and enforcement of this Ordinance or his or her regularly authorized deputy.

Subd. 17: Building Principal. Shall mean a structure in which the primary use of the lot is situated.

Subd. 18: Clear View Area. Shall mean the triangular area of a corner lot formed by the street lines and a line connecting them at points 20 feet from the intersection of the street lines, or in the case of a rounded corner, from the intersection of the street property lines extended. On streets having an angle of intersection of 90 degrees or more, said line connecting the intersecting streets is moved one foot further from the intersection along each street for each 10 degrees by which the angle of the intersecting streets exceeds 90 degrees.

Updated 80.03, Subd. 18; 8/2003

Subd. 19: Commercial Business Development (CBD). Shall mean CBD within a Planned Unit Development (PUD).

Subd. 20: Commission. Shall mean the Planning Commission of the City of Albany.

Subd. 21: Community Based Residential Facility. Shall mean a state licensed, full-time residential facility, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a community residential facility.

Subd. 22: Conditional Use. Shall mean the use of land in a district where such use requires additional controls and safeguards not required of permitted uses.

Subd. 23: Condominium. Shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any multi-unit dwelling may be held under multiple ownership.

Subd. 24: Council. Shall mean the City Council of the City of Albany.

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Subd. 25: Day Care Facility. Shall mean a state licensed residential facility serving persons for part of a twenty-four hour day.

Subd. 26: Deck. Shall mean a horizontal, unenclosed platform with or without attached railing, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above ground level. Decks must meet all setback requirements.

Subd. 27: District. Shall mean a section or sections of the City of Albany within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

Subd. 28: Dwelling Unit. Shall mean one or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own permanently installed kitchen and bathroom facilities.

Subd. 29: Dwelling, One Family or Single Family. Shall mean a detached dwelling containing accommodations for and occupied by one family only, not including manufactured homes

Subd. 30: Dwelling, Two Family. Shall mean one principal structure containing two independent dwelling units on a lot.

Subd. 31: Dwelling, Multiple Family. Shall mean a dwelling containing three or more dwelling units, designed with more than one dwelling unit connecting to a common corridor or entryway.

Subd. 32: Estate. Shall mean a dwelling unit situated on a parcel of land at least one-half acres in size.

Subd. 33: Family. Shall mean one or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.

Subd. 34: Garages. Shall mean a type of detached residential accessory buildings principally intended for the storage of automobiles.

Subd. 35: Gasoline or Automotive Service Station. Shall mean any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, anti-freeze, motor vehicle accessories and other items customarily associated with the sale of such products; and for the rendering of service and making of adjustments and replacements to motor vehicles; as incidental to other services rendered, washing, waxing, and polishing of motor vehicles and making of repairs to motor vehicles except those of a major type.

Subd. 36: Group Family Day Care Facility. Shall mean a state licensed group family licensed day care facility licensed under Minnesota Rules 9502.0315 to 9502.0445.

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Subd. 37: Guest Room. Shall mean guest room is any room or rooms used, or intended to be used, by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory is a guest room.

Subd. 38: Hard-surfaced. Shall mean improved and maintained with an asphalt or portland cement binder material pavement or such other surface as may be approved by the city, to provide a durable and dust-free surface.

Subd. 39: Home Occupation. Shall mean any occupation or profession carried on as an accessory use of a dwelling unit by a member of a family residing on the premises and not more than one employee and conducted entirely within the dwelling.

Subd. 40: Hotel. Shall mean any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise.

Subd. 41: Housekeeping Unit. Shall mean anyone or a group of individuals living together as a unit.

Subd. 42: Incidental. Shall mean directly and immediately pertaining to, or involved in, though not an essential part.

Subd. 43: Junkyard. Shall mean land where waste, discarded or salvaged materials are stored, bought, sold, exchanged, baled or packaged, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and a structural steel materials and equipment, automobile tractor, or machinery wrecking and used parts yard, but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

Subd. 44: Lot. Shall mean a parcel of land shown as an individual unit of ownership on the most recent plat of record or other public records.

Subd. 45: Lot, Corner. A lot abutting the intersection of two or more streets.

Subd. 46: Lot, Depth of. Shall mean the mean horizontal distance between the front and rear lot lines measured in the direction of its side property lines.

Subd. 47: Lot, Interior. Shall mean a lot other than a corner lot, including a through lot.

Subd. 48: Lot Lines. Shall mean the lines bounding a lot.

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Subd. 49: Lot of Record. Shall mean a lot which is a recorded metes and bounds description prior to 1945 or is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder for Stearns County, Minnesota.

Subd. 50: Lot, Through. Shall mean a lot fronting on two generally parallel streets.

Subd. 51: Lot Width. Shall mean the mean horizontal distance between side lot lines measured parallel to the street line or its chord if curved.

Subd. 52: Manufactured Home. Shall mean a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling when connected to the required utilities. The term includes any structure for which a certification is filed with the Secretary of State that the structure qualifies as a manufactured home.

Subd. 53: Manufactured Home Park. Shall mean any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

Subd. 54: Mayor. Shall mean the Mayor of the City of Albany.

Subd. 55: Motel, Auto Court. Shall mean a building or group of attached or detached buildings containing individual sleeping or living units for transients with garage attached or with parking facilities conveniently located near each such unit.

Subd. 56: Motor Vehicle Dealer. Shall mean a person engaged in the sales of new and/or used motor vehicles.

Subd. 57: Motor Vehicle Repair Garage. Shall mean any building used for major automobile repairs defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof.

Subd. 58: Net Acre. Shall mean area devoted to development exclusive of roadways and right-of-ways, wetlands, flood plains and parks.

Subd. 59: Nonconforming Use. Shall mean a structure or land lawfully used or occupied as of the date of enactment of this Ordinance, which does not conform to the regulations of this Ordinance.

Subd. 60: Nursery School. Shall mean a home or institution where care and instruction are provided for four or more non-resident children during the day, including a kindergarten.

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Subd. 61: Nursing Homes. Shall mean a licensed home to provide care for the aged or infirm persons requiring or receiving nursing care.

Subd. 62: Ordinance. Shall mean this ordinance or any subsequent revisions thereto.

Subd. 63: Parking Space. Shall mean a permanently surfaced area either within a structure, or in the open, exclusive of driveway or access drives, for the temporary parking of a motor vehicle.

Subd. 64: Patio. Shall mean a ground level blocked and/or cemented slab, no elevation. Patios do not need to meet setback requirements.

Subd. 65: Pawn Shop. Shall mean a facility where money is loaned based on the value of goods deposited by the borrower, which goods are held by the lender of the money occupying the facility as collateral for the loan. Items held by the lender which are not redeemed by a borrower may be put up for sale at the facility to the general public.

Subd. 66: Permitted Uses. Shall mean a use that is allowed as a matter of right with a building permit with no additional action being required by the Planning Commission or City Council.

Subd. 67: Planned Unit Development. Shall mean a tract of land developed as a unit rather than as individual development, wherein two or more buildings and activities may be located in relationship to each other rather than to lot lines or zoning district boundaries.

Subd. 68: Porch. Shall mean a two or three season screened-in addition attached to the principal use. Porches must meet setback requirements. When a variance is obtained for building a deck, the permitted use is solely for the purposes of a deck and not for future enclosure.

Subd. 69: Principal Structure. Shall mean a structure or group of structures in which a principal use occurs.

Subd. 70: Principal Use. Shall mean the main use and chief purpose of land or structures, as distinguished from a secondary or accessory use.

Subd. 71: Resident. Shall mean a person living in a dwelling or group living unit or community based residential facility.

Subd. 72: Screened. Shall mean concealed or cut off from view.

Subd. 73: Sexual Encounter Establishment. Shall mean an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in sexual therapy.

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Subd. 74: Sign. Shall have the meaning set forth in Section 80.11.

Subd. 75: Specified Anatomical Areas. Shall mean specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Subd. 76: Specified Sexual Activities. Shall mean specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in connection with any of the activities in an adult use establishment.

Subd. 77: Street. Shall mean a public thoroughfare or right-of-way which provides the principal means of access to abutting property.

Subd. 78: Street Line. Shall mean the property line between a street and an abutting lot or boulevard.

Subd. 79: Structure. Shall mean anything constructed or erected, or any part thereof, which is permanently located in or on the ground, or in any way attached to, connected to, or served by anything in or on the ground.

Subd. 80: Structural Alteration. Shall mean any change in the type of construction or in the supporting members of a structure, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

Subd. 81: Townhouse. Shall mean a structure containing attached individually owned or rented dwelling units that share a common wall but have individual and separate front and rear yard entrances. Townhouse structures may contain three or more dwelling units.

Subd. 82: Unit. Shall mean dwelling, group living or community based residential facility.

Subd. 83: Variance. Shall mean a modification to the terms of the Zoning Ordinance for height, area, size of structure, size of required yards, size of signs or other requirements, but not involving the actual use.

Subd. 84: Warehouse/Storage. Shall mean a facility for receiving, holding, shipping and occasional packaging of commodities.

Subd. 85: Yard. Shall mean a required open space on the same lot with a principal use.

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Subd. 86: Yard, Front. Shall mean a space extending the full width of the lot and situated between the front property line and the front line of the building projected to the side property lines of the lot.

Subd. 87: Yard, Rear. Shall mean a space extending the full width of a lot and situated between the rear property line of the lot and the rear line of the building projected to the side property lines of the lot. Through lots have no rear yard.

Subd. 88: Yard, Side. Shall mean a space extending from the front yard to the rear yard, or between the front yards on a through lot, between the building line and the side lot line measured perpendicular to the side lot line. Corner lots will have street side yards abutting public streets.

Subd. 89: Yard, Street Side. Shall mean a space extending from the front yard to the rear yard, or between the front yards on a through lot, between the building line and the street line measured perpendicular to the street line.

### Section 80.04: OFFICIAL ZONING MAP.

Subd. 1: General. The City is hereby divided into districts as shown on the Official Zoning Map which, together with the matter thereon and the certificate attached thereto, is hereby incorporated by this reference made a part hereof. The Official Zoning Map shall be maintained by the City Clerk/Administrator and shall be available for inspection at the office of the City Clerk/Administrator.

Subd. 2: Zoning Map Amendment. Changes to the Official Zoning Map may be made following the same procedures as though amending the text of this Ordinance. Upon amendment, changes shall be made to the Official Zoning Map or documents attached thereto.

Subd. 3: Replacement of Zoning Map. In the event that the Official Zoning Map becomes damaged, lost or difficult to read or interpret because of the number of changes thereto, a new Official Zoning Map shall be prepared by the City Clerk/Administrator and approved by the City Council.

Subd. 4: Map Interpretation. The following procedure shall be used when uncertainty exists as to the boundaries of Zoning Districts, as shown on the Official Zoning Map:

- a) Boundaries shall be interpreted as following the nearest logical line to that shown.
- b) Where shown as approximately following platted lines, it shall be construed as following such lines.
- c) Where shown as approximately following the City limits, street centerlines, stream centerlines, or shorelines, it shall be construed as following such lines.

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- d) Where distances are not shown on the map, they shall be determined by scale of the map.
- e) Where a boundary cannot be interpreted or where such boundary seems to conflict with the physical features of the land, the Board of Adjustment shall interpret such boundary.

### Section 80.05: GENERAL REQUIREMENTS.

Subd. 1: Intent. The intent of this section is to establish general development performance standards. The regulations provided herein shall apply to all districts except where special provisions provide otherwise.

Subd. 2: Land Use and Structures. No structure or land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed or moved unless it is in conformity with all of the regulations herein specified for the district in which it is located.

Subd. 3: Yards, Open Space and Off Street Parking. No part of any yard, other open space, or off street parking or loading space required in connection with any building or use shall be included as part of a yard, open space, loading or parking space of any other building or use.

Subd. 4: Lot of Record. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the requirements set forth herein. All yards or lots created after the effective date of this Ordinance shall meet the minimum requirements of this Ordinance.

Subd. 5: Annexation. All land which may hereafter be annexed to the City shall be considered to be zoned in the R-1 Residential District until otherwise classified.

Subd. 6: Clear View Area. A wall or other structure which obstructs sight lines at an elevation below 8 feet above a roadway shall be prohibited within the Clear View Area in all Districts except the C-1 Core Commercial District.

Subd. 7: Detached Accessory Buildings. No detached garage, accessory building or use shall be permitted in any required front yard and no detached accessory building shall be erected within 10 feet of any principal building. The sidewalls of a detached accessory building shall not exceed 12 feet in height. Construction of an accessory structure on a lot may not precede construction of the principal structure and shall be of the same or a similar material as the principal structure. Such buildings shall be limited to 1,200 square feet in area. The provisions of this subdivision shall apply only to lots located in a residential zone or a lot used primarily for residential purposes.

Updated 80.05, Subd. 7 on 4/2002

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### Subd. 8: Site Plan Requirement.

- a) The City Council declares it necessary and appropriate to require site plan approval of any construction, development or improvement in certain zoning districts to preserve and promote attractive, well-planned, stable urban conditions, and for the purpose of drainage and erosion control. Site plan approval is required for all proposed buildings or improvements in a R3, R4, RMH, C1, C2, (Commercial) and M1, M2 (Industrial) zoning districts, and it is required before a Building Permit may be issued. Site plan approval shall not be required for improvement of property with an area of less than 10,000 square feet and/or for building expansions of less than 1,000 square feet.
- b) A Site Plan consisting of the information described in subsection d) herein, along with a completed Application for Site Plan Approval, shall be submitted to the City for comment by the City engineer, review and recommendation by the Planning Commission, and approval or denial by the City Council. The Site Plan and Application shall be submitted to the City at least two weeks prior to the Planning Commission meeting, and before any disturbance of the land on the site.
- c) Upon review of the Site Plan and the Application, the Planning Commission shall submit a recommendation for approval or denial of the Application for Site Plan Approval to the City Council. A recommendation for approval may be conditional, and the Planning Commission may impose additional restrictions and conditions that it deems necessary to protect the public interest, and the general health, safety and welfare of the City.
- d) Applications for Site Plan Approval shall be on a form provided by the City and shall include the established fee as shown in Appendix A. In all cases, the Site Plan application shall contain three (3) full sized copies and six (6) (11"x17") reduced copies.

The Site Plan shall include the following information:

- Name of project/development
- Location of project/development by street address
- Name and mailing address of developer/owner
- Name and mailing address of engineer/architect
- Date of plan preparation/revisions
- North point indicator
- Scale (nothing greater than 1" equals 100')
- Boundary line of property with dimensions
- Location, identification and dimensions of existing and proposed:
  - o Existing and Proposed topographic contours at a minimum interval of two feet
  - o Adjacent streets and street rights-of-ways
  - o On-site street and street rights-of-way

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- Utilities and utility easements
- Fire Hydrants
- Buildings and structures
- Parking facilities
- Surface water holding ponds, drainage ditches and drainage patterns
- Wetlands – Delineation and name of Delineator
- Sidewalks, walkways, driveways, loading areas and docks
- Fences and retaining walls
- All Exterior signs including elevations, materials and dimensions
- Exterior Refuse collection areas
- Detailed Drainage analysis including existing and proposed storm water run-off model
  - 2, 10, & 100 year – 24-hour rainfall events
  - 10 year runoff event for storm pipe
- Grading Plan showing finished grade elevations
- Site Statistics, including site square footage, percent of site coverage (Impervious Surface), and dwelling unit density. Impervious Surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
- Elevation drawings of all proposed structures and buildings, with dimensions
- Adequate fire protection and access/passage/maneuverability for emergency vehicles
- A listing of all required Federal, State, County, Watershed District, and City permits and status of applications
- Erosion Control Process (Identify Best Management Practices to be implemented)
- Other information considered pertinent by the City staff and consultants.

Updated 80.05, Subd.8 on 3/2006

Section 80.06: SWIMMING POOLS. This section regulates swimming pools that are directly or indirectly attached to the ground, not located in a building and permanent in nature. Swimming pools which are set up for four months or less and are not incorporated into a permanent structure are exempt from the requirements of this section.

Updated 80.06 on 8/2005

Subd. 1: Swimming pools regulated by this section shall only be allowed as a conditional use in those zoning districts wherein it is expressly listed, or as included by conditional use in any residential planned unit development.

Subd. 2: The location of swimming pools and associated decks, patios or similar areas and accessory equipment such as the filter unit, pump, heating unit and any other mechanical equipment shall be subject to the following standards:

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- a) They shall not be located beneath overhead electrical lines, nor over underground utility lines of any type, and shall be located in such a manner that complies with the provisions of the electrical code.
- b) They shall not be located within any private or public utility, walkway, drainage or other easement or right of way.
- c) They shall not be located within 20 feet of any rear lot line, within 10 feet of a side yard lot nor within any front yard.
- d) They shall be located at least ten (10) feet from any principal structure or frost footing unless it is part of the principal structure and twenty-five (25) feet from any adjacent residential structure.,
- e) Adequate screening, including both fencing and landscaping shall be placed between the swimming pool structures and other adjacent lot lines.

Subd. 3: Construction of swimming pools shall be subject to the following standards:

- a) All access to the site of construction of a swimming pool shall be limited to the applicant's land, and due care shall be taken to avoid damage to public streets and adjacent private property.
- b) The swimming pool shall be designed and constructed in such a manner so as not to endanger the health or safety of its users and not to unduly interfere with the use and enjoyment of adjacent property.
- c) The swimming pool shall have adjacent provisions to properly recirculate, filter, algacide and germicide the water of the pool and instructions for maintenance of the same.
- d) During the construction of underground swimming pools, due care shall be taken in stockpiling excavating material to avoid erosion, dust or other infringement or interference with the use of adjacent property.
- e) Back-flush water or water from pool drainage shall be directed onto the pool owner's property or into approved public drainage ways and shall not drain onto adjacent private land. Drainage onto public streets or other public drainage ways shall require the approval of the City Clerk/Administrator.
- f) All wiring, installation of heating units, grading, installation of pipes, and all other installations and constructions relating to a swimming pool shall be properly installed.

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Subd. 4: All outdoor swimming pools existing and hereafter constructed, altered or reconstructed shall be completely enclosed by a non-climbable fence or barrier. All fence openings or points of entry into the pools or enclosure shall be equipped with gates. The fence and gates shall be at least 5 feet in height but no more than 6 feet in height and shall be constructed of materials approved by the City. All pools shall be provided with safeguards to prevent children from gaining uncontrolled access thereto. All gates shall be equipped with self-closing and self-latching devices placed on the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases, or other suitable protection. No more than 4 inches of space shall be permitted between the bottom of the fence or barrier and the ground or other surface. Swimming pools that are not fenced shall be fenced in accordance with this section within two years of the effective date of the Ordinance.

Subd. 5: Lighting for the swimming pool shall be directed into or onto the pool and not onto adjacent property.

Section 80.07: HOME OCCUPATIONS. Home occupations shall meet the standards specified as follows:

Subd. 1: Only residents residing on the premises and not more than one employee not living on the premises shall be engaged in such occupation.

Subd. 2: The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.

Subd. 3: There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed 2 square feet, non-illuminated, and mounted flat against the wall of the principal building.

Subd. 4: No equipment shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Subd. 5: Parking for home occupations shall not occur on streets abutting residentially zoned properties.

Subd. 6: For uses within the dwelling unit, the entrance to the space devoted to such occupation shall be within the dwelling unit.

Subd. 7: There shall be no exterior storage of equipment or materials used in the occupation.

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Subd. 8: The home occupation must be conducted entirely within a building.

Subd. 9: Permissible home occupations include, but are not limited to the following: art studio; dressmaking; special offices of the clergy, lawyer, architect, engineer, accountant; beautician; professional offices; real estate agent or appraiser; teaching; group family day care facility serving 14 or fewer children; and miscellaneous services including sales, repairs, fix-it shops, etc.

Section 80.08: STRUCTURE HEIGHTS. Structure heights shall be limited to 35 feet. In multi-family and high density residential districts and in commercial and industrial districts height limits may be increased through conditional use permit to 150 feet for areas not designed for human occupancy.

Section 80.09: ANTIQUES AND COLLECTIBLES. Antiques and collectibles shall be stored and displayed only within a building or in a rear yard.

Section 80.10: OFF-STREET PARKING.

Subd. 1: Intent. The intent of this section is to provide for off-street parking adequate to each type of development in terms of both amount and location in order to reduce the need for parking on the streets and highways and the traffic congestion and hazards caused thereby.

Subd. 2: Location Requirements.

- a) No off street parking shall be required in the C-1 Core Commercial District, except that the number of off-street parking provided may be diminished below the number required if the use were in a district other than the C-1 Core Commercial District only through conditional use permit.
- b) Accessory off-street parking required for the uses specified herein shall only be for use by automobiles of employees, customers or residents of the activity-served and shall be in addition to provisions for parking for the public at large.
- c) Off-street parking requirements shall be met on the same lot as the building served or on a lot within 300 feet thereof especially reserved for such use. Off-street parking facilities for separate uses may be provided collectively on a separate lot if the total spaces are not less than the total requirements of the separate uses and if other requirements are met.
- d) Parking in the public rights-of-way or boulevards shall not be considered off-street parking for purposes of this section.
- e) All or any part of off-street parking requirements may be met within the building.

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### Subd. 3: Design Standards.

- a) An off-street parking space shall be at least 9 feet in width and at least 20 feet in length, exclusive of access drive and ramp which shall be at least 24 feet wide, and have a vertical clearance of at least 7 feet.
- b) All off-street parking spaces and access areas shall be hard-surfaced and shall be so arranged and marked as to provide for orderly and safe parking and storage. Off street parking spaces and access areas shall be so hard-surfaced, arranged and marked for new non-residential uses within the same time period prescribed for completion of the work authorized by the building permit and for new residential uses within 24 months of issuance of the building permit
- c) All open parking areas with 4 or more parking spaces adjoining property in a residential district shall be screened in accordance with this Ordinance.
- d) Any lighting used to illuminate an off-street parking area shall be so arranged such that the source of illumination is not visible from adjoining premises in any residential district.
- e) Every off-street parking area shall be provided with adequate access from a public street or alley of 8 feet, if a residence, and 16 to 32 feet if a non-residential use.

Subd. 4: Number Of Off-Street Parking Spaces Required. The number of off-street parking spaces for uses or buildings or additions thereto shall be determined in accordance with the following list. In the computation of parking spaces, fractions of one-half or more shall require one parking space. Designated handicapped parking spaces shall be prescribed in the state uniform building code. Building area shall be gross area exclusive of entrances, service areas, and storage. The following list represents minimum requirements.

- a) Dwelling. Two parking spaces for each dwelling unit.
- b) Automobile Sales and Service Garages. At least four spaces plus two spaces for each service stall plus parking spaces for other uses as specified in this section.
- c) Banks, Business and Professional Offices, and Clinics. One space for each 200 square feet of building.
- d) Bed and Breakfasts. Two spaces plus one space for each room for rent.
- e) Bowling Alleys. Five spaces for each alley, plus additional spaces for related uses in the principal building.
- f) Churches, Theaters, Auditoriums, Assembly Halls, Sports Arenas and Stadiums. One space for each three seats in the assembly areas.

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- g) Elementary and Middle/junior High Schools. One space for each classroom and office room plus one space for each 50 students of designed student enrollment capacity.
- h) Dance Halls and Skating Rinks. One parking space for each 200 square foot of gross floor area.
- i) Day Care. One space for every five program participants licensed by the State of Minnesota.
- j) Drive-In Restaurants and Convenience Stores. One space for each 150 square feet of gross floor area but not less than 15.
- k) Funeral Homes and Mortuaries. One space for each three seats in the chapel or auditorium.
- l) High School College and Vocational High School. One space for each classroom, one space for each 200 square feet of office space, plus one space for each three students of designed student enrollment capacity.
- m) Hospitals. One-half space for each bed, plus one space for each employee in the maximum shift.
- n) Hotel, Motel, and Lodging Houses. One and two-tenths space for each room or suite or each lodging unit.
- o) Manufacturing Establishments. One space for each 500 square feet of gross floor area.
- p) Nursing, Convalescent and Rest Homes, Sanitariums. One space for each three beds.
- q) Restaurants, Beer Taverns and Nightclubs. One space for each three seats in the main seating area, plus one space for each 30 square feet of bar and lounge area.
- r) Retail Stores and Personal Service Shops. One space for each 200 square feet of retail or service floor area
- s) Retail Sales, Service and Distribution Facilities with 40% or More Space Devoted to Warehouse/Storage. One space for each 200 square feet of sales or office space and one space for each 1,000 square feet of storage area.
- t) Warehouse/Storage. One parking space for each 1,000 square feet.

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- u) Other Uses. For any use or building not provided for above, the most similar use or uses above shall be used by the City Clerk/Administrator to determine the off-street parking requirements.

### Section 80.11: SIGNS.

Subd. 1: Purpose. The purpose of this section of the Zoning Ordinance shall be to coordinate the type, placement, and scale of signs within the different land-use zones:

- a) To recognize the commercial communication requirements of all sectors of the business community;
- b) To encourage the innovative use of design;
- c) To promote both proper maintenance and renovation;
- d) To allow for special circumstances;
- e) To guarantee equal treatment under the law through accurate record keeping and consistent enforcement.
- f) These objectives shall be accomplished by regulation of the display, erection, use, and maintenance of signs. The use of signs is regulated according to zone. The placement and scale of signs are regulated primarily by type and length of street frontage, although lot size, investment, and surrounding conditions will also be considered. No sign shall be permitted as a principal or accessory use except in accordance with the provisions of this section.

Subd. 2: The primary scope of this section shall be to regulate signs of a commercial nature intended to be viewed from any vehicular or pedestrian public right-of-way. In achieving that intent, this section shall not pertain to or regulate:

- a) Building design;
- b) Official traffic control or government signs;
- c) The copy and message of signs;
- d) Signs not intended or able to be viewed from a public right-of-way;
- e) Window displays;
- f) Product dispensers and point of purchase displays;
- g) Scoreboards on athletic fields;

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- h) Flags of any nation, government or noncommercial organization;
- i) Gravestones;
- j) Barber poles;
- k) Religious symbols;
- l) Commemorative plaques;
- m) The display of street numbers;
- n) Any display or construction not defined herein as a sign;
- o) Window signs

Subd. 3: Definitions. Certain terms are defined for the purposes of this section as follows:

- a) Abandoned sign. Shall mean a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
- b) Clearance (of a sign). Shall mean the smallest vertical distance between the grade of vehicular uses or pedestrian uses and the lowest point of any sign, including framework and embellishments, extending over that grade.
- c) Construction sign. Shall mean a temporary sign identifying a financial institution, architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
- d) Directional/information sign. Shall mean an on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g. parking or exit and entrance signs may contain logo provided that the logo may not comprise more than 20 percent of the total sign area.
- e) Freestanding sign. Shall mean a sign supported permanently upon the ground or upon a building by poles or braces and not attached directly to any building.
- f) Government sign. Shall mean any temporary or permanent sign erected and maintained by the City, County, State, special district or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property, or facility, and any temporary or permanent sign erected and maintained within the public right of way by the City, County, or State for designation of or direction to any private business, service,

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property or facility, provided that the number of signs or entities designated does not exceed sixteen (16) per 1,000 lineal feet of right of way. Such signs shall not be considered “off-premise signs.”

Updated 80.11, Subd 3(f) on 4/9/2008

- g) Illuminated sign. Shall mean a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
- h) Incidental sign. Shall mean a small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business.
- i) Monument sign. Shall mean a sign mounted directly to the ground.
- j) Nameplate. Shall mean a non-electrically energized on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.
- k) Off-premise sign (commonly billboard). Shall mean a sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located (e.g. “billboards” or “outdoor advertising”), excluding signs advertising houses of worship and non-profit organizations.
- l) On-premise sign. Shall mean a sign which pertains to the use of the premises and/or property on which it is located.
- m) Political sign. Shall mean a temporary sign used in connection with a local, state, or national election or referendum.
- n) Project identification sign. Shall mean a freestanding ground or wall sign identifying a recognized subdivision, condominium complex, or development.
- o) Projecting sign. Shall mean a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.
- p) Real estate sign. Shall mean a temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.
- q) Roof sign. Shall mean any sign erected over or on the roof of a building.
- r) Sign. Shall mean any device, structure, fixture, or placard using graphics, symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, good, or service.

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- s) Sign, area of. Shall mean the area shall be within a single, continuous perimeter composed of the smallest rectangle which encloses the extreme limits of the advertising message, not including embellishments such as pole covers, framing, decorative roofing, support structures, etc., provided that there is no written advertising copy on such embellishments. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined areas of the individual figures shall be considered the total sign area. For a freestanding or projecting sign only one side of any double-or multiple-faced sign shall be counted in calculating its area.
- t) Temporary Sign. Shall mean a sign erected and displayed or intended to be erected or displayed for a limited period of time.
- u) Wall sign. Shall mean a sign attached essentially parallel to and extending not more than 24 inches from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and signs on a mansard.
- v) Window sign. Shall mean a sign installed inside a window and intended to be viewed from the outside.

Subd. 4: General Provisions. It shall be unlawful for any person to erect, place, or maintain a sign in the City of Albany except in accordance with the provisions contained herein.

Subd. 5: Prohibited signs. The following types of signs are prohibited in all districts:

- a) Abandoned signs.
- b) Banners, pennants, search lights (except as allowed in Subd. 14.G of this Section).
- c) Signs imitating or resembling official traffic or government signs or signals.
- d) Signs attached to trees, telephone poles, public benches, streetlights, or placed on any public property or dedicated public right-of-way.
- e) Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign (this does not apply to allowed portable signs or to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).
- f) Signs placed in a clear view area in excess of three and one-half feet above curb grade or freestanding signs placed in a clear view area having less than 10 feet clearance or with support poles larger than 12 inches in diameter.
- g) Signs painted directly on the walls.

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- h) Roof signs.
- i) Flashing signs.

Subd. 6: Permits and Fees. Unless otherwise provided by this Ordinance, all signs shall require permits and payment of fees. The permit fee shall be established and amended from time to time by resolution of the City Council. Those fees shall be listed in Appendix “A” of this Ordinance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.

Updated 80.11, Subd 6 on 1/22/01

Subd. 7: Exempt Signs. The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this Ordinance:

- a) Signs used by churches, synagogues, non-profit or civic organizations.
- b) Directional/information signs of 9 square feet or less.
- c) Holiday or special events decorations.
- d) Nameplates of two square feet or less.
- e) Political signs.
- f) Public signs or notices, or any sign relating to an emergency.
- g) Real estate signs.
- h) Incidental signs.

Subd. 8: Sign Maintenance. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The City Clerk/Administrator or Building Official shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated.

Subd. 9: Illumination. Unless otherwise expressly prohibited by this Ordinance, signs may be illuminated. Illuminated signs shall adhere to the state electrical code.

Subd. 10: Changeable Copy. Unless otherwise specified by this Ordinance, any sign allowed may use manual, automatic, or electrically or mechanically activated changeable copy.

Subd. 11: Contractor’s License. Persons may not engage in the business of erecting, altering, relocating, constructing, or maintaining signs without a valid contractor's license and all required state and federal licenses or without maintaining required insurance and filing a satisfactory certificate of insurance to indemnify the State and the City against all forms of liability.

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Subd. 12: Indemnification. Persons involved in the maintenance, installation, alteration, or relocation of signs near or upon any public easement, right-of-way or property shall agree to hold harmless and indemnify the City, its officers, agents, and employees, against any and all claims of negligence resulting from such work insofar as this Ordinance has not specifically directed the placement of a sign

Subd. 13: Setback Compliance. Signs shall comply with setback requirements of the district in which the sign is located, except signs exempted from permit requirements by this Ordinance.

Subd. 14: All Zoning Districts. The following signs are allowed in all zones:

- a) All exempt signs not requiring permits.
- b) One non-illuminated construction sign for each street frontage containing a construction project, not to exceed 48 square feet of sign area in residential zones or 64 square feet of sign area in all other zones. Such signs may be erected 60 days prior to beginning of construction and shall be removed 45 days following substantial completion of construction.
- c) One non-illuminated sign per lot or premises not to exceed 12 square feet in sign area. If real estate oriented, such signs must be removed 15 days following sale, rental, or lease of real estate involved.
- d) One non-illuminated attached building name plate per occupancy, not to exceed two square feet in sign area.
- e) Non-illuminated political signs not to exceed 16 square feet per sign. Such signs shall not be erected more than 60 days prior to the election or referendum concerned and shall be removed ten days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
- f) Directional/information sign(s) per lot as required.
- g) Temporary sign(s) and decorations for special events per premises as allowed by the City Clerk/Administrator for special events, grand openings, or holidays. Such signs and decorations may be erected not more than 45 days prior to a special event or holiday and shall be removed 5 days following the event or holiday. For grand openings, such signs may be used for no more than 30 days.

Subd. 15: Residential Districts. Signs are allowed as follows in residential districts:

- a) All signs as permitted by Subd. 14 of this Section.

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- b) One project identification monument sign per street frontage, subdivision, development, or neighborhood entrance not to exceed 48 square feet in sign area in each location.
- c) One project identification sign per entrance to apartment or condominium complex, not to exceed 48 square feet in sign area. Subdivision project identification monument signs may be located in the right-of-way provided they are approved by the City Council and provided the owner of the sign agrees to hold harmless and indemnify the City, its officers, agents, and employees, against any and all claims resulting from damage to such signs insofar as this Ordinance has not specifically directed the placement of the sign.
- d) For permitted nonresidential uses, including public uses, churches and synagogues, one freestanding sign, not to exceed 48 square feet in sign area, and one wall sign not to exceed 48 square feet in sign area.
- e) Freestanding signs shall have a maximum height limit of 6 feet.

Subd. 16: C-1 Core Commercial District. Signs are allowed as follows in C-1 Core Commercial district:

- a) All signs as permitted by Subds. 14 and 15 of this Section.
- b) One freestanding sign with at least 8 feet of clearance over any pedestrian way and 14 feet of clearance over any vehicular use, not exceeding 35 feet in height or one monument sign per street frontage not exceeding 6 feet in height, not to exceed one square foot in sign area for each lineal foot of property frontage. The free standing sign may project up to 5 feet into a public right-of-way or easement provided the owner pays for the cost of removal or removal and replacement if work in the public right-of-way or easement requires such removal.
- c) One wall sign or electric awning sign not to exceed the lesser of 15 percent of aggregate area of building elevation or face on which the signs are installed, or sixty (60) square feet in total area.

Updated 80.11, Subd. 16 c) on 4/2002

- d) One sign suspended beneath a canopy, ceiling, roof, awning or marquee for each separate occupancy or separate entrance not to exceed 8 square feet in sign area. Such signs must have a minimum clearance of 8 feet to grade.
- e) Incidental signs not to exceed 4 square feet of sign area per occupancy.
- f) Directional/information signs as required.

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- g) Projecting signs with a maximum area of twenty (20) square feet. Projecting signs shall not exceed four (4) feet in length or five (5) feet in height. Such signs shall have a minimum clearance of eight (8) feet to grade.

Updated 80.11, Subd. 16 by addition of g) on 7/04

Subd. 17: C-2 Commercial Zones. Signs are allowed as follows in C-2 highway commercial zones:

- a) All signs as permitted by Subds. 14, 15, and 16 of this Section.
- b) Freestanding signs within 500 feet of a controlled access freeway including entrances and exits may be installed to a height of 75 feet or 25 feet above freeway grade, whichever is less. Freestanding signs shall meet setback requirements and the principal purpose of such signs must be to address freeway traffic. Such signs must be freestanding only.
- c) Overall size of signs shall be determined at the rate of 3 square feet of sign for each lineal foot of property frontage.
- d) No sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/information signs.
- e) Off premise signs located within 100 feet of the right of way of Interstate Highway 94 or within 100 feet of county road right of way that is abutting and parallel to Interstate Highway 94. The maximum area of each sign face shall not exceed 672 square feet including border and trim but excluding base and apron supports and other structural members. The maximum size limitation shall apply to each side of a sign structure. Signs may be placed back to back, side by side or in a V-type construction, but not more than two displays to each facing and no stacking of sign faces. Every off premise sign shall be erected at least 500 feet from any other off premise sign or any other such advertising device on the same side of the highway. Off premise signs may not be installed to a height greater than 30 feet measured from the top of the sign.

Updated Section 80.11, Subd. 17e, on 4/07

Subd. 18: M-1 and M2- Industrial Zones. Signs are allowed as follows in M-1 and M-2 Industrial zones:

- a) All signs as permitted by Subds. 14 thru 17 of this Section.
- b) One freestanding sign per street frontage not to exceed the lesser of 3 square feet of sign area for each lineal foot of property frontage, or a total area of 288 square feet. Freestanding signs shall meet setback requirements and shall not exceed a height of 35 feet. Where the street frontage exceeds 300 lineal feet, one additional freestanding sign may be allowed per 300 foot increment.

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- c) Wall signs and/or electronic awning signs in combination not to exceed the lesser of 30 percent of the aggregate square footage of the wall area upon which they are installed or 288 square feet per wall.

Updated 80.11, Subd. 18b) and 18c) on 4/2002

- d) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of 8 feet over pedestrian areas, and 14 feet over vehicular ways.
- e) Off-site directional signs as required.

Subd. 19: Legal Non-conforming Signs. Existing signs which do not conform to the specific provisions of the Ordinance are “legal nonconforming” provided that:

- a) The City Clerk/Administrator determines such signs are properly maintained and do not in any way endanger the public.
- b) The sign was installed in conformance with a valid permit or variance, or complied with all applicable laws on the date of adoption of this Ordinance.

Subd. 20: Illegal Non-Conforming Signs. A legal nonconforming sign becomes an illegal nonconforming sign and subject to the violation provisions of this Ordinance if:

- a) The sign is relocated or replaced.
- b) The structure or size of the sign is altered in any way except toward compliance with this Ordinance. This does not refer to change of copy or normal maintenance.

Subd. 21: Legal Non-Conforming Sign Requirements and Damage. Legal nonconforming signs are subject to all requirements of this code regarding safety, maintenance, and repair. If a legal nonconforming sign suffers more than 50 percent damage or deterioration, based on the assessor’s estimated market value, as determined by an appraiser retained by the City, it must be brought into conformance with this code or removed.

Subd. 22: Administration and Enforcement. The City Clerk/Administrator is empowered, upon presentation of proper credentials and notice, to enter or inspect any building, structure, or premises in the City for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable codes and Ordinances. Such inspections shall be carried out during business hours unless an emergency exists.

Subd. 23: Permit Information. A permit from the City Clerk/Administrator shall be secured prior to the erection or relocation of any sign, except those explicitly excluded. Application for a permit for the erection or relocation of a sign shall be made to the City Clerk/Administrator upon a form provided by the City Clerk/Administrator and shall include the following information:

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- a) Name and address of the owner of the sign.
- b) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- c) The type of sign or sign structure as defined in this Ordinance.
- d) A site plan with measurements showing the proposed location of the sign along with the locations of all existing signs on the same premises.
- e) Specifications and drawings showing the materials, design, dimensions, structural supports, and electrical components of the proposed sign.
- f) All applications for permits filed with the City Clerk/Administrator shall be accompanied by a payment of the initial permit fee for each sign as required by the City Council.

Subd. 24: Violations and Penalty. If any sign is installed or placed on any property prior to receipt of a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person of any other requirements or penalties prescribed in this Ordinance. When, in the opinion of the City Clerk/Administrator or designated representative, any sign is installed in violation of this Ordinance, the City Clerk/Administrator shall issue a written order to the owner of the property directing the removal of the sign. The City Clerk/Administrator shall issue a written order to the owner of the sign, if different from the owner of the property, only if such owner can be determined from examination of the sign. The property owner and/or the sign owner shall have two (2) days from receipt of the order to remove the sign. If the property owner and/or sign owner does not timely comply with the order, then such property owner and/or sign owner shall be guilty of a petty misdemeanor. Second and subsequent offenses shall be a misdemeanor. Fines for violations are as established by the City Council in Appendix A.

Updated Section 80.11, Subd. 24, 2/2007

Subd. 25: Inspection. The City Clerk/Administrator may require at the time of issuance of a permit that written notification for an inspection be submitted prior to the installation of certain signs.

### Section 80.12: FENCES, LANDSCAPING AND SCREENING.

Subd. 1: General Regulations. Fences and landscaping installed in the City shall comply with the following general requirements

- a) No fences shall be erected and no landscaping, except the overstory of trees with branches no lower than 10 feet above curb grade, shall be installed or allowed to grow on a corner lot in the Clear View Area.

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- b) No barbed wire or electric fences may be erected within the City; except that barbed wire fencing may be used in an industrial or highway commercial zone if the barbed wire portion of the fence is no greater than 2 feet in height and is located on the top of a chain link fence which is at least 6 feet in height.
- c) Any fence erected on or within 10 feet of a property line shall be constructed so as the side of the fence considered to have the most esthetically pleasing appearance, or which appears to be the most finished, shall be directed toward the adjacent property. The side of the fence from which supporting posts are least visible shall be deemed to be the finished side.

Updated 80.12, Subd. 1 b) and c) on 4/2002  
Updated 80.12, Subd. 1 & 2; 8/2003

Subd. 2: Residential Districts. Fences and landscaping installed in the City in residential districts shall comply with the following:

- a) Fences and hedges in the side yard or rear yard shall not exceed 6 feet in height.
- b) Fences and hedges shall be set back 20 feet from the curb in front yards and 16 feet from the curb in side yards on corner lots. Fences and hedges in front yards shall not exceed 3 ½ feet in height.

Updated 80.12, Subd. 2 b) on 4/2002

- c) Fences in parks are exempt from the requirements of this subdivision.

Subd. 3: Non-Residential Districts. Fences and landscaping in non-residential districts shall comply with the following:

- a) Fences in the side or rear yard shall not exceed 8 feet in height, except when the side or rear yard abuts a residential district boundary fences shall be limited to 6 feet in height.
- b) Fences in the front yard shall not exceed 6 feet in height.

Subd. 4: Screening Standards. Screening required by this Ordinance shall reduce and restrict, but need not totally block, visibility of the objects being screened throughout the year and may consist of any of the following or of a combination thereof:

- a) Vegetation meeting the following size requirements at planting:
  - 1. Shrub materials at least 3 feet in height.
  - 2. Deciduous trees at least 6 feet in height and 2 inches in diameter measured 3 feet above the ground.

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3. Coniferous trees at least 5 feet in height
- b) Other screening meeting the following standards:
  1. Earth berms having a slope of not more than three feet horizontal to one foot vertical.
  2. Fences constructed of other than chain link or nylon materials.

Subd. 5: Landscaping and Screening Plan. In the case of all development where screening is required a landscaping and screening plans shall be submitted to the City for review and the final landscaping and screening plan shall be subject to written City approval. The plan shall be drawn to scale and shall include the following information:

- a) Existing trees and shrubs, location, approximate size and common name.
- b) Proposed planting plan with schedule showing quantities, common and botanical names, size at planting and root condition (balled and burlapped, bare root or container).
- c) Existing and proposed fences and berms, including elevation drawing.

### Section 80.13: TOWERS AND ANTENNAS.

Subd. 1: Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City finds that these regulations are necessary in order to:

- a) Facilitate the provision of wireless communication services to residents and businesses of the community;
- b) Maximize the use of existing and approved towers and buildings in order to reduce the number of new towers necessary in order to provide wireless communication services to the community;
- c) Ensure wireless communication towers are designed, sited, and constructed in accordance with all applicable code requirements;
- d) Require towers, their antennas and base stations to utilize building materials, colors, textures, screening and landscaping that effectively blend the facilities within the surrounding natural setting and built environment to the extent possible as determined by the City.

Subd. 2: Definitions. Certain terms are defined for purposes of this section as follows:

## CHAPTER 8: ZONING REGULATIONS

- a) **Antenna** shall mean any structure or device used for the purpose of collecting or radiating electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips, not including television reception antennas.
- b) **Base station**. Shall mean equipment located near and used in conjunction with an antenna.
- c) **Personal wireless communication services**. Shall mean licensed commercial wireless communication services including cellular, personal communication services (pcs), enhanced specialized mobilized radio (esmr), paging and similar services.
- d) **Public utility**. Shall mean persons, corporations, or governments supplying gas, electric, transportation, water, sewer, cable, or land line telephone service to the general public.
- e) **Search ring**. Shall mean a geographic area identified by the personal wireless communication services provider as potentially meeting radio frequency design criteria.
- f) **Tower**. Shall mean any self-supporting structure, or combination thereof, at least 20 feet in height, including supporting lines, cables, wires, braces, and masts, for the purpose of mounting an antenna, meteorological device, cables, telephone lines, electrical lines or similar apparatus above ground level.

Subd. 3: **Residential Zones and C-1 Core Commercial Zone**. Towers are prohibited in the residential zoning districts and in the C-1 core commercial zoning district.

Subd. 4: **Business Zones**. In the C-2 highway commercial district, antennas attached to existing structures and base stations associated with such antennas are permitted uses. Towers shall be conditional uses subject to the following conditions:

- a) The tower shall be no more than 200 feet in height;
- b) The tower shall be setback at least the height of the tower (including all attachments) from any residential structure.

Subd. 5: **Industrial Districts**. In the M-1 industrial district and the M-2 industrial commercial and business district, antennas attached to an existing structure and base stations associated with such antennas shall be permitted uses. The following uses are conditional uses:

- a) Antennas on towers of a height of 150 feet or less and base stations associated with such antennas.

## CHAPTER 8: ZONING REGULATIONS

- b) Antennas on towers greater than 150 feet in height as well as base stations associated with such antennas, subject to the following conditions:
  - 1. The tower shall be no more than 250 feet in height;
  - 2. The tower shall be setback at least the height of the tower (including all attachments) from any residential structure.

Subd. 6: Co-location Requirements. A proposal for a new personal wireless communication service tower shall not be approved unless the applicant shows that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring where the proposed tower is located due to one or more of the following reasons:

- a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost.
- b) The planned equipment would cause interference with other existing or planned equipment at the tower or building as documented by a qualified radio frequency engineer, and the interference cannot be prevented at a reasonable cost.
- c) No existing or approved towers or commercial / industrial buildings within the search ring meet the radio frequency design criteria.
- d) Existing or approved towers and commercial / industrial buildings within the search ring cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer.
- e) The existing structure is not made available by the owner on reasonable terms.

Subd. 7: Performance Standards. All towers erected, constructed, or located within the City shall comply with the following requirements:

- a) Monopoles are the preferred tower design. However, the City will consider alternative tower types in cases where structural, radio frequency design considerations, and / or the number of tenants required by the City preclude the use of a monopole.
- b) Towers, their antennas and base stations shall comply with all applicable provisions of this code.
- c) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards of the uniform building code and all other applicable reviewing agencies.

## CHAPTER 8: ZONING REGULATIONS

- d) Towers, their antennas and base stations shall comply with all applicable provisions of the electrical code.
- e) Metal towers shall be constructed of, or treated with, corrosive resistant material.
- f) Towers shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable panel antennas for at least one additional multiple antenna user. The height restrictions applicable to each tower shall be increased by 25 feet for each additional antenna the tower is designed to accommodate. To allow for future rearrangement of antennas upon the tower, the tower shall be designed to accept antennas mounted at no less than 10 foot intervals.
- g) All towers shall be reasonably protected against unauthorized climbing.
- h) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.
- i) Towers shall not be illuminated by artificial means, or the illumination is specifically required by the federal aviation administration or other authority.
- j) No part of any antenna or tower, nor any lines, cable, equipment, wires, or braces shall at any time extend across or over any part of the right-of-way, public street, highway, or sidewalk, without approval by the City.
- k) In addition to the submittal requirements required elsewhere in this code, applications for building permits for towers, their antennas and base stations shall be accompanied by a report from a qualified and licensed professional engineer which does the following:
  - 1. Describes the tower height and design including a cross section and elevation;
  - 2. Demonstrates the tower's compliance with the aforementioned structural and electrical standards;
  - 3. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
  - 4. Describes the tower's capacity, including the number and type of antennas that it can accommodate.

## CHAPTER 8: ZONING REGULATIONS

Subd. 8: Antennas. The placement of wireless communication antennas on roofs, walls, and existing towers may be permitted in any zoning district with a building permit approved by the City staff. In addition to the submittal requirements required elsewhere in this code, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

- a) A drawing showing the location of the proposed antennas and base stations on the structure and documenting that the request meets the requirements of this code;
- b) A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this code;
- c) A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.

Subd. 9: Unused Towers. All unused towers shall be removed within twelve (12) months of the cessation of operations unless a time extension is approved by the City. If a time extension is not approved, the tower may be deemed a nuisance pursuant to Minnesota Statute, Section 463.15. In the event a tower is determined to be a nuisance, the City may act to abate such nuisance and require the removal of the tower at the property owner's expense. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period of twelve (12) consecutive months.

Section 80.14: R-1 RESIDENTIAL ESTATES. The purpose of this district is to provide for very low density residential development, protected as to its residential quality, values and amenities so as to conform to the system of services available and to provide for such community facilities as will enhance the residential quality of the area.

Subd. 1: Permitted Uses.

- a) Single family dwellings, a maximum of one per lot.

Updated 80.14, Subd. 1a on 8/2005.

- b) Parks, playgrounds, golf courses and other outdoor recreation areas.
- c) Community based residential facilities serving six or fewer residents.
- d) Day care facility serving twelve or fewer residents.
- e) Group family day care facility serving fourteen or fewer residents.

Subd. 2: Permitted Accessory Uses or Structures.

## CHAPTER 8: ZONING REGULATIONS

- a) A detached garage or accessory building, not exceeding 1,200 square feet in area. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Updated 80.14, Subd. 1a on 4/07

- b) Temporary buildings for and during construction, not on location or use for more than 12 consecutive months.

### Subd. 3: Conditional Uses.

- a) Two family dwellings.
- b) Churches.
- c) Cemeteries.
- d) Home occupations
- e) Hospitals and nursing homes.
- f) Planned unit residential developments on sites of not less than five (5) acres.
- g) Public utility buildings and structures.
- h) Elementary, junior high and senior high schools.
- i) Swimming pools.
- j) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Updated 80.14, Subd. 3 by addition of j) on 7/04

Subd. 4: Minimum Lot Width, Depth and Maximum Density. Minimum lot widths and maximum densities are as follows:

- a) Minimum Width and Depth. Each lot shall have a minimum width of 75 feet measured at the front property pin and of 70 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.

Updated 80.14, Subd. 4a on 8/2005

- b) Maximum Density. Two dwelling units per net acre.

### Subd. 5: Minimum Building Standards.

## CHAPTER 8: ZONING REGULATIONS

- a) The minimum building width and length for single and two family dwellings shall be 26 feet in width and 26 feet in length. All dwelling units shall have a minimum floor area of 676 square feet.
- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code.
- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls.
- d) Roofs shall be shingled with asphalt, wood, tiles, or other comparable materials as allowed by the applicable building code. Roofs constructed of metal shall not have exposed fasteners.
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of 22 feet from the property line.

Updated 80.14, Subd. 5 on 7/04.

Updated 80.14, Subd. 5 by addition of e) on 8/2005.

Subd. 6: Minimum Yard Requirements. Minimum yards shall be provided as follows:

- a) Front Yard - 30 feet.
- b) Rear Yard - 50 feet.
- c) Side Yard - 25 feet.
- d) Street Side Yard on Corner Lot - 25 feet.

Updated 80.14, Subd 6 d) on 8/04.

- e) Detached Garages and Accessory Buildings. Detached garages and accessory buildings: 20 feet from the property line faced by a vehicle door, 10 feet from rear lot lines and 10 feet from side lot lines.
- f) Maximum Building Coverage. The maximum building coverage shall be 30 percent.

Section 80.15: R-2 LOW DENSITY RESIDENTIAL. The purpose of this district is to provide for a low density, single family residential development, protected as to its residential quality, value and amenities and conforming to the system of services available or to be provided such community facilities as will enhance the residential quality of the area.

Subd. 1: Permitted Uses.

- a) Single family dwellings, a maximum of one per lot.

Updated 80.15, Subd. 1a on 8/2005.

## CHAPTER 8: ZONING REGULATIONS

- b) Parks, playgrounds, and other outdoor recreation areas.
- c) Community based residential facilities serving six or fewer residents.
- d) Day care facility serving twelve or fewer persons.
- e) Group family day care facility serving fourteen or fewer residents.

### Subd. 2: Permitted Accessory Uses or Structures.

- a) A detached garage or accessory building, not exceeding 1,200 square feet in area. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building regardless of their size.

Updated Section 80.15, Subd 2a on 4/07

- b) Temporary buildings for and during construction not on location or in use for more than twelve consecutive months.

### Subd. 3: Conditional Uses.

- a) Two family dwellings.
- b) Churches.
- c) Cemeteries.
- d) Home occupations
- e) Hospitals and nursing homes.
- f) Planned unit residential developments on sites of not less than five (5) acres.
- g) Public utility buildings and structures.
- h) Elementary, junior high and senior high schools.
- i) Swimming pools.
- j) Bed and Breakfasts.
- k) Manufactured Home Parks providing the Site Plan Requirements and Design Standards of Section 80.18 of this Ordinance are complied with.
- l) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Updated 80.15, Subd 3 by addition of l) on 7/04.

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### Subd. 4: Minimum Lot Width, Depth and Maximum Density.

- a) The minimum lot width and depth shall be:
  - 1. Single family dwelling unit. Each lot shall have a minimum width of 75 feet measured at the front property pin and of 70 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.
  - 2. Two family dwelling unit. Each lot shall have a minimum width of 90 feet measured at the front property pin and of 85 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.

Updated 80.15, Subd. 4a on 8/2005.

- b) The maximum density shall be 5 dwelling units per net acre

### Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two family dwellings shall be 26 feet in width and 26 feet in length. All dwelling units shall have a minimum floor area of 676 square feet.
- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code.
- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls.
- d) Roofs shall be shingled with asphalt, wood, tiles, or other comparable materials as allowed by the applicable building code. Roofs constructed of metal shall not have exposed fasteners.
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of 22 feet from the property line.

Updated 80.15, Subd. 5 on 7/04.

Updated 80.15, Subd. 5 by addition of e) on 8/05.

### Subd. 6: Minimum Yard Requirements.

- a) Front Yard.
  - 1. 15 feet for lots in Blocks 1 and 2 of Halls Highview Addition.

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2. 25 feet for all other lots.
- b) Rear Yard.
1. In Blattners Golf View Estates I:
    - A. 40 feet for Lots 1 and 2 of Block 1;
    - B. 50 feet for Lots 3 and 4 of Block 1;
    - C. 60 feet for Lots 5 through 18 and parcels in Lots 19 and 20 of Block 1.
  2. In Blattners Golf View Estates II:
    - A. 55 feet for Lots 1 through 3 of Block 1;
    - B. 45 feet for Lot 4 of Block 1;
    - C. 35 feet for Lot 5 of Block 1;
    - D. 25 feet for Lot 6 of Block 1.
  3. 20 feet for all other lots.
- c) Side Yard.
1. For lots in Halls Highview Addition:
    - A. 12 feet for east and south side yards;
    - B. 4 feet for west and north side yards.
    - C. 10 feet for all other lots.

Updated 80.15, Subd. 6 c) on 4/2002

- d) Street Side Yard on Corner Lot.
1. 20 for lots in Halls Highview Addition.
  2. 25 feet for all other lots.

Updated 80.15, Subd. 6 d) on 8/04

- e) Detached Garages and Accessory Buildings. 20 feet from the property line faced by a vehicle door, 10 feet from rear lot lines and 10 feet from side lot lines.

Updated 80.15, Subd. 6 e) on 4/2002

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- f) **Maximum Building Coverage.** The maximum building coverage shall be 30 percent.

Section 80.16: R-3 MEDIUM DENSITY RESIDENTIAL. The purpose of this district is to provide for a medium density residential development, protected as to its residential quality, amenity and values and conforming to the system of services available or to be provided and to provide such community facilities as will enhance the residential character of the area.

### Subd. 1: Permitted Uses.

- a) Uses permitted in the R-2 residential district.
- b) Two family dwellings.
- c) Townhouses.

### Subd. 2: Permitted Accessory Uses or Structures.

- a) Temporary buildings for and during construction.
- b) A detached garage or accessory building, not exceeding 1,200 square feet in area for the first dwelling unit plus 480 square feet for each additional dwelling unit. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Updated Section 80.16, Subd. 2b on 4/07

### Subd. 3: Conditional Uses.

- a) Churches and cemeteries.
- b) Public utility buildings and structures.
- c) Public parking area if within 200 feet of a commercial district.
- d) Daycare facilities serving 13 to 16 people.
- e) Community based residential facilities serving 7 to 16 people.
- f) Clinics, nursing homes, homes for the elderly, convalescent homes.
- g) Multifamily dwellings.
- h) Home occupations.
- i) Swimming pools.

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- j) Bed and Breakfasts.
- k) Manufactured Home Parks providing the Site Plan Requirements and Design Standards of Section 80.18 of this Ordinance are complied with.
- l) Elementary Schools, Early Childhood Education Program.
- m) Other similar uses determined by Planning Commission or City Council to be similar to the “l)” above.

Sec. 80.16, Subd. 3 amended 3/2004 to include l and m.

- n) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Sec. 80.16, Subd. 3 by adding n) on 7/04

### Subd. 4: Minimum Lot Width, Depth and Maximum Density.

- a) The minimum lot width and depth shall be:
  - 1. Single family dwelling unit. Each lot shall have a minimum width of 75 feet measured at the front property pin and of 70 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.
  - 2. Two family dwelling unit. Each lot shall have a minimum width of 90 feet measured at the front property pin and of 85 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.
  - 3. Townhouse. Each lot shall have a minimum width of 100 feet measured at the front property pin (plus 10 feet for each additional unit over 3) and 95 feet measured at the front yard setback. Lot depth shall be a minimum of 110 feet.

Updated 80.16, Subd. 4a on 8/2005

- b) Maximum Density. The maximum density shall be 8 dwelling units per net acre.

### Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two family dwellings shall be 26 feet in width and 26 feet in length measured. All dwelling units shall have a minimum floor area of 676 square feet.

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- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code.
- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls.
- d) Roofs shall be shingled with asphalt, wood, tiles or other comparable materials as allowed by the applicable building code. Roofs constructed of metal shall not have exposed fasteners.
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of 22 feet from the property line.

Subd. 80.16, Subd. 5 amended 7/04.  
Updated 80.16, Subd. 5 by addition of e) on 8/05.

### Subd. 6: Minimum Yard Requirements.

- a) Front Yard. 25 feet.
- b) Rear Yard. 20 feet.
- c) Side Yard. 10 feet.
- d) Street Side Yard on Corner Lot. 25 feet.

Updated 80.16, Subd. 6 d) on 8/04.

- e) Detached Garages and Accessory Buildings. 20 feet from the property line faced by a vehicle door, 10 feet from rear lot lines and 10 feet from side lot lines.

Updated 80.16 Subd. 6 c) & 6 e) on 4/2002

Subd. 7: Maximum Building Coverage. The maximum building coverage shall be 40 percent.

### Subd. 8: Townhouse Regulations.

- a) A townhouse shall have no more than 6 dwelling units.
- b) Townhouse dwelling units shall contain at least 720 square feet when it is a one story structure and at least 1,100 square feet when it is a two story structure.
- c) The minimum width of a townhouse shall be 20 feet.
- d) The minimum yard requirements are:

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1. Front Yard. 25 feet.
  2. Rear Yard. 35 feet.
  3. Side Yard. 10 feet.
- e) All driveways and parking areas shall be hard surfaced.
- f) Each dwelling unit shall be provided with a minimum of two parking spaces one of which shall be in an attached garage.
- g) Townhouses intended to be rented shall be provided with a minimum of one sanitary sewer connection of adequate size to provide the needed service for each of the townhouse dwelling units. Townhouses intended to be sold individually shall be provided with a separate sanitary sewer connection for each of the townhouse dwelling units.
- h) Townhouses intended to be rented shall be provided with at least one potable water service connection of sufficient size to provide a one inch “service hookup equivalence” for each townhouse dwelling unit. Townhouses intended to be sold individually shall be provided with a separate metered one-inch potable water service connection for each of the townhouse dwelling units.
- i) Applications for townhouses, owner occupied, must comply with the provisions of the Minnesota Common Interest Ownership Act and furnish proof of compliance at any time upon request of the City Clerk/Administrator.
- j) Applications for townhouses, owner occupied, must be accompanied by a Declaration of Covenants, Conditions and Restrictions, which document shall set forth the rights of the individual owners sharing a single structure, including maintenance, repair and construction, building and use restrictions, party walls and separate or shared services. The intent of the required declaration is to promote harmony between neighbors, sharing a single structure, and to protect the City and neighborhood from improper maintenance and/or disputes. The City, as well as the individual property owners shall be considered the beneficiary of these Declaration of Covenants, Conditions and Restrictions. The Declaration of Covenants, Conditions and Restrictions must be approved by the City Clerk/Administrator and recorded with the County Recorder at or before the time of filing the subdivision plat.

Updated 80.16 Subd. 8 d) 3 on 4/2002  
Updated 80.16 Subd 8 i) & j) on 4/2003

Section 80.17: R-4 MULTIPLE RESIDENCE DISTRICT. The intent of this district is to provide for an interesting and pleasant high density environment close to major travel, service retail and other facilities and services.

## CHAPTER 8: ZONING REGULATIONS

### Subd. 1: Permitted Uses.

- a) Uses permitted in an R-3 district.
- b) Multi-family dwellings.
- c) Townhouses.

### Subd. 2: Permitted Accessory Uses or Structures.

- a) Temporary buildings for and during construction.
- b) A detached garage or accessory building, not exceeding 1,200 square feet in area for the first dwelling unit plus 480 square feet for each additional dwelling unit. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Updated Section 80.17, Subd. 2b, on 4/07

### Subd. 3: Conditional Uses.

- a) Churches.
- b) Nursery schools, child-care centers – non-boarding.
- c) Public utility buildings and structures.
- d) Public parking areas if within 200 feet of a commercial district.
- e) Nursing homes and convalescent homes.
- f) Funeral homes, mortuaries.
- g) Lodges, fraternal organizations.
- h) Medical clinics, professional offices.
- i) Home occupations.
- j) Swimming pools.
- k) Bed and Breakfasts.
- l) Manufactured Home Parks providing the Site Plan Requirements and Design Standards of Section 80.18 of this Ordinance are complied with.
- m) Community based residential facilities serving seven through sixteen residents

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- n) Day care facility serving thirteen through sixteen persons.
- o) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Updated 80.17 Subd 3 f) deleted 4/2002; and Updated 80.17, Subd. 3 by adding o) on 7/04.

### Subd. 4: Minimum Lot Width and Depth and Maximum Density.

- a) Minimum Lot Width and Depth.
  - 1. Single family dwelling unit. Each lot shall have a minimum width of 75 feet measured at the front property pin and of 70 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.
  - 2. Two family dwelling unit. Each lot shall have a minimum width of 90 feet measured at the front property pin and of 85 feet measured at the front yard setback. For any lot fronting on a cul de sac, the minimum width measured at the front property pin shall be 50 feet. Lot depth shall be a minimum of 110 feet.
  - 3. Multi-family Dwelling. Each lot shall have a minimum width of 100 feet measured at the front property pin and of 95 feet measured at the front yard setback. Lot depth shall be a minimum of 110 feet.
  - 4. Townhouse. Each lot shall have a minimum width of 100 feet measured at the front property pin (plus 10 feet for each additional unit over 3) and 95 feet measured at the front yard setback. Lot depth shall be a minimum of 110 feet.
- b) Maximum Density. 16 units per acre.

Updated 80.17, Subd. 4 on 8/2005.

### Subd. 5: Minimum Building Standards.

- a) The minimum building width and length for single and two family dwellings shall be 26 feet in width and 26 feet in length measured. All dwelling units shall have a minimum floor area of 676 square feet.
- b) All dwelling units shall have a minimum roof pitch of 3:12 as defined by the building code.

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- c) All dwelling units shall have a frost free foundation as defined by the building code, or an engineered concrete slab with concrete above-grade exterior foundation walls.
- d) Roofs shall be shingled with asphalt, wood, tiles or other comparable materials as allowed by the applicable building code. Roofs constructed of metal shall not have exposed fasteners.
- e) No patio doors shall be located facing into the side yard unless the dwelling unit is set back a minimum of 22 feet from the property line.

Updated 80.17, Subd. 5 on 7/04.

Updated 80.17, Subd. 5 by addition of e) on 8/05.

### Subd. 6: Minimum Yard Requirements.

- a) Front Yard - 25 feet.
- b) Rear Yard - 20 feet.
- c) Side Yard - 10 feet.

Updated 80.17, Subd 6 c) & d) on 4/2002.

- d) Street Side Yard on Corner Lot - 25 feet.

Updated 80.17, Subd 6 d) on 8/04.

- e) Detached Garages and Accessory Buildings - 20 feet from the property line faced by a vehicle door, 10 feet from rear lot lines and 10 feet from side lot lines
- f) Lot 9 of Block 1 of Halls Highview Addition. All yards shall be a minimum of 20 feet.

Subd. 7: Maximum Building Coverage. The maximum building coverage shall be 50 percent.

### Subd. 8: Townhouse Regulations.

- a) A townhouse shall have no more than six dwelling units.
- b) Townhouse dwelling units shall contain at least 720 square feet when it is a one story structure and at least 1,100 square feet when it is a two story structure.
- c) The minimum width of a townhouse shall be 20 feet.
- d) The minimum yard requirements are:

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1. Front Yard – 25 feet
2. Rear Yard – 35 feet
3. Side Yard – 10 feet

Updated 80.17, Subd. 8 d) 3 on 4/2002

- e) All driveways and parking areas shall be hard surfaced.
- f) Each dwelling unit shall be provided with a minimum of two parking spaces one of which shall be in an attached garage.
- g) Townhouses intended to be rented shall be provided with a minimum of one sanitary sewer connection of adequate size to provide the needed service for each of the townhouse dwelling units. Townhouses intended to be sold individually shall be provided with a separate sanitary sewer connection for each of the townhouse dwelling units.
- h) Townhouses intended to be rented shall be provided with at least one potable water service connection of sufficient size to provide a one inch “service hookup equivalence” for each townhouse dwelling unit. Townhouses intended to be sold individually shall be provided with a separate metered one-inch potable water service connection for each of the townhouse dwelling units.

Section 80.18: R-MH MANUFACTURED HOME PARK DISTRICT. The purpose of an “R-MH” manufactured home park district is to provide a separate district for manufactured home parks, distinct from other residential areas.

Subd. 1: Permitted Uses. All permitted uses in a residential district except detached single family dwellings.

Subd. 2: Conditional Uses. The following are conditional uses in an “R-MH” district (requires a conditional use permit based upon procedures set forth in and regulated by this Ordinance):

- a) Manufactured home parks.
- b) Governmental and public regulated utility buildings and structures necessary for the health, safety and general welfare of the community provided that the use is adequately screened and landscaped from abutting residential uses in accordance with Section 80.12 of this Ordinance.

Subd. 3: Site Plan Requirements. In addition to meeting the conditional use permit requirements, a site plan containing the following information must be submitted:

- a) Legal description and size in acres of the proposed manufactured home park.

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- b) Location and size of all manufactured home lots, storage areas, recreation areas, laundry drying areas, roadways, parking sites, sidewalks, and all setback dimensions including but not limited to: parking spaces, manufactured home sites, and accessory building pads and locations.
- c) Landscaping and screening plans as required by Section 80.12 of this Ordinance.
- d) Utility, garbage disposal and recycling plan.
- e) Surface drainage plan as required by Section 80.05, Subd. 8, of this Ordinance.
- f) Location and size of all streets abutting the manufactured home park and all driveways from such streets to the manufactured home park.
- g) Road construction plans and specifications.
- h) Plans for any and all structures including central community building and storm shelter.
- i) Such other information as required or implied by these manufactured home park standards or requested by public officials.
- j) Name and address of developer or developers.
- k) Development phasing plan if being done in phases.
- l) A copy of the guidelines and rules proposed by the manufactured home park operator regulating the building type and construction of building additions, accessory buildings, decks and similar type construction.
- m) A sign plan showing the size and location of all proposed signs demonstrating compliance with this Ordinance.

Subd. 4: Pre-1995 Parks. This Ordinance does not alter existing density, lot size requirements or Manufactured Home setback requirements in any Manufactured Home Park constructed before January 1, 1995, if the Manufactured Home Park, when constructed, complied with the then existing density, lot size and setback requirements.

Subd. 5: Design Standards. The general provisions for all manufactured home parks are:

- a) Fences. Shall be prohibited on individual manufactured home lots.
- b) Enclosed. The area beneath a manufactured home shall be enclosed and such enclosure must have access for inspection.

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- c) Central Community Building. A manufactured home park shall have an adequate central community building. Such building must be provided with restroom facilities, have adequate heating in all areas, and be maintained in a safe, clean and sanitary condition.
- d) Emergency Storm Protections. Manufactured home parks established prior to July 1, 1993 shall comply with emergency storm protections as required by Minnesota Statute 327.02. A new manufactured home park established after the effective date of this Ordinance shall have storm shelters in compliance with Minnesota Statute 327.02. Additionally, all emergency storm protection measures shall be subject to the approval of the City Council.
- e) Individual Manufactured Home Lot Setbacks.
  - 1. In manufactured home parks established before the effective date of this Ordinance, the end of a unit shall be located no closer than 12 feet from the end of an adjacent unit and no part of a unit shall be located closer than 16 feet from the side of an adjacent unit and no closer than 12 feet from a street surface
  - 2. In manufactured home parks established after the effective date of this Ordinance and in additions to manufactured home parks established before the effective date of this Ordinance no part of a unit shall be located closer than 25 feet from another unit and from a street surface.
- f) Permitted Encroachments.
  - 1. Attached steps, uncovered stoops, and landings may encroach up to 5 feet into a setback from an adjacent unit, provided that they do not exceed 20 square feet in area or extend closer than 10 feet to an adjacent structure.
  - 2. An eve or overhang may encroach up to one foot into a required setback from an adjacent unit.
- g) Building Height Requirements.
  - 1. No structure shall exceed one story or 25 feet, whichever is least.
- h) Utilities. All utilities shall be underground; there shall be no overhead wires or supporting poles except for those essential for street or other lighting purposes.
- i) Accessory Buildings.
  - 1. Density and Size. Accessory buildings, including garages, shall be limited to one per manufactured home lot and shall not exceed 100 square feet in

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floor area. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Updated Section 80.18, Subd. 5(i)(1), on 4/07

2. Maximum Building Height. 15 feet.
  3. Location. The manufactured home park site plan shall designate the locations proposed for the development of garages and/or accessory buildings on each manufactured home lot. Said accessory buildings shall be set back a minimum of two feet from the unit owned by the owner of the accessory building, a minimum of 8 feet from adjacent units and at least as far back from street surfaces as the unit owned by the owner of the accessory building.
- j) Structure Type and Construction.
1. Accessory structures shall be architecturally compatible with principal structure.
- k) Design Requirements for Manufactured Home Parks Created after the Effective Date of this Ordinance.
1. Park Size. The minimum area required for a manufactured home park designation shall be five acres.
  2. Parking.
    - A. Each manufactured home site shall have off-street parking space for two passenger vehicles.
    - B. All parking spaces shall be hard surfaced according to specifications established by the City.
  3. Internal Roads and Streets. All streets shall be private streets and shall be developed with a roadbed of not less than 32 feet in width and shall meet City design specifications. A reduction in the street width requirement may be allowed provided sufficient off-street guest parking spaces are constructed and maintained at the owner/operator=s request.
  4. The park shall have a street lighting plan approved by the City.
- l) Recreation. All manufactured home parks shall have at least 10 percent of the land area developed for recreational use (tennis courts, children’s play equipment, swimming pool, golf green, etc.). The recreational use shall be developed and maintained at the owner/operator’s expense.

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- m) Landscaping.
- n) Each manufactured home lot shall be provided with two trees. The size and type of trees must meet the requirements of this Ordinance.
  - 1. A landscape screen meeting the requirements of Section 80.12 of this Ordinance shall be installed and maintained around each manufactured home park.
  - 2. All areas shall be landscaped in accordance with a landscaping plan approved by the City Council.
- o) Lighting.
- p) Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.
- q) The manufactured home park grounds shall be lighted as approved by the City from sunset to sunrise.

Section 80.19: C-1 CORE COMMERCIAL. The intent of this district is to provide a retail and service center for the City and all economic activities that provide jobs for its residents. It should not intrude on residential development, and residential development in this area should be discouraged as harmful to the economic development of the City.

### Subd. 1: Permitted Uses.

- a) Retail uses conducted entirely within a building.
- b) Eating and drinking establishments except drive-ins.
- c) Personal service shops, excluding specifically pawnshops.
- d) Financial institutions.
- e) Offices, clinics, business schools.
- f) Theaters, commercial amusement places.
- g) Hotels, motels.
- h) Laundromats.
- i) Beauty shops.
- j) Lodges, fraternal organizations.

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- k) Institutional uses, churches.
- l) Funeral homes, mortuaries.
- m) Parking lots.
- n) Public utility buildings and structures.
- o) Temporary buildings for and during construction.
- p) Apartments over business establishment.
- q) Dwelling units above other permitted or approved conditional uses
- r) Rental uses conducted entirely within a building
- s) Service uses

### Subd. 2: Conditional Uses.

- a) Retail sales lots including used cars, trucks and trailers.
- b) Open storage lots when included as part of a permitted or approved conditional use.
- c) Wholesale and storage establishments.
- d) Gasoline service stations and motor vehicle repair.
- e) Day care center.
- f) Multi-family dwelling.
- g) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Updated 80.19, Subd. 2 by adding g) on 7/04.

### Subd. 3: Permitted Accessory Uses or Structures.

- a) Storage within a building, if accessory to a principal use.
- b) Off-street parking spaces and loading berths.

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- c) Accessory buildings and uses customarily incidental to the principal use. Exterior grain bin structures of any size, excluding traditional wildlife feeder grain bins, are not a permitted accessory building.

Updated Section 80.19, Subd. 3(c), on 4/07

Subd. 4: Minimum Lot Dimensions. No minimum lot area or width is prescribed.

Subd. 5: Minimum Yard Requirements. No yards are required provided that if a building abuts on a residential district or park there shall be a yard of not less than twenty (20) feet provided on the abutting side, which yard shall be screened from view of the residential district.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be 80 percent.

Subd. 7: Multiple Buildings. Up to three buildings may be constructed on lots in this district, provided that each building will have a minimum of twenty-five (25) feet of frontage on a public right of way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right of way and be separately served by sewer and water. Separation of services shall be at the subdivider's expense. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains commercial.

Updated 80.19 by addition of Subd. 7 on 8/2005.

Section 80.20: C-2 HIGHWAY COMMERCIAL. The intent of this district is to provide roadside service for travelers, as well as for residents, and to provide for the development of activities that use land extensively. Such business activities should not be permitted to interfere with the movement of traffic near or within the amenities of the City.

Subd. 1: Permitted Uses.

- a) Auto, truck, trailer and farm implement sales.
- b) Gasoline service stations, truck stops.
- c) Car washes and repair garages but not including open storage of dismantled vehicles.
- d) Landscape, nursery or garden sales.
- e) Grain and seed sales and storage.
- f) Veterinary clinics and animal hospitals.

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### g) Uses permitted in a C-1 District

Updated 80.20 Subd. 1 g) on 4/2003

#### Subd. 2: Conditional Uses.

- a) Marine, boat and recreational vehicle sales.
- b) Bowling alleys, dance halls.
- c) Miniature golf course, golf driving range and other commercial outdoor recreation activities.
- d) Dwelling units in structures occupied by other permitted or approved conditional uses.
- e) Planned unit development for retail and service uses on site of four (4) or more acres.
- f) Warehouse and storage.
- g) Other uses that are determined by the Planning Commission and City Council to be of the same character as the permitted uses in this Section.

Updated 80.20, Subd. 2 by adding g) on 7/04.

#### Subd. 3: Permitted Accessory Uses and Structures.

- a) Storage of goods related to sales establishments.
- b) Off-street parking spaces and loading berths.
- c) Accessory buildings and uses customarily incidental to the principal use.

#### Subd. 4: Minimum Lot Dimensions.

- a) Area. 5,000 square feet.
- b) Width. 50 feet.
- c) Depth. 100 feet.

#### Subd. 5: Minimum Yard Requirements.

- a) Front Yard. 30 feet.

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- b) Rear and Side Yards. 10 feet except that if a building abuts on a residential district or park there shall then be provided a yard of not less than 20 feet on the abutting residential side, which yard shall be screened from view of the residential district.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be 60 percent.

Subd. 7: Multiple Buildings. Up to three buildings may be constructed on lots in this district, provided that each building will have a minimum of twenty-five (25) feet of frontage on a public right of way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right of way and be separately served by sewer and water. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains commercial.

Updated 80.20 by addition of Subd. 7 on 8/2005.

Section 80.21: M-1 INDUSTRIAL DISTRICT. The intent of this district is to provide for the activities that give employment to many of the City's residents. In this area, close to rail or highway transportation, the most advantageous sites for such activities are located. However, uses of land which may adversely affect the health or welfare of the people are prohibited.

Subd. 1: Permitted Uses.

- a) Gasoline service stations.
- b) Motor vehicle repair but not including the open storage of dismantled vehicles.
- c) Landscape nursery or garden sales.
- d) Public utility buildings and structures.
- e) Lumber yards, building materials sales yards.
- f) Auto, truck and trailer sales.
- g) Marine and boat sales.
- h) Bottling and manufacturing.
- i) Food processing plants.
- j) Storage warehouses and open storage yards.
- k) Transportation and freight terminals.
- l) Grain, feed and fuel supply sales and storage.

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m) Monument works.

### Subd. 2: Permitted Accessory Uses and Structures.

- a) Off-street parking spaces and loading berths.
- b) Accessory buildings and uses customarily incidental to the principal use.
- c) Temporary buildings for and during construction.

### Subd. 3: Conditional Uses.

- a) Planned unit industrial developments on sites of not less than ten acres.
- b) Any lawful use of land or building not expressly prohibited or provided for in the M-1 district and which, by its nature, does not constitute either a public or private nuisance because of noise, dirt, soot, offensive odor or unsanitary condition.

### Subd. 4: Minimum Lot Dimensions.

- a) Area. 10,000 square feet.
- b) Width. 100 feet.
- c) Depth. 100 feet.

### Subd. 5: Minimum Yard Requirements.

- a) Front Yard. 30 feet.
- b) Street Side Yard. 10 feet.
- c) Side Yard. 10 feet except that where an M-1 industrial district abuts a residential district or park a side yard of 50 feet shall be provided on the abutting side, which yard shall be screened from view of the residential district.
- d) Rear Yard. 30 feet except that where an M-1 district abuts a residential district or a park, the yard shall be screened from view of the abutting residential district or park.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be 60 percent.

Subd. 7: Multiple Buildings. Up to three buildings may be constructed on lots in this district, provided that each building will have a minimum of fifty (50) feet of frontage on a public right of way. In the event that the lot is ever subdivided, each building will have to have

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separate access onto the public right of way and be separately served by sewer and water. The multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains industrial.

Updated 80.21 by addition of Subd. 7 on 8/2005.

Section 80.22: M-2 – INDUSTRIAL, COMMERCIAL & BUSINESS DISTRICT. The intent of this district is to provide for activities that create employment and to add economic vitality to the community. This area is a developed industrial park with water, sewer, electric power and telephone service on site and natural gas is near by. All residential land use is prohibited. In addition, this district is intended to provide a reasonable location for adult use establishments. It is the intent of this district to provide for the location of adult use establishments in an area sufficiently distant from the city core, residential districts and other areas which may be affected by the potential secondary adverse effects of adult use establishments. In this manner, the district allows for the protection of the health, safety, and welfare of the residents of the City.

### Subd. 1: Permitted Uses.

- a) Bowling alleys.
- b) Office buildings.
- c) Wholesale outlets.
- d) Industrial sales.
- e) Veterinary clinic and animal hospital.
- f) Uses permitted in the M - 1 District.

### Subd. 2: Permitted Accessory Uses and Structures.

- a) Off-street parking spaces and loading berths.
- b) Accessory buildings and uses customarily incidental to the principal use.
- d) Temporary buildings for and during construction.

Section 80.22, Subd. 2 amended 7/5/06

### Subd. 3: Conditional Uses.

- a) Retail sales not specifically included in permitted uses.
- b) Convention center.
- c) Adult establishments that are:

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1. not located within 1,000 feet of an existing Adult Establishment;
2. not located within 500 feet of any residential district, residential PUD, or residential property;
3. not located within 1,000 feet of an existing school or place of worship; and
4. not located within 500 feet of any property being used as a park.

For purposes of this Ordinance, the 500 and 1,000 foot distances shall be the shortest horizontal measurement from the property line of any residential district, residential PUD, residential property, school, place of worship, park, or an existing Adult Establishment to the property line where the Adult Establishment is to be located.

Section 80.22, Subd. 3(c) amended 1/4/06

- d) Any use of land not expressly prohibited or provided for which creates employment and economic advantage.

### Subd. 4: Minimum Lot Dimensions.

- a) Area. 10,000 square feet.
- b) Width. 100 feet.
- c) Depth. 100 feet.

### Subd. 5: Minimum Yard Requirements.

- a) Front Yard. 30 feet.
- b) Side Yard. 20 feet. Where the side yard abuts a residential district or park, the side yard shall be screened from view of the residential district.
- c) Rear Yard. 30 feet. Where the rear yard abuts a residential district or public park the rear yard shall be screened from view of the residential district in accordance with Section 80.12 of this Ordinance.

Subd. 6: Maximum Building Coverage. The maximum building coverage shall be 60 percent.

Subd. 7: Multiple Buildings. Up to three buildings may be constructed on lots in this district, provided that each building will have a minimum of fifty (50) feet of frontage on a public right of way. In the event that the lot is ever subdivided, each building will have to have separate access onto the public right of way and be separately served by sewer and water. The

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multiple buildings may be used for unrelated permitted uses provided that the use of all buildings on the property remains industrial.

Updated 80.22 by addition of Subd. 7 on 8/2005.

### Section 80.23: PUBLIC DISTRICT.

Subd. 1: Intent. It is the intent of this district to provide ordinances governing the use and development of property owned by the City, the County, the State of Minnesota, or any other political subdivision. This section is intended to allow the use of such property for any public purpose while minimizing the impact of any such public use which is incompatible with or detrimental to the essential character of land adjoining the Public District.

Subd. 2: Permitted Uses. The property in the Public District may be used for any public purpose.

### Subd. 3: Setback Requirements.

- a) Front yard. Setback shall be twenty five (25) feet from the lot line.
- b) Side yard. Setback shall be ten (10) feet from the lot line, 20 feet if abutting a residential district.
- c) Rear yard. Setback shall be ten (10) feet from the lot line, 20 feet if abutting a residential district.
- d) Street Side Yard on Corner Lot. Setback shall be twenty-five (25) feet from the lot line.

Updated 80.23, Subd 3 d) on 8/04.

Subd. 4: Height Requirements. Any portion of a structure shall not exceed thirty five (35) feet in height. Berming the building does not allow a building to be constructed higher than thirty five (35) feet. Elevation for the building shall be determined by the average grade of the land.

Subd. 5: Site Coverage. No roofed structure or combination of roofed structures shall occupy more than 60 percent of the lot area. A combination of structures and nonporous surfaces may not cover in excess of 90 percent of the lot area.

### Subd. 6: Other Requirements.

- a) Parking Lots. All parking lots shall conform to the standards set forth in Section 80.10. All lots shall include parking controls and other landscaping techniques to improve their aesthetic quality and to direct the flow of traffic.

Addition of new 80.23 on 8/2004 – following renumbered.

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Section 80.24: CONDITIONAL USES. Any use listed as a conditional use in this Ordinance shall be permitted only upon issuance of a conditional use permit from the City Council.

Subd. 1: Requirements. In passing upon a conditional use permit the City Council, based on the recommendation of the Planning Commission, shall ensure that:

- a) The use generally conforms to the objectives of the Comprehensive Plan and the intent of this Ordinance.
- b) The proposed use will not be detrimental to nearby affected property owners.
- c) The proposed use (except in the case of a planned unit development) meets the overall density, lot coverage, yard, height and all other requirements of the district in which the proposed use is located.
- d) The proposed use does not adversely affect the general health, welfare and public safety.
- e) The proposed use generates demands for public services and traffic consistent with the City's capacity.

Subd. 2: Procedures on Applications. The application procedure for conditional use permits shall be as follows:

- a) An application for a conditional use permit shall be filed with the City Clerk/Administrator by the owner or owners of the property on which the request is being made.
- b) Applications for conditional use permits shall be on an application form provided by the City accompanied by an application fee as set forth by the City Council and shall include the following information:
  - c) Description of the proposed use, and of its conformance with the standards set forth in this section.
  - d) Legal description of the property
  - e) Scaled site plan
  - f) Other information required by the City Clerk/Administrator.

Subd. 3: Hearing Date. The City Clerk/Administrator shall set a date for public hearing no later than 30 days after receipt of the application for the conditional use permit.

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Subd. 4: Written Notice. The City Clerk/Administrator shall give written notice to all property owners of record within 350 feet of the property for which the conditional use permit is requested at least 10 days before the day of the hearing. A similar notice shall also be published in the official City newspaper at least 10 days before the day of the hearing. The written and published notice shall state:

- a) The date, time and place of the public hearing.
- b) The purpose of the public hearing.
- c) The general scope of the proposed project or application.

Subd. 5: Planning Commission Recommendation. The Planning Commission, upon completion of the public hearing, shall submit to the City Council a recommendation of approval or non-approval of the conditional use permit within 10 days. In the course of its deliberation, the Planning Commission may consult such people as may be deemed helpful or necessary. The Planning Commission may recommend conditions which will improve the proposal or protect adjacent properties from any adverse effects. The Planning Commission, when submitting a recommendation to the City Council, shall also submit findings.

Subd. 6: City Council Action. The City Council may grant the conditional use permit subject to reasonable limitations or conditions as it may deem appropriate to enhance the appearance of the property, to reduce any adverse effects on nearby property or their occupants, to preserve the character of the neighborhood to protect or enhance the view from this or other properties, or to make it more acceptable in other ways. The City Council shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the applicant by mail within 10 days after its decision. The City Council must make a decision on each application within 60 days after receiving the completed conditional use permit application, except that the City is allowed a longer time if:

- a) The City states in writing to the applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed;
- b) The City states in writing to the applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed; or
- c) An agency that must take action on an application is a multimember board that meets periodically, in which case the agency must complete its action within 60 days after its first meeting after receipt of the application, or within a longer period established under this Section.

Subd. 7: Issuance of Permit. The City Clerk/Administrator shall issue the permit upon approval by the City Council. The City Clerk/Administrator or designee shall be responsible to assure that the conditions are met.

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Subd. 8: Failure to Obey. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms or conditions of such permit. The conditional use permit shall remain in effect so long as the conditions are met. Failure to comply with the conditions of a conditional use permit may result in revocation of the conditional use permit by the City Council. The City Council shall first conduct a public hearing before a conditional use permit is revoked.

Section 80.25: PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT. The purpose of the planned unit development overlay district is to offer an alternative to development as outlined in the residential, commercial, and industrial use districts of this Ordinance. Deviation from the definitive and precise requirements of the underlying zoning districts is to be allowed as a planned unit development if the particular areas to be developed can offer greater value to the community and can better meet the community's health, welfare, and safety requirements than if those same areas were to be developed in accord with the strict interpretation of the regulations. The planned unit development overlay district may contain residential, commercial or industrial uses or some combination thereof. A lot in a planned unit development district may contain more than one structure.

Subd. 1: Types of Planned Unit Development Overlay Districts. Tracts of land subject to planned unit development overlay districts may take any of the following forms and designations on the Official Zoning Map, depending on the underlying zoning of the tract:

- a) Residential Planned Unit Development (designated R1-PUD, R2-PUD, R3-PUD and/or R4-PUD). The purpose of the residential planned unit development is to provide for the harmonious development of residential areas in such a manner:
  1. That aesthetic qualities of the landscape may be preserved or created which would otherwise be impossible under the traditional one lot/one building concept.
  2. That provisions may be made for natural non-geometric location of buildings within a site which will provide for economy of development through the use of good street and utility design.
  3. That the development plan is consistent with or complementary to existing area development.
  4. That the number of units per acre will be the same as the underlying zoning district except that a 20 percent bonus can be awarded for extraordinary measures in developing usable open space, preservation of unique features and storage of parked automobiles.
- b) Core Commercial Planned Unit Development (designated C1-PUD). The purpose of the cbd planned unit development is to encourage the reconstruction or renewal of areas in the central business district. The development shall insure standards

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which will provide safe, healthful, aesthetic, and uncongested use of the area. Consideration shall be given to shared parking, upper level building use, pedestrian connections, and landscaping.

- c) Highway Commercial Planned Unit Development (Designated C2-PUD). The purpose of the commercial planned unit development is to encourage and allow alternatives to the strict regulations in the commercial districts in such a manner that more efficient means of providing off-street parking, thoroughfare access, separation of pedestrian and vehicular traffic, stabilization of contiguous property values, buffering of adjacent noncommercial areas, and other general and pertinent planning considerations may be developed and utilized.
- d) Industrial Planned Unit Development (designated M1-PUD and/or M2-PUD). The purpose of the industrial planned unit development is to promote the creation of integrated industrial areas providing design features and control standards for superior industrial developments. In particular, attention shall be given to improving aesthetics, architectural form and scale, traffic circulation, and buffers between industrial and non-industrial areas. And, as in all other planned unit developments, exceptions from the specific regulations found in the zoning districts shall be made for developments which propose innovative or original schemes for the creation of a better urban environment.
- e) Mixed Use Planned Unit Development (Designated any Combination of the above). The purpose of the mixed use planned unit development is to provide a tool whereby tracts of land may be developed for multiple uses provided the development is compatible with the needs of the residents of the City and in no way detracts from their general health, welfare, or safety. This subsection makes possible a mixture of land uses that includes residential, commercial, and industrial land uses if they are internally and externally compatible and complementary with the community. To provide for the proper utilization of land in a mixed use planned development, the overlay district must include ten or more acres.

Upon approval of rezoning to planned unit development the zoning designation on the Official Zoning Map of the tract or tracts of land involved shall be changed by adding "PUD" to the end of underlying zoning district designation as listed above.

Subd. 2: Ownership and Plan. This Section makes provisions for residential, core commercial, commercial, industrial, and mixed use planned unit development overlay districts for a tract or tracts of land under single or unified ownership. Such planned unit development projects shall be developed in accordance with an over-all design as shown in a general development plan which shall be consistent with the general intent of this Ordinance.

Subd. 3: Regulations.

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- a) All roadways and utilities within planned unit developments shall be constructed to specifications established by the City.
- b) A development agreement for the completion of this work shall be established between the City and the developer.
- c) There shall be no standard minimum land area requirement for any planned unit development except the mixed use district which shall include 10 or more acres.
- d) Upon approval of the planned unit development by the City Council, the area will be subject to the stipulations of the development agreement and approved general development plan.
- e) Once the general development plan, the final plat if required and the rezoning to overlay planned unit district have been approved by the City Council, the resulting Ordinance becomes effective, the development agreement has been entered into, and the plat if required has been filed of record, the developer may begin construction. No change to the general development plan shall be allowed without amending the conditional use permit.
- f) Nothing in this article or this Ordinance shall be interpreted as negating the necessity of filing a plat as required by the City's subdivision regulations. In addition, nothing in this article shall be interpreted as defeating the purpose of the orderly and rational development of the City and of the environment.

### Subd. 4: Administrative Procedure.

- a) Concept Plan and General Process. Before filing a application for approval of a planned unit development, an applicant is encouraged to submit a concept plan for review and comment by the City staff. The applicant may request a review of the concept plan by the Planning Commission to obtain the Commission's non-binding comments on its merits. Before any construction, the proponents of a planned unit development project shall submit and receive approval of:
  - 1. Preliminary development plan and preliminary plat if platting is required.
  - 2. General development plan through conditional use permit, final plat if platting is required and rezoning to planned unit development overlay.
- b) Preliminary Plan. The preliminary development plan and preliminary plat if platting is required shall be submitted to the City for referral and hearing. The Planning Commission shall conduct a public hearing pursuant to the hearing procedures outlined in this section and make recommendations to the City Council. The plan shall include the following:

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1. All information required for consideration and approval of a preliminary plat, if a plat is necessary.
  2. Existing site conditions, including development on the subject property and immediately adjacent properties.
  3. The proposed use of all areas of the site.
  4. The proposed density, type, size and location of all dwelling units, if dwelling units are proposed.
  5. The general size, location and use of any proposed nonresidential buildings on the site.
  6. All public and private streets, entrance and exit drives and walkway locations.
  7. Parking areas.
  8. Landscaped areas.
  9. Parks and open space, public plazas and common areas.
  10. Site dimensions.
  11. Generalized drainage and utility plans.
  12. Summary sheets showing proposed densities, area for each land use on the site and proposed modifications of underlying district regulations.
  13. Generalized staging plan for the project, including the geographical sequence of construction and the number of dwelling units or square footage of nonresidential to be constructed in each stage.
  14. A statement describing how the proposed planned unit development overlay district meets the stated purposes and objectives of this section of the Ordinance and of the Comprehensive Plan.
  15. Any other information which the City may reasonably request.
- c) Final Plan. After Planning Commission and City Council approval of the preliminary development plan (and the preliminary plat when required) application for approval of the conditional use permit for the general development plan, the final plat if required and the rezoning of the entire area to the planned unit development overlay district shall be made. The submission for the

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conditional use permit for the general development plan, the final plat if required and the rezoning to planned unit development overlay shall include:

1. All information required for consideration and approval of a final plat, if a plat is necessary.
  2. A final site plan drawn to scale showing the location of all structures including their placement, size and type as well as streets, parking areas and stall arrangement, walkways and other pedestrian facilities, parking calculations, and open space including public plazas and commons.
  3. A landscape plan showing the location, size, and species of all plant materials, a landscaping irrigation system plan, and all other non-vegetative landscaped features.
  4. A utility plan showing the location and size of all on-site utilities and easements as well as storm water runoff calculations for both the predevelopment and post-development condition of the site.
  5. Building plans at a level of detail necessary to allow parking calculations to be made and building elevation drawings showing architectural details and proposed building materials.
  6. Any deed restrictions, covenants, agreements, and Articles of Incorporation and By-laws of any proposed homeowners' association or other documents or contracts which control the use or maintenance of property covered by the Planned Unit Development.
  7. A staging plan, if staging is proposed, indicating the geographical sequence and timing of development of the plan or portions thereof, including the estimated date of beginning and completion of each stage.
  8. Any information that has changed since submission for approval of the preliminary development plan.
  9. Any other information which the City may reasonably request.
- d) Amendments. Any deviation from the final development plan after approval by the City Council shall be a violation of this Ordinance unless approved as an amendment to the conditional use permit by the City. Minor amendments to the final development plan may be approved by the City Council. Major amendments shall be approved by the City Council following review and recommendation of the Planning Commission.

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### Section 80.26: VARIANCES AND APPEALS.

#### Subd. 1: Procedure.

- a) Requests for a variance or appeal shall be filed with the City Clerk/Administrator.
- b) Applications for variances shall be on application forms provided by the City accompanied by an application fee as set forth by the City Council and shall include the following information:
  1. Description of the proposed project and of its conformance with the variance criteria set forth in this section.
  2. A legal description of the property.
  3. The proposed site plan, including structures on adjacent properties drawn on a registered land survey base drawing. A proposed site plan shall not be required if the variance request is restricted to an addition to a building where the addition will be located totally within the existing building lines of the structure to which the addition will be attached.
  4. Any other information required by the City Clerk/Administrator.
- c) Applications for appeals shall be on application forms provided by the City accompanied by an application fee as set forth by the City Council and shall include the decision or interpretation of the City Clerk/Administrator being appealed and such other information required by the Board to act on the appeal.
- d) The City Clerk/Administrator shall set a date for a public hearing after the receipt of a complete application for the variance or appeal.
- e) The City Clerk/Administrator shall give written notice to all property owners of record within 100 feet of the property for which a variance is requested at least ten days before the day of the hearing. A similar notice shall also be published in the official City newspaper at least ten days before the day of hearing for variance and appeal requests. The written and published notice shall state:
  1. The date, time, and place of the public hearing.
  2. The purpose of the public hearing.
  3. The general scope of the proposed project, application or appeal.

Updated 80.26, Subd 1 b) 3 on 4/2002

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- f) The Planning Commission shall conduct the public hearing for variances. The Board of Appeals and Adjustments shall conduct the public hearing for appeals from any administrative decision made under this Ordinance.
- g) The Planning Commission, upon completion of the public hearing for a variance, shall submit a recommendation to the Board of Appeals and Adjustment. The Planning Commission may submit recommended conditions to any recommendation to grant a variance.
- h) The Planning Commission, when submitting a recommendation to the Board of Appeals and Adjustments, shall also submit findings relative to this Ordinance.

### Subd. 2: Variance Findings.

- a) Any variance to the provisions or requirements of this Ordinance shall be authorized by the Board of Appeals and Adjustments when it finds evidence that all of the following facts and conditions exist:
  - 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.
  - 2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial gain shall not in itself be deemed sufficient to warrant a variance.
  - 3. That the granting of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.
  - 4. That the condition or situation of the specific piece of property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such a condition or situation.
- b) In granting a variance, the Board of Appeals and Adjustments may impose conditions to insure compliance and to protect adjacent properties.
- c) The Board of Appeals and Adjustments may not permit as a variance any use that is not permitted under this Ordinance for the property in the district where the affected persons land is located.

### Subd. 3: Board of Appeals and Adjustments.

- a) Membership and Duties.

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1. The Board of Appeals and Adjustments shall be the City Council.
  2. The Board of Appeals and Adjustments shall act upon all questions as may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement decision, or determination made by an administrative official charged with enforcing this Ordinance. Such appeal may be made by any person owning the property under appeal or by any officer, board, or commission of the City. The Board of Appeals and Adjustments shall have the power to vary or adapt the strict application of any of the requirements of this Ordinance or in the case of exceptionally irregular, narrow, or shallow lots, other exceptionally physical condition, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved.
- b) Public Hearing. The Board of Appeals and Adjustments shall refer all applicants for variances to the Planning Commission to hold a public hearing and make recommendations to the Board. The Board may act on any application if no report is transmitted within 31 days of acceptance of the variance application.
- c) Findings. The Board of Appeals and Adjustments shall issue written findings stating the reasons for its decision and any conditions imposed, and send a copy of the findings to the applicant by mail within ten days after its decision. The Board of Appeals and Adjustments must make a decision on each application within 60 days after receiving the completed variance or appeal application, except that the Board of Appeals and Adjustments is allowed a longer time if:
1. The Board of Appeals and Adjustments states in writing to the applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed.
  2. The Board of Appeals and Adjustments states in writing to the applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed.
  3. An agency that must take action on the application is a multimember board that meets periodically, in which case the agency must complete its action within 60 days after its first meeting after receipt of the application, or within a longer period established under this subsection.
- d) Appeal. Decisions of the Board of Appeals and Adjustments shall be final, except that appeals from decisions of the Board of Appeals and Adjustments may be made to the District Court.

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### Section 80.27: AMENDMENTS AND REZONING.

#### Subd. 1: Initiation.

- a) The City Council or Planning Commission may initiate a request to amend the text or the zoning district boundaries of this Ordinance.
- b) Any person, persons, firm, or corporation or agent owning real estate in the City may initiate a request to amend the text or zoning district boundaries of this Ordinance as it relates to that real estate.

#### Subd. 2: Procedure.

- a) Requests for amendments shall be filed with the City Clerk/Administrator.
- b) Applications for amendments shall be on an application form provided by the City accompanied by an application fee as set forth by the City Council and shall include the following information:
  1. Detailed written and graphic materials fully explaining the proposed change, development, or use.
  2. Legal description of the property if a zoning district boundary change is requested.
  3. Scaled site plan if a zoning district boundary change is requested.
  4. Other information required by the City Clerk/Administrator.
- c) Hearing. The City Clerk/Administrator shall set a date for public hearing after receipt of a request for a zoning change. The City shall publish notice of the public hearing's time, place and purpose in the City's official newspaper at least ten days before the hearing. Requests for amendments to the text of this Ordinance shall be reviewed by the Planning Commission prior to setting a date for public hearing. Upon review of the text amendments, the Planning Commission shall set a date for public hearing.
- d) Written Notice. In the case of a request for a zoning district change, the City Clerk/Administrator shall give written notice to all property owners of record within 350 feet of the property for which the zoning district change is requested at least ten days prior to the public hearing date. A similar notice shall also be published in the official City newspaper at least ten days prior to the public hearing date.

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- e) Planning Commission Recommendation. The Planning Commission, upon completion of the public hearing, shall make a recommendation to the City Council
- f) City Council Action.
  - 1. Any amendment not initiated by the Planning Commission shall be referred to it for study and report and shall not be acted upon by the City Council until it has received the recommendation of the Planning Commission or 45 days have elapsed from the receipt of the completed application.
  - 2. Upon receipt of the Planning Commission recommendation, the City Council shall place the request on the Council Agenda for final action.
  - 3. The City Council, in addition to the public hearing conducted by the Planning Commission, may also conduct a public hearing. The City shall adopt or amend the Zoning Ordinance by a two-thirds ratio of all of its members.
  - 4. The City Council must make a decision on each application within 60 days after receiving the completed conditional use permit application, except that the City is allowed a longer time if:
    - A. The City states in writing to the applicant that a longer time is needed to protect against serious and significant harm to the public health, safety, or welfare, states the reason why, and specifies the additional time needed.
    - B. The City states in writing to the applicant that a longer time is needed to comply with state or federal requirements, states the requirements, and specifies the additional time needed.
    - C. An agency that must take action on an application is a multimember board that meets periodically, in which case the agency must complete its action within 60 days after its first meeting after receipt of the application, or within a longer period established in this subsection.

### Section 80.28: ADMINISTRATION AND ENFORCEMENT.

#### Subd. 1: Duties of City Clerk/Administrator.

- a) Administer and enforce the provisions of this Ordinance.
- b) Issue permits and retain records.

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- c) Maintain the official zoning map.
- d) Receive all applicable applications and forward them to the Planning Commission, Board of Appeals and Adjustments and City Council.
- e) Schedule public hearings as required.
- f) Promulgate regulations and procedures consistent with the function.
- g) Assure, that when required, documents are recorded at the Office of the County Recorder.

### Subd. 2: Permit Requirements and Applications.

- a) No building, sign or other structure shall be erected, moved, added to, or structurally altered without a permit.
- b) Any use listed as a conditional use in this Ordinance shall be permitted only upon issuance of a conditional use permit by the City Council.
- c) No permit shall be issued except in conformity with the provisions of this Ordinance.
- d) All applications for permits shall be accompanied by building and plot plans drawn to scale, showing the actual dimensions and shape of the lot being built upon; the exact size and location on the lot of any buildings and the location and dimensions of the proposed building, addition or alternation.
- e) The City Clerk/Administrator may require that additional information be provided with the application if the additional information is necessary to determine conformance with the provisions of this Ordinance.

### Subd. 3: Permit Expiration.

- a) If the work described in any variance or conditional use permit is not started within one year from the date of issuance, said permit shall expire.
- b) If the work described in any permit is not substantially completed within one year from the date of commencement, the permit shall expire. Further work, as described in the canceled permit, shall not proceed unless a new permit has been obtained.
- c) This time period for completion of work described in any variance or conditional use permit may be extended by the City Council for up to one additional year if the City Council finds that such extension is justified.

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### Subd. 4: Conformity of Construction and Use.

- a) Permits issued on the basis of plot plans and applications forms authorize only the use, arrangement and construction set forth in such plans or application, and no other use or arrangement.
- b) Use or construction in conflict with an approved plot plan shall be deemed a violation of this Ordinance and subject to the enforcement provisions of this Ordinance.

Subd. 5: Fees. To defray the administrative costs of processing requests of this Ordinance, fees not exceeding administrative costs shall be paid by the applicant. Such fees shall be determined by the City Council as established in Appendix A.

Section 80.29: NON-CONFORMITIES. Within the districts established by this Ordinance there exist lots, structures and uses which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or its amendments. It is the intent of this Ordinance to permit these uses to continue until they are removed, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded, extended or used as grounds for adding other prohibited uses. However, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated uses of a building on which actual lawful construction has been begun prior to effective date of this Ordinance.

Subd. 1: Single Lots. In any district in which single family dwellings are permitted, provided other requirements of this Ordinance are met, a single family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this Ordinance of at least 50 feet in width and 7,000 square feet in area. Such lot must be in separate ownership and not of contiguous frontage with other lots of the same ownership.

Subd. 2: Combination of Two or More Lots. If two or more lots or combinations of lots with contiguous frontage in single ownership are of record at the effective date of this Ordinance, and if all or part of the lots do not meet the requirements for lot area and lot width, the land involved shall be considered to be an undivided parcel and no portion of said parcel shall be used or sold which does not meet lot area and width requirements of the district in which it is located, nor shall any division of the parcel be made which creates lots or portions of lots below such requirements. Shifting of boundary lines between adjacent properties are permitted if they do not create an illegal lot.

Subd. 3: Continuation of Non-Conforming Use. A lawful use on the effective date of this Ordinance or its amendments which is made no longer permissible by the terms of this Ordinance may be continued if it remains otherwise lawful, subject to the following provisions:

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- a) No such use shall be enlarged, increased or extended to occupy a greater area of land than was occupied by such use on the effective date of this Ordinance.
- b) No such use shall be moved in whole or in part to any other structure or portion of the lot or parcel being occupied by such use on the effective date of this Ordinance. No new accessory structures to the principle nonconforming use shall be constructed on the property.
- c) If any such nonconforming use ceases for a period of more than 12 months, any subsequent use of the land shall conform to district regulations for the district in which it is located.”

Subd. 4: Nonconforming Structures. Where a lawful structure exists that could not be built under the terms of this Ordinance, such structure may be continued as long as it remains otherwise lawful, providing that:

- a) No such structure may be enlarged or altered in any way that increases its nonconformity, including but not limited to the addition of accessory structures.
- b) Should such structure be destroyed by any means to an extent of more than 50 percent of its market value at time of destruction, the building may be reconstructed to its original condition provided that a building permit has been applied for within 180 days of the damage or destruction. After 180 days, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- c) Should such structure be moved, it shall conform to the regulations for the district to which it is relocated.

Subd. 5: Continuing Use of Non-Conforming Structures. If a lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, providing that:

- a) No existing structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a permitted use.
- b) Any nonconforming use may be extended to any other part of a building designed for such use, but no such use may be extended in any way to occupy land outside the building.
- c) If no structural alterations are made, any nonconforming use of a building, structure, or premises may be changed to another nonconforming use, provided that the Board of Appeals and Adjustments shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions or safeguards.

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- d) Any structure or structures and land in or on which a nonconforming use is replaced by a permitted use shall thereafter conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed.
- e) Wherever a nonconforming use of a structure or premise is discontinued or abandoned for 12 consecutive months or for 18 months during any three year period, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- f) Where nonconforming use status applies to both structure and land, the removal or destruction of the structure, other than by fire or other peril, shall require use of a new structure and use of the land on which the new structure is built to conform to this Ordinance.

Section 80.29, Subds 3-5 Amended 9/2008

Subd. 6: Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing or repair or replacement of nonbearing walls, to an extent not exceeding 10 percent of the assessor's estimated market value of the building in any 12 month period, provided that such work does not increase the size of the building. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe conditions of any buildings or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

Section 80.30: VIOLATIONS. When, in the opinion of the City Clerk/Administrator or designated representative, a violation of this Ordinance has been committed or exists, the City Clerk/Administrator shall issue a written order to the owner of the building or premise in or upon which such violation has been committed or shall exist; or the lessee of the entire building or the entire premise in or upon which violation has been committed or shall exist; or the owner or lessee of any part of the building or premise in or upon which violation has been committed or shall exist, shall be served with an order to remove said violation. The order shall specify those sections of the Ordinance of which the party is violation and shall state that the individual has 15 days from the date of the order in which to correct the alleged violation or to appeal to the City Council or board.

If, upon inspection, it is found that a structure is structurally, materially or electrically defective, or in any way endangers the public, the City Clerk/Administrator or designee shall issue a written order to the owner of the structure and occupant of the premises stating the nature of the violation and requiring them to repair or remove the structure within a specified period. In cases of emergency, the City Clerk/Administrator may cause the immediate removal of a dangerous or defective structure without notice.

Section 80.31: PENALTY. If a violator has not complied with an order within thirty (30) days after being served, the violator shall be guilty of a petty misdemeanor. Second and subsequent offenses shall be a misdemeanor. Each day the violation continues unabated shall

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constitute a separate and distinct offense. Fines for violations are as established by the City Council in Appendix A. The City, at its sole discretion, may enforce any provisions of this Ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction and may require reimbursement of all legal fees required for the enforcement of any provision of this Ordinance from persons found guilty of a violation.

Section 80.31 amended 1/4/06

### Section 80.32: INTERPRETATION.

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

Subd. 2: Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by any law, Ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Subd. 3: For purposes of Zoning Ordinance interpretation, uses not specifically listed as permitted, conditional or accessory in any zone shall be treated the same as the most similar use listed in the Ordinance. If there is no similar use the use is prohibited in the City.

Section 80.33: SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this code or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this code, or the application of the provision to other persons or circumstances is in effect and shall remain in full force and effect.