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# **Zoning Ordinance**

**December 2005  
Amended November 2006  
Amended July 2009  
Amended March 2010  
Amended September 2012**

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**Northwest Associated Consultants Inc.**

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## APPENDIX A

### MONTROSE ZONING ORDINANCE AMENDMENTS

<u>Reference Number</u>	<u>Ordinance Number</u>	<u>Date Adopted</u>	<u>Amendment Content</u>
1	2006-07	November 13, 2006	Temporary Outdoor Sales
2	2009-01	July 13, 2009	INS District Commercial Day Care Facilities
3	2010-02	March 8, 2010	Accessory Buildings
4	2010-03	March 8, 2010	Residential Fence Height
5	2010-04	March 8, 2010	Freestanding Sign Setback
6	2010-05	March 8, 2010	R-1 District Side Yard Setbacks
7	2010-06	March 8, 2010	I-1 District Auction Business CUP
7a	2010-07	December 13, 2010	Fence Requirements
8	2012-05	September 10, 2012	Exceptions to Site/Building Plan Review
9	2012-06	September 10, 2012	Rummage/Garage Sale Signs
10	2012-07	September 10, 2012	Variances
11	2012-08	September 10, 2012	Conditional Use Permits
12	2012-09	September 10, 2012	Site/Building Plan (Building Code)
13	2012-10	September 10, 2012	Wetlands

## CHAPTER 1001

### TITLE AND APPLICATION

#### SECTION:

- 1001-1: Title And Application
- 1001-2: Conformity With This Ordinance
- 1001-3: Building Compliance
- 1001-4: Monuments
- 1001-5: Uses Not Provided For Within Zoning Districts
- 1001-6: Separability
- 1001-7: Authority
- 1001-8: Comprehensive Revision

#### 1001-1: TITLE AND APPLICATION:

- A. **Title:** This Ordinance shall be known, cited and referred to as the *MONTROSE ZONING ORDINANCE*, except as referred to herein, where it shall be known as "this Ordinance".
- B. **Intent And Purpose:** The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to the location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right of way; to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance; to provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to this Ordinance.
- C. **Relation To The City's Comprehensive Plan:** Pursuant to Minnesota Statutes 473.858, as may be amended, and City policy, the City's adopted Comprehensive Plan shall serve as the basis upon which land use and development shall be regulated. This Ordinance shall not conflict with and shall be based upon and implement the City's Comprehensive Plan.
- D. **Standard, Requirement:** Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation

which imposes the more restrictive condition, standard, or requirement shall prevail.

- E. **Application:** The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety and welfare.

**1001-2: CONFORMITY WITH THIS ORDINANCE:** No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

**1001-3: BUILDING COMPLIANCE:** Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

**1001-4: MONUMENTS:** For the purpose of this Ordinance, all international, Federal, State, County and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during and following construction and development. All section, one-quarter section and one-sixteenth section corners shall be duly described and tied.

**1001-5: USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS:** Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, upon receipt of the study shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

**1001-6: SEPARABILITY:** It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure,

such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

**1001-7: AUTHORITY:** This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes sections 462.351 to 462.363.

**1001-8: COMPREHENSIVE REVISION:** The Council intends this Ordinance to be a comprehensive revision to the Montrose Zoning Ordinance dated January 1999 which existed prior to this Ordinance. Any act done, offense committed, rights accruing or accrued, liability, or penalty incurred or imposed prior to the effective date of this Ordinance is not affected by its enactment.

## CHAPTER 1002

### RULES AND DEFINITIONS

#### SECTION:

- 1002-1: Rules
- 1002-2: Definitions

**1002-1: RULES:** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word "shall" is mandatory while the word "may" is permissive.
- D. The masculine gender includes the feminine and neuter.
- E. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- F. For terminology not defined in this Ordinance, the City Code, the Minnesota State Building Code, or the Webster's Dictionary shall be used to define such terms.

**1002-2: DEFINITIONS:** The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

**ABUTTING:** Making contact with or separated only by public thoroughfare, railroad, or public utility right of way.

**ACCESSORY BUILDING:** A subordinate building which is located on the same lot on which the principal building is situated and which is reasonably necessary and incidental to the conduct of the principal building or use.

**ADDITION:** A physical enlargement of an existing structure.

**ADULT USE RELATED:** For the purpose of this Ordinance, adult use related terms shall have the meanings provided in Chapter 115 of the City Code.



**AGRICULTURE USES:** Those uses commonly associated with the growing of produce on farms, these include: field crop farming; pasture for hay, fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale of in season products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feedlots, retail nurseries and garden centers, and kennels.

**ALLEY:** A public or private right of way which affords a secondary means of access to abutting property.

**AMUSEMENT CENTER:** A business at one (1) location devoted primarily to the operation of amusement machines and open for public use and participation at a location where the primary use is five (5) or more amusement machines and is open for public use and participation.

**ANIMAL FEEDLOTS:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry (poultry ranges), and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

**ANIMAL KENNEL:** Any place where three (3) or more domestic animals of one type, over six (6) months of age, are commercially kept, sold, boarded, bred, or exhibited, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

**ANIMAL SHELTER:** A fully enclosed building where domestic animals are cared for on a temporary basis. Boarding, grooming, kenneling or similar activities of animals other than those surrendered or impounded shall not be permitted.

**ANIMALS, FARM:** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.

**ANIMALS, HOUSE PETS:** Animals such as dogs, cats, birds (not including pigeons, chickens, geese, turkeys or other domestic fowl), gerbils, hamsters, rabbits (including those normally sheltered outside of the principal structure), and tropical fish, that can be contained within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure that would require a building permit, excluding wild or domesticated wild animals.

## **ANTENNA RELATED:**

- A. Accessory and/or Secondary Use: Those antennas including radio and television receiving antennas, satellite dishes, TVROs (television receive only) two meters (2 m) or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment such as radio receivers, ham radio transmitters and television receivers that are customary and incidental to allowed principal uses within the various zoning districts of the City.
- B. Personal Wireless Service: A device consisting of metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.
- C. Public Utility Microwave: A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the support structure thereof.
- D. Radio and Television, Broadcast Transmitting: A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.
- E. Radio and Television Receiving: A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
- F. Satellite Dish: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the support structure thereof.
- G. Satellite Dish Height: The height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.
- H. Short-Wave Radio Transmitting and Receiving: A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the support structure thereof.

- I. Support Structure: Any building or other structure other than a tower which can be used for location of antennas.
- J. Temporary Mobile: Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as cellular on wheels (COW).
- K. Tower: A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term antenna tower shall not include amateur radio operators' equipment, as licensed by the FCC.

**APPLICANT:** The owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed.

**AQUIFER RECHARGE AREAS:** All land surface areas, which by nature of their surface and/or subsurface soil characteristics, are determined to contribute to the replenishment of subsurface water supplies.

**AUTOMOBILE WRECKING, REDUCTION YARD, OR JUNKYARD:** Any place where three (3) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

**BASEMENT:** That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. (See definition of Story.)

**BAY:** A cantilevered area of a room.

**BOARDING HOUSE:** A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten (10) persons.

**BOARDING (HOUSE) HOME, FOSTER CHILDREN:** A family dwelling where children out of their own homes are cared for.

**BOARDING ROOM:** A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking

facilities, each room which provides sleeping accommodation shall be counted as one boarding room.

**BODY PIERCING:** Penetrating or making a hole in or through the human body to place jewelry or objects of metal, plastic, wood, bone, or other foreign material on any area for cosmetic purposes.

**BOULEVARD:** The portion of the street right-of-way between the curb and the property line.

**BUFFER:** The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

**BUFFER YARD:** A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

**BUILDABLE AREA:** The portion of a lot remaining after required yards have been provided.

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT:** The vertical distance to be measured from the average ground level prior to construction at the building line corners to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof or to the mean distance of the highest point on a pitched or hip roof.

**BUILDING LINE:** A line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

**BUSINESS:** Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

**CANOPY:** An accessory roof-like structure, which is either attached to or detached from an allowable primary building; which is open on all sides, other than where attached; and, which is located over and designed to provide cover for entrances, exits, walkways, and approved off-street vehicle service areas.

**CARPORT:** An automobile shelter having one (1) or more sides open continuously.

**CELLAR:** The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

**CEMETERY:** A parcel or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemetery.

**CHANNEL:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

**CITY ATTORNEY:** The person designated by the City Council to be the City Attorney for the City of Montrose.

**CITY BUILDING OFFICIAL:** The person designated by the City Council to be the City Building Official for the City of Montrose.

**CITY COUNCIL:** The governing body for the City of Montrose.

**CITY ENGINEER:** The person designated by the City Council to be the City Engineer for the City of Montrose.

**CLEAR-CUTTING:** The removal of an entire stand of trees.

**CLUB OR LODGE:** A nonprofit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests for receptions, social recreation, and other gatherings.

**COMMERCIAL EQUIPMENT:** Any equipment, including trailers, used for the alteration, demolition, construction, maintenance, or excavation of a building, structure or property.

**COMMERCIAL RECREATION:** An establishment that provides an amusing or entertaining activity to the general public. Commercial recreation establishments include, but are not limited to, health clubs, skating rinks, water slides and other amusement rides, firearm ranges, miniature golf courses, arcades, bowling alleys, race tracks, billiard halls and similar uses. Commercial recreational uses may be further distinguished as indoor or outdoor uses.

**COMMERCIAL USE:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services, including, but not limited to, the following:

- A. Automobile Repair (Major): General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
- B. Automobile Repair (Minor): Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross

weight, but not including any operation specified under the definition of "automobile repair (major)".

- C. Automobile Sales: The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
- D. Automobile Service Station: Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.
- E. Garden Supply Store: A place of business where retail and wholesale products and produce are sold to the retail customer. These centers import the majority of the items sold. These items may include soils, wood chips, decorative rock, brick, retaining wall block, plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoses, rakes, shovels, and other garden and farm tools and utensils.
- F. Hospitality Business: An establishment offering transient lodging accommodations on a daily rate to the general public, leasable events, meeting or conference facilities and exhibition halls or other uses of similar character including hotels, motels, convention facilities, and hospices.
- G. Hotel: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.
- H. Liquor Sales, Off-Sale: Licensed sale of intoxicating beverages for consumption off site.
- I. Liquor Sales, On-Sale: Licensed sale of intoxicating beverages for consumption at the premises where the beverage is purchased.
- J. Motor Fuel Station: A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
- L. Nursery, Commercial: A business involving retail sales of trees, flowering and decorative plants, and shrubs for purposes of transplanting which may be conducted within a building or without.

- M. Nursery, Wholesale: An enterprise which conducts exclusively wholesale sale of plants grown on the site to retailers and jobbers. The only accessory items allowed are pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, shovels, and other hand held tools, but not including power tools or equipment such as gas or electric lawn mowers and farm implements.
- N. Office Business Clinic: An establishment located within a building or portion of a building providing out-patient health services to patrons, including general medical clinics, mental health providers, chiropractor, dentists, orthodontia, oral surgeons, opticians, and other uses of similar character.
- O. Office Business General: An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional administrative or clerical service operations including attorneys, financial advisors, insurance, travel, real estate, and other uses of similar character.
- P. Personal Service: Personal services shall include, but not be limited to, the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, therapeutic massage, and tattooing.
- Q. Pet Shop: A place kept or maintained for the exhibition for sale, or sale or purchase of live dogs, cats, rabbits or other small animals, or any birds, reptiles or fish. Pet shops may include incidental animal grooming and adoption activities, but not animal hospitals, veterinary clinics, or places selling live bait for fishing.
- R. Recreational Business: An establishment designed and equipped to conduct sports and leisure time activities. Recreational businesses shall include, but not be limited to: arcades, health clubs, gymnasiums, bowling alleys, billiard (pool) halls, dance halls, dance studios, skating rinks, theaters, and indoor firearm ranges.
- S. Restaurant: An establishment that serves food in individual servings for consumption on or off premises, including sit down restaurants, take out, pick up, or delivery food sales, but not including drive through facilities. Outdoor dining areas and drive through facilities may or may not be allowed in each zoning district. They are not automatically allowed when a restaurant is an allowable use.
- T. Retail Business: An establishment engaged in the display and sale of products produced off site directly to consumers within a building or portion of a building excluding any exterior display and sales.
- U. Service Business, Off Site: A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.

- V. **Service Business, On-Site:** An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks (not including drive through facilities), copy centers, laundromats, dry cleaners, funeral homes and mortuaries, appliance repair, tailor shops, and travel bureaus.
- W. **Veterinary Clinic:** A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above.

**COMMERCIAL VEHICLE:** A vehicle used for commercial purposes either greater than eight feet (8') in height or greater than twenty two feet (22') in length, including, but not limited to: boom trucks, cargo trucks, dump trucks, farm implements, fire trucks, ambulances, limousines, hearses, semi-tractor trailers, tank trucks and tow trucks.

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

**COMMON OPEN SPACE:** Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

**COMPREHENSIVE PLAN:** A compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the Municipality and its environs, including air space and subsurface areas necessary for mined underground space development as pursuant to Minnesota statutes, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, park/trail/recreation plan, a transportation plan, stormwater management plan, sanitary sewer and water system plan, and recommendations for plan execution.

**CONDITIONAL USE:** A use which, because of special problems of control the use presents, requires reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the City Comprehensive Plan.

**CONDITIONAL USE PERMIT:** A permit issued by the City Council in accordance with procedures specified in this Ordinance, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use presents.



**CONDOMINIUM:** A multiple-family dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes sections 515.01 through 515.29.

**COOPERATIVE (HOUSING):** A multiple-family dwelling owned and maintained by the residents and subject to the provisions of Minnesota Statutes 290.09 and 290.13. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

**COURT:** An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of buildings.

**CROWDING POTENTIAL:** The ratio of total acreage to shore miles.

**DAYCARE FACILITY:** Any State licensed facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "nonresidential programs" as defined by Minnesota Statutes section 245A.02, subdivision 10.

**DECK:** Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above grade.

**DENSITY:** The number of dwelling units per gross acre of land.

**DENSITY, NET:** The number of dwelling units per buildable acres of land.

**DEPOSIT:** Any rock, soil, gravel, sand or other material deposited naturally or by man into a water body, watercourse, flood plains or wetlands.

**DISTRIBUTION LINES:** All those wires, poles, and appurtenant equipment used to carry electricity, generally rated below 115 kilovolts, located between a customer and a transmission line.

**DISTRICT:** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

**DIVERSION:** A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

**DRAINING:** The removal of surface water or ground water from land.

**DREDGING:** To enlarge or clean-out a water body, watercourse, or wetland.

**DRIVE-THROUGH FACILITY:** An establishment (principal or accessory use) at which patrons may purchase products or receive service without having to leave their motor vehicle (and enter a building).

**DWELLING:** A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, boarding houses, bed and breakfast, mobile homes or trailers.

**DWELLING, EFFICIENCY APARTMENT:** A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**DWELLING, ELDERLY (SENIOR CITIZEN) HOUSING:** A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over fifty five (55) years of age.

**DWELLING, MANOR HOME:** A residential structure with five (5) to eight (8) units with each unit having a separate entrance/exit. There may be more than one floor and an attached garage space.

**DWELLING, MULTIPLE-FAMILY (APARTMENT):** A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

**DWELLING, NURSING HOME:** A State licensed facility or that part of a facility which provides nursing care pursuant to Minnesota Statutes chapter 144A.01.

**DWELLING, QUADRAMINIUM:** A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

**DWELLING, SINGLE-FAMILY:** A dwelling unit designed exclusively for and occupied exclusively by one (1) family.

**DWELLING, TOWNHOUSE:** A structure housing three (3) or more dwelling units contiguous to each other only by the sharing of one (1) or more common walls with each unit having a separate entrance/exit, such structure to be of the townhouse or row house type as contrasted to multiple-family dwelling apartment structures.

**DWELLING, TOWNHOUSE, DETACHED:** A structure having the characteristics of a multiple unit townhouse structure that has been separated into single dwelling units at the common side wall, typically with structure dimensions that have a narrow front and deep side walls and are typically without windows or features on at least one of the side walls.

**DWELLING, TWO-FAMILY:** A structure designed exclusively for occupancy by two (2) families living independently of each other.

A. Duplex: A two-family dwelling with one (1) unit above the other.

B. Twinhome: A two-family dwelling with two (2) units side-by-side.

**DWELLING UNIT:** A residential building or portion thereof intended for occupancy by one or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, tents, seasonal cabins, boarding or rooming houses, motor homes, or travel trailers.

**EARTH BERM (HOUSE CONSTRUCTION):** An earth covering on the above grade portions of the building walls.

**EARTH SHELTERED BUILDING:** A building so constructed that fifty percent (50%) or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of the livable space in residential units and of usable space in nonresidential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for above grade construction. A partially covered building shall not be considered earth sheltered.

**EASEMENT:** A grant by a property owner to and/or for use by the public, or other entity for the purpose of constructing and maintaining streets, trails, sidewalks, drives, and/or utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways, and gas lines.

**ENGINEER:** An electrical, mechanical, civil, or other professional engineer licensed by the State of Minnesota.

**EQUAL DEGREE OF ENCROACHMENT:** A method of determining the location of encroachment lines so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

**ESSENTIAL SERVICES:** The erection, construction, alteration, or maintenance by private or public utilities, or Municipal departments of underground telephone, gas, electrical, communication, waste, or water transmission, distribution, collection, supply or disposal systems, including water towers, wells, poles, wires, radio receivers and transmitters, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call

boxes, traffic signals, hydrants and other similar equipment, accessories and related structures in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Essential services shall not include waste facilities or personal wireless service antennas or support structures.

**EXTRACTIVE USE:** The use of the land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota statutes sections 93.44 through 93.51 exceeding fifty (50) square feet or an area of two feet (2') in depth or greater.

**FAMILY:** An individual or two (2) or more persons each related to the other by blood, marriage, adoption, domestic partnership, or foster care, or a group of not more than three (3) persons not so related maintaining a common household and using common cooking/ kitchen and bathroom facilities.

**FARM:** A tract of land of more than ten (10) acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised.

**FARM, HOBBY:** A tract of land with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income.

**FARMING:** Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

**FENCE:** Any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

- A. Fence, Boundary Line: All fences located within five feet (5') of a property line.
- B. Fence, Interior Yard: All fences located five feet (5') from a property line.

**FILLING:** The act of depositing any rock, soil, gravel, sand or other material so as to fill a water body, watercourse, or wetland.

**FLOOD RELATED:**

- A. Flood: A temporary rise in a stream flow or stage which results in inundation of the areas adjacent to the channel.
- B. Flood Frequency: The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency" is used. The frequency of a particular stage of discharge is usually expressed as having a probability of occurring once within a specific number of years.

- C. Flood Fringe: That portion of the flood plain outside of the floodway.
- D. Floodplain: The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
- E. Flood Profile: A graph or a longitudinal plot of water surface elevation of a flood event along a reach of a stream or river.
- F. Floodway: The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.
- G. Obstruction: Any storage of material, or equipment, any dam, wall, wharf, embankment, levee, road, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, deposit, clearing of trees or vegetation, structure or matter in, along, across, or projecting, in whole or in part, into any flood plain.
- H. Regional: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year reoccurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- I. Regulatory Flood Protection Elevation: A point not less than one foot (1') above the elevation of the flood plain, plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Ordinance are required to be elevated or floodproofed.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

**FORESTRY:** The use and management, including logging, of a forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of wood roads, skidways, landings, and fences.

**FRONTAGE:** The boundary of a lot which abuts an existing or dedicated public street or private drive.

**GARAGE, PRIVATE (RESIDENTIAL):** An accessory building or accessory portion of the principal building which is primarily intended for and used to store passenger vehicles and trucks (not exceeding twelve thousand (12,000) pounds gross weight) owned and operated by a resident upon the premises.

**GARAGE, PUBLIC:** A building or portion of a building, except any herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire.

**GRADE (ADJACENT GROUND ELEVATION):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building.

**GRADING:** Changing the natural or existing topography of land.

**GREENHOUSE:** An enclosed building, permanent or portable, which is used for the growing of small plants.

**GUEST ROOM:** A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

**HOME OCCUPATION:** Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

**HOME OFFICE:** A home occupation consisting of a room or group of rooms used for conducting affairs of a recognized business, profession or service solely by the occupant of the dwelling and which does not involve the on-site sale of products or client/patron site visitations.

**HOUSE PET ENCLOSURE:** Any accessory building or portion thereof, accessory structure or area of any kind, including, without limitation, pens, runs, kennels and pet houses, that is principally used or designed for use as a place for keeping house pets. An electronic pet containment system is not considered a house pet enclosure.

**IMPERVIOUS SURFACE:** An artificial or natural surface through which water cannot easily penetrate.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM:** A sewage treatment system or part thereof, serving a dwelling, building, structure or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. An individual sewage treatment system includes holding tanks.

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

**INTENSIVE VEGETATION CLEARING:** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

**INTERIM USE:** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it.

**INTERIM USE PERMIT:** A permit issued in accordance with procedures specified in this Ordinance, as a flexible device to enable the City Council to assign time limits and conditions to a proposed use after consideration of current or future adjacent uses and their functions.

**INTERLOCK:** The painted line or a barrier in a parking lot that separates two (2) facing rows of parking from one another.

**INTERMITTENT:** A stream or portion of a stream that flows only in direct response to precipitation.

**JUNKYARD:** An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. Junkyard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. Junkyard does not include sanitary landfills.

**LAND RECLAMATION:** The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

**LAND/SEA CONTAINERS:** Fully enclosed metal or other prefabricated material structures, containers, holders, or receptacles greater than five feet (5') in length with an opening for access, which may or may not have a door attached, and which are used for purposes of, but not limited to, storage, transportation of freight, or holding for sale or lease.

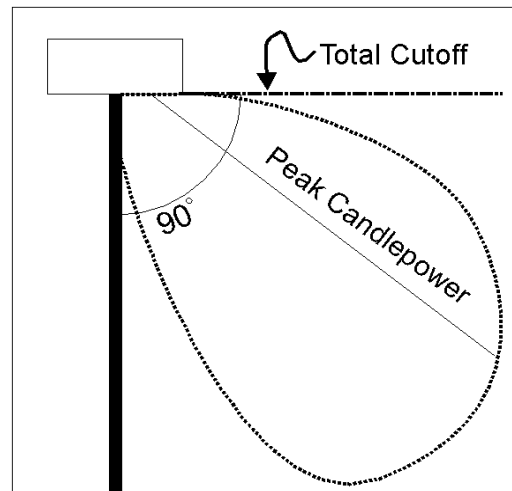
**LAND SURVEYOR:** Such persons licensed by the State of Minnesota as a land surveyor.

**LANDSCAPING:** Plantings such as trees, grass, and shrubs.

## LIGHTING RELATED:

- A. Cutoff. The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- B. Cutoff Angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1).
- C. Cutoff Type Luminaire. A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- D. Flashing Light. A light source which is not constant in intensity or color at all times while in use.
- E. Foot candle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- F. Light Source. A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- G. Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- H. Outdoor Lighting. Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on freestanding poles.
- I. Outdoor Light Fixture. Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights for:
1. Buildings and structures.
  2. Recreational areas.
  3. Parking lot lighting.
  4. Landscaping lighting.

Figure 1. Cut Off Angle

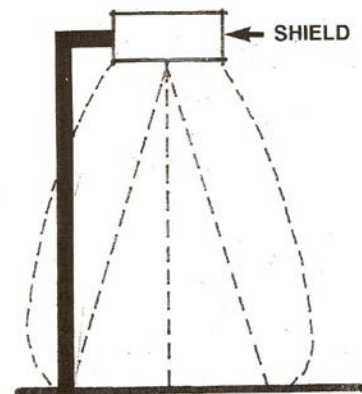




5. Signs.
  6. Street lighting.
  7. Product display area lighting.
  8. Building overhangs and open canopies.
- J. Security Lighting. Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.

Figure 2 – Shielding

- K. Shielding. A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure 2).
- L. Spillage. Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.



**LOADING SPACE (OFF-STREET):** A formally delineated space, area, or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle or truck while loading or unloading merchandise or materials.

**LOT:** Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area required by this Ordinance for a building site in the district in which such lot is situated and having its principal frontage on a public street.

**LOT AREA:** The area of a horizontal plane within the lot lines.

**LOT AREA, MINIMUM (Lots Of Record And Preliminary Platted Lots Having Legal Standing Prior to the Effective Date of This Ordinance):** Except as may be otherwise required by this Ordinance, the area of a horizontal plane within the lot lines.

**LOT AREA, MINIMUM (Lots Of Record Established After the Effective Date of this Ordinance):** Except as may be otherwise expressly allowed in this Ordinance, the area of a horizontal plane within the lot lines excluding major drainageways, wetlands, water bodies, road rights of way, required buffer strips, regional utility/pipeline easements, and slopes steeper than three to one (3:1).

**LOT, BASE:** Lots meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.

**LOT, CORNER:** A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five degrees (135°) or less.

**LOT, DEPTH:** The mean horizontal distance between the front lot line and the rear lot line measured from a ninety degree (90°) angle from the street right of way within the lot boundaries.

**LOT, FRONTAGE:** The narrowest lot boundary abutting a public street that meets minimum lot width requirements. If none of the boundaries abutting a public street meet minimum lot width requirements, then the lot frontage is the widest boundary abutting a street. In areas where a lot has two (2) or more boundaries of equal length that abut a public street, the Zoning Administrator shall determine the lot frontage based upon the character of the area.

**LOT IMPROVEMENT:** Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

**LOT INTERIOR:** A lot, other than a corner lot, including through or double frontage lots.

**LOT LINE:** A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right of way.

**LOT LINE, FRONT:** The lot line separating a lot from the street right of way along the lot frontage.

**LOT LINE, REAR:** The lot line opposite and most distant from the lot frontage which connects the side lot lines.

**LOT LINE, SIDE:** Lot lines extending away from the lot frontage, which connects the front and rear lot lines.

**LOT OF RECORD:** A parcel of land, whether subdivided and/or otherwise legally described and recorded or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage upon a street.

**LOT, SUBSTANDARD:** A lot or parcel of land which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

**LOT, THROUGH:** A lot fronting on two (2) parallel streets. Also defined as a "double frontage lot".

**LOT, TRIANGULAR:** A lot in which the side lot lines converge into a single vertex. The vertex shall be deemed to be the rear lot line.

**LOT, UNIT:** Lots created from the subdivisions of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

**LOT, WIDTH:** The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the front setback line. For cul-de-sac lots, "lot width" shall mean the minimum required horizontal distance between the side lot lines, measured along a straight line at the midpoint of the front setback line.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of State and complies with the standards established under Minnesota Statutes chapter 327.

**MANUFACTURED HOME PARK:** Any site, lot, field, or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

**MANUFACTURING:** All manufacture, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include but are not limited to, sawmills, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of paris, tanneries, automobile parts, paper and paper products, glass, chemicals, crude oil and petroleum products including storage, electric power generation facilities, foundry forge, casting of metal products, rock, stone, and cement products.

**MASSAGE THERAPY (THERAPEUTIC):** The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement, and applying touch and pressure to the body. Adjunctive therapies may include: a) application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs, b) the use of mechanical devices and tools which mimic or enhance manual actions, c) and instructed

self-care and stress management. Massage therapy shall not include techniques traditionally practiced by chiropractors.

**METES AND BOUNDS DESCRIPTION:** A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

**MINERALS:** Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

**MINING:** All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

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

**MODEL HOME:** A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.

**MOTOR FREIGHT TERMINAL (TRUCK TERMINAL):** A building in which freight brought by motor truck is assembled and sorted for routing in intrastate and interstate shipment.

**NATURAL DRAINAGE SYSTEM:** All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

**NON-CONFORMING STRUCTURE OR USE, ILLEGAL:** A structure or use that has been established in a manner that does not conform to the applicable conditions required by the regulations in place at the time the structure or use was established.

**NON-CONFORMING STRUCTURE OR USE, LEGAL:** Any lawfully established structure or use which following the effective date of this Ordinance does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.

**OPEN SALES LOT (EXTERIOR STORAGE):** Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

**OPEN SPACE:** Open areas including parks, nature areas, playgrounds, and trails.

**OUTLOT:** A parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right of way, utilities, stormwater ponding, or other similar purposes.

**OVERBURDEN:** The earth, rock and other materials that lie above a natural deposit of mineral.

**PARKING RAMP:** A structure designed and used for the storage of motor vehicles at, below and/or above grade.

**PARKING SPACE:** An area enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one motor vehicle, which has adequate access to a public or private street, alley or driveway permitting satisfactory ingress and egress of such motor vehicle.

**PERSON:** An individual, firm, partnership, association, corporation, or organization of any kind. "Person" also means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap, and a child, whether handicapped or not, as defined by Minnesota Statutes section 245A.02, subdivision 4.

**PLANNED UNIT DEVELOPMENT:**

- A. As a conditional use permit, a development procedure whereby internal site design standard deviations from this Ordinance may be allowed in order to accommodate improved site design and operation.
- B. As a zoning district, a development procedure whereby a mixing of buildings and uses can occur which cannot be otherwise addressed under this Ordinance, and/or whereby internal site design standard deviations from this Ordinance may be allowed to improve site design and operation.

**PLANNING COMMISSION:** The Montrose Planning Commission.

**PRINCIPAL USE/BUILDING:** The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted, interim, conditional, or allowed by administrative permit.

**PUBLIC USES AND LANDS:** Uses or properties owned or operated by Municipal, school districts, County, State, or other governmental units.

**PUBLICATION:** Notice placed in the official City newspaper stating time, location and date of meeting and description of the topic.

**RECREATION, FIELD OR BUILDING:** An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, or gymnasium is a recreation field or building for the purpose of this Ordinance.

**RECREATIONAL CAMPING AREA:** Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of tents or recreational camping vehicles free of charge or for compensation.

**RECREATIONAL EQUIPMENT:** Includes, but is not limited to, operable and licensed, as required by State law, house trailers including those which telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, converted buses, converted vans, snowmobiles, boats and trailers. House trailers, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, converted buses and converted vans are units designed and used for human living quarters and meeting the following qualifications:

- A. Are not used as the residence of the owner or occupant.
- B. Are used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities.
- C. Are self-propelled or towed on the public streets or highways incidental to such recreational or vacation activities.

**RECYCLABLE MATERIAL:** Materials that can be readily separated from mixed Municipal solid waste for the purpose of recycling, including, but not limited to, paper, glass, plastics, metals, automobile oil and batteries. Recyclable materials that have been separated from the waste stream, processed, and sold or given away for reuse are no longer considered waste.

**RELIGIOUS INSTITUTION:** A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**RESIDENTIAL CARE FACILITY, STATE LICENSED:** Any program, defined by Minnesota Statutes section 245A.02, subdivision 14, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner of the Department of Human Services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in

an intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner of the Department of Human Services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment services under Minnesota Statutes 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

**RESIDENTIAL SHELTER:** A facility providing short-term housing, food, and protection for individuals, not including State licensed residential care facilities, community correctional facilities, daycare facilities, hotels, motels, or nursing homes.

**ROOF LINE:** That line at which an exterior wall surface of a building departs from the vertical plane and, typically, where the horizontal plane of the roof commences. Mansard-like roof treatments may be considered as extensions of a building wall surface when the mansard-like treatment is considered as part of the roof.

**SCHOOL:** A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota, and not providing residential accommodations.

**SCHOOL, PRIVATE:** Any building or group of buildings, not operated by a public agency or unit of government, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which use does not secure the major part of its funding directly from any governmental source.

**SCHOOL, PUBLIC:** Any building or group of buildings, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which secures all or the major part of its funding from governmental sources and is operated by a public agency or governmental unit.

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

**SETBACK:** The minimum horizontal distance between a structure and lot line, ordinary high-water mark, or right-of-way easement. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter.

## **SHORELAND RELATED:**

- A. Bluff. A topographic features such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff):
  - 1. Part or all of the features is located in a shoreland area.
  - 2. The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody.
  - 3. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
  - 4. The slope must drain toward the waterbody.
- B. Bluff, Toe of the. The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.
- C. Bluff, Top of the. The higher point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.
- D. Bluff Impact Zone. A bluff and land located within twenty (20) feet from the top of the bluff.
- E. Boathouse. A structure designed and used primarily for the storage of boats or boating equipment.
- F. Commissioner. The Commissioner of the Department of Natural Resources.
- G. Development. The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any land disturbance, and any use or extension of the use of land.
- H. Dwelling Site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
- I. Impervious Surface Coverage. Any surface impervious or resistant to the free flow of water or surface moisture. Impervious cover shall include, but not be limited to, all paved driveways and parking areas, tennis courts, sidewalks, patios and swimming pools. Open decks and stairways, which are fifty (50) percent or more open surface, shall not be counted as impervious cover, provided they are



installed over a permeable surface. Gravel or rock surfaces shall be counted as fifty (50) percent impervious, provided they are installed over a permeable surface.

- J. Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- K. Ordinary High Water Level. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to have evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.
- L. Public Waters. Any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- M. Public Waters.
  - 1. General Development (GD). Large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.
  - 2. Public Waters, Natural Environment: Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.
  - 3. Public Waters, Recreational Development: Generally medium-sized lakes of varying depths and shapes with a variety of landform, soil and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreational-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.
  - 4. Public Waters, Tributary Rivers: Segments consisting of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable

potential for additional development and recreational use, particularly those located near roads and cities.

- N. Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- O. Sewer System. Pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- P. Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.
- Q. Shoreland. Land located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by Ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
- R. Steep Slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of the Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- S. Surface Water-Oriented Commercial Use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.
- T. Water-Oriented Accessory Structure or Facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached docks.

## **SIGN RELATED:**

- A. Advertising Sign. A sign used to advertise products, goods or services not exclusively related to the premise on which the sign is located.
- B. Address Sign. A sign communicating only a street address.
- C. Alteration. Any major alteration to a sign excluding routine maintenance, painting or change of copy.
- D. Area Identification Sign. A freestanding sign identifying the name of a single or two-family residential subdivision consisting of twenty (20) or more lots; a residential planned unit development; a multiple residential complex consisting of three (3) or more independent operations; a single business consisting of three (3) or more separate structures; a manufactured home park; or any integrated combination of the above. The sign shall only identify an area, complex or development and shall not, unless approved by the City Council, contain the name of individual owners or tenants. The sign may not contain advertising.
- E. Awning. A temporary hood or cover projecting from the wall of a building, and which can be retracted, folded or collapsed against the face of a supporting building.
- F. Banner. An attention getting device which resembles a flag and is of a paper, cloth or plastic-like consistency.
- G. Bench Sign. A sign affixed to a bench such as at a bus stop.
- H. Billboard. An advertising sign.
- I. Building Facade. That portion of the exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.
- J. Business Sign. Sign identifying a business or group of businesses, either retail or wholesale, or any sign identifying a profession or used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.
- K. Campaign Sign. A temporary sign promoting the candidacy of a person running for governmental office, or promoting an issue to be voted on at a governmental election.
- L. Canopy Sign. Message or identification affixed to a canopy or marquee that provides a shelter or cover over this approach to any building entrance.

- M. Construction Sign. A sign at a construction site identifying the project or the name of the architect, engineer, contractor, financier, or other involved parties.
- N. Directional Sign. A sign erected with the address and/or name of a business, institution, church or other use or activity plus directional arrows or information on location.
- O. Directory Sign. An exterior informational wall sign identifying the names of businesses served by a common public entrance in a shopping center or office building.
- P. Flashing Sign. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color when the sign is illuminated.
- Q. Freestanding Sign. Self-supported sign not affixed to another structure.
- R. Identification Sign. A sign which identifies the business, owner, manager, resident or address of the premises where the sign is located and which contains no other material.
- S. Illuminated Sign. A sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.
- T. Informational Sign. Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification. Gas price and menu board signs are informational signs and shall not be included in calculating the size limitations imposed within the respective zoning district.
- U. Institutional Sign. A sign identifying the name and other characteristics of a public or semi-public institution on the premises where the sign is located.
- V. Integral Sign. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.
- W. Marquee. A canopy.
- X. Menu Board. A sign containing a food price list for restaurant customers, but containing no advertising or identification.
- Y. Motion Sign. Any sign which revolves, rotates, has moving parts or gives the illusion of motion.
- Z. Non-Profit Organization. A corporation formed under Minnesota Statutes, Chapter 317, a church or community or civic group.

- AA. Parapet. A low wall which is located on a roof of a building.
- BB. Portable Sign. A sign designed to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure.
- CC. Projecting Sign. A sign, other than a wall sign, which is affixed to a building and perpendicular from the building wall.
- DD. Public Entrance. Passage or opening which affords entry and access to the general public.
- EE. Public Entrance, Common. A public entrance providing access for the use and benefit of two (2) or more tenants or building occupants.
- FF. Reader Board. A sign with an electronic changing message.
- GG. Real Estate Sign. A business sign placed upon property advertising that particular property for sale or rent.
- HH. Roof Line. The top of the coping or, when the building has a pitched roof, the intersection of the outside wall with the roof.
- II. Roof Sign. Sign erected, constructed or attached wholly or in part upon or over the roof of a building.
- JJ. Sign. Use of words, numerals, figures, devices or trade marks by which anything is made known such as individuals, firms, professionals, businesses, services or products and which is visible to the general public.
- KK. Sign Area. The area within the marginal lines of the surface of a sign which bears the advertisement or, in the case of messages, figures or symbols attached directly to a building or sign structure, that area which is included in the smallest rectangle or series of geometric figures used to circumscribe the message, figure or symbol displayed thereon.
- LL. Sign, Maximum Height of. The vertical distance from the grade to the top of the sign.
- MM. Sign Structure. The supports, uprights, bracing and framework for a sign including the sign area.
- NN. Street Frontage. The proximity of a parcel of land to one (1) or more streets. An interior lot has one (1) street frontage and a corner lot has two (2) or more frontages.

OO. Temporary Sign. A sign erected or displayed for a specified period of time.

PP. Wall Sign. A sign affixed to the exterior wall of a building and which is parallel to the building wall. A wall sign does not project more than twelve (12) inches from the surface to which it is attached, nor extend beyond the top of the parapet wall.

QQ. Wall Graphics. A sign painted directly on an exterior wall.

RR. Window Sign. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

**SLOPE:** The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

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

**STORAGE, OUTDOOR:** Storage of any property not fully enclosed in a building or completely screened so as not to be visible from adjoining properties or street rights of way.

**STORY:** The portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unfinished under floor space is more than six feet (6') above "grade" as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve feet (12') above "grade" as defined herein at any point, such basement, cellar, or unused under floor space shall be considered a story.

**STREET:** A public right-of-way which affords primary means of access to abutting property, and shall also include an avenue, highway, road, or way, or however otherwise designated.

**STREET, ARTERIAL:** A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.

**STREET, COLLECTOR:** A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**STREET, FRONTAGE:** The proximity of a parcel of land to one (1) or more streets. An interior lot has one street frontage and corner lots and through lots have two (2) frontages.

**STREET, LOCAL:** A street intended to serve primarily as an access to abutting properties.

**STREET PAVEMENT:** The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH:** The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

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

**STRUCTURE:** Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

**TATTOO (TATTOOING):** Any method of placing designs, letters, scrolls, figures, symbols or any other mark upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments which puncture any portion of the skin to any degree.

**TEMPORARY COMMERCIAL STRUCTURE:** A structure used on a temporary basis for an occupation, employment, or enterprise that is carried on by the owner, lessee, or licensee.

<sup>1</sup> **TEMPORARY/SEASONAL OUTDOOR SALES:** One time sidewalk sales, Christmas tree sales, seasonal supply sales, special event sales and similar activities conducted by the operator(s) of a legitimate, established business (within the appropriate zoning district) in the City of Montrose.

**TEMPORARY STRUCTURE:** A structure not permanently erected on a site with a foundation that is used for emergency purposes or used on a construction site for offices and equipment storage during construction of a permanent structure.

**TRAILER, SEMI-TRACTOR:** A trailer with a set or sets of wheels at the rear only, which may be supported in front by a truck, tractor or towing vehicle, and which is used for the purpose of, but not limited to, storage, transportation of freight, or holding freight for sale or lease.

**TRANSIT STATION:** A building or area which serves as a regular stopping place for buses and/or other forms of urban public transportation.

**TRANSMISSION LINE:** Those high capacity conductors generally rated 115 kilovolts and above and associated structures which are used to carry electricity from points of generation to distribution points such as substations and distribution lines.

**TRUCK STOP:** Any building, premises or land in which or upon which a business, service or industry involving the maintenance, cleaning, servicing, storage or repair of commercial vehicles is conducted including the dispensing of motor fuel, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations, restaurant facilities, a car wash and truck wash or other ancillary uses.

**TRUCK TERMINAL:** A building or area in which freight brought by truck is assembled and/or temporarily stored for re-routing or re-shipment. The terminal facility may also include storage and/or parking areas for truck tractor and/or trailer units.

**UNDUE HARDSHIP:** The same as that term is defined in Minnesota Statutes chapter 462.357, as may be amended, meaning that the property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not caused by the landowner and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this Ordinance. Undue hardship may also include inadequate access to direct sunlight for solar energy systems.

**USABLE OPEN SPACE:** A required ground area or terrace area on a lot which is graded, developed, landscaped and/or equipped, and which is intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling on the lot or a development project and their guests. Such areas shall be grassed and landscaped or covered only for recreational purposes. Roofs, driveways, and parking areas shall not constitute usable open space. Required front and side yards shall be excluded from the usable open space area calculation.

**USE:** The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.



**USE, ACCESSORY:** A use subordinate to and servicing the principal use or structure on the same lot and customarily incidental thereof.

**USE, NON-CONFORMING:** Use of land, buildings, or structures legally existing at the present time or at the time of a subsequent amendment to this Ordinance which does not comply with the regulations as set forth.

**USE, PERMITTED:** A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

**USE, PRINCIPAL:** The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or accessory.

**USE, SECONDARY:** A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

<sup>10</sup> **VARIANCE:** A modification of or variation of the provisions of this Ordinance as applied to a specific property and granted pursuant to the standards and procedures of this Ordinance, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.

**VEGETATION:** The sum total of plant life in some area; or a plant community with distinguishable characteristics.

**VERTEX:** The corner point of a triangle, rectangle, or other geometric figure bounded by lines.

**WASTE:** Infectious waste, nuclear waste, pathological waste, sewage sludge, solid waste, and hazardous waste.

**WASTE FACILITY:** Property used for the accumulation, storage, processing, or disposal of waste.

**WASTE, HAZARDOUS:** Any refuse, sludge, or other waste material or combination of refuse, sludge, or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious or irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when not properly treated, stored, or transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives. Hazardous

waste does not include source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

**WASTE, INFECTIOUS:** Laboratory waste, blood, regulated body fluids, sharps, and research animal waste that has not been decontaminated.

**WASTE, PATHOLOGICAL:** Human tissue and body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.

**WATER BODY:** A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

**WATERCOURSE:** A channel or depression through which water flows year-round or intermittently, such as rivers, streams, or creeks.

**WETLANDS:**

- A. Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- B. Hydrophytic Vegetation: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- C. Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this Ordinance, wetlands must have the following three (3) attributes:
  - 1. Have a predominance of hydric soils.
  - 2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
  - 3. Under normal circumstances, support a prevalence of such vegetation.

**WIND ENERGY CONVERSION SYSTEM (WECS):** Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by such common names as wind charger, wind turbine and windmill).

**YARD:** Any open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the

distance between the nearest edge of the wetland and the main building shall be as provided by Section 1016-5 (General Performance Standards-Wetlands) of this Ordinance.

**YARD, FRONT:** The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more streets, both yards shall be considered front yards.

**YARD, REAR:** A yard extending across the full width of the lot lying between the rear lot line of the lot and the nearest line of the principal building.

**YARD, REQUIRED:** That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

**YARD, SIDE:** A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

**ZONING ADMINISTRATOR:** The person designated by the City Council to be the zoning administrator for the City of Montrose.

**ZONING DISTRICT:** An area or areas of the City (as delineated on the zoning map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Ordinance.

**ZONING DISTRICT, OVERLAY:** A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

**ZONING DISTRICT, UNDERLYING (BASE):** All zoning districts except overlay zoning districts.

**ZONING MAP:** The map or maps incorporated into this Ordinance as part thereof, designating the zoning districts.

## CHAPTER 1003

### ADMINISTRATION – GENERAL

#### SECTION:

- 1003-1: Development Application Procedures
- 1003-2: Decisional Process
- 1003-3: Application Procedure
- 1003-4: Expiration of Zoning Approvals
- 1003-5: Performance Agreement
- 1003-6: Appeals from Administrative Action
- 1003-7: Cost Recovery
- 1003-8: Certification of Taxes Paid
- 1003-9: Enforcement

**1003-1: DEVELOPMENT APPLICATION PROCEDURES:** Certain applications of this Ordinance require study and action by the City Council, the Planning Commission, City staff, the applicant, and various experts, in varying combinations dependent upon the nature of the non-standard use or proposed use or change. These include proposed conditional use permits, variances, site plan reviews, Zoning Ordinance text or map amendments, and appeals on zoning questions.

**1003-2: DECISIONAL PROCESS:** The City Council, acting as the Board of Adjustment and Appeals under Minnesota Statutes 462.357(6), 462.359(4), and 15.99, shall make the decisions within the legislative and executive framework of the City on applicable development applications.

**1003-3: APPLICATION PROCEDURE:** An application for a Zoning Ordinance text or map amendment, conditional use permit, interim use permit, variance, and/or site plan review shall be processed in accordance with the following procedure:

- A. **Timeline.** Pursuant to Minnesota Statutes 15.99, an application for an amendment shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.
- B. **Application.** Applications shall be filed with the Zoning Administrator on an official application form of the City, accompanied by a fee as established by City Council resolution. The application shall also be accompanied by detailed written and graphic materials fully explaining the proposed change, development, or use. The number of copies to be provided and any additional data shall be determined

by the Zoning Administrator. Applications shall be complete before they are accepted. A complete application shall include the following information:

1. A City application form(s) relating to the request signed by all persons with an interest in the subject property affected by the request. A copy of an Owner's Duplicate Certificate of Title or other approved documentation of interest shall also be submitted with the signed application form(s).
  2. All supporting information required by this Ordinance and/or outlined in Section 1009-6 of this Ordinance and application documents included with the City application forms.
  3. Payment of all fees associated with the applicable application(s).
  4. A pre-application meeting shall be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the request will be reviewed and explained.
  5. An application will be deemed complete unless the applicant receives written notice within fifteen (15) business days exclusive of Saturdays, Sundays and legal holidays of its submission indicating it is not complete and indicating what information is missing. This notice shall be considered given by its deposit in the U.S. Mail, first class postage prepaid, addressed to any listed applicant at the address given on the application form. In the event the applicant fails to provide an address on the application form, this notice requirement for incomplete applications shall be deemed waived by the applicant.
- C. **Additional Data.** The City Council, Planning Commission, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the City, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the application.
- D. **Technical Reports.** The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council. The technical reports are to be entered in and made part of the record of the Planning Commission and forwarded to the City Council.
- E. **Notice of Hearing.** For applications involving zoning amendments, conditional use permits, and variances, the Zoning Administrator shall set a date for a public hearing. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request to be published in the official newspaper at least ten (10) days prior to the hearing.

Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request.

- F. **Notice Not Received.** Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Ordinance, provided that a bona fide attempt has been made to comply with the requirements of Section 1003-3.E of this Ordinance.
- G. **Hearing.** After receipt of the report of the Zoning Administrator, the Planning Commission shall conduct the public hearing and consider the application at its next regular meeting.
- H. **Presentation of Application.** The applicant or a representative of the applicant shall appear before the Planning Commission in order to present the case for the application and to answer questions concerning the request. Failure of the proponent to appear at either the Planning Commission or City Council, consideration of the matter may constitute grounds for rejection of the application. The Planning Commission and the City Council may each require sworn testimony and a verified transcription of the proceedings at the expense of the City. The applicant shall have the same privilege of presenting sworn testimony and may provide for a transcript of the proceedings at the expense of the applicant.
- I. **Recommendations of Planning Commission.** The Planning Commission shall recommend such actions or conditions relating to the application as deemed necessary or desirable to carry out the intent and purpose of this Ordinance and the Comprehensive Plan. Such recommendation shall be either in the minutes or by written resolution and forwarded to the City Council.
- J. **Record Before City Council.** The Zoning Administrator shall place the report and recommendation of the Planning Commission and the City staff on the agenda for the next regular City Council meeting after Planning Commission action, or the expiration of sixty (60) days after the first consideration by the Commission, whichever is earlier, subject to the limitations of Minnesota Statutes 15.99. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
- K. **City Council Review.** Subject to the limitations of Minnesota Statutes 15.99, the City Council shall act upon an application after it has received the report and recommendation from the Planning Commission. If, upon receiving the reports and recommendations of the Planning Commission and Zoning Administrator, the City Council desires further consideration, or finds that inconsistencies exist in the review process, data submitted or recommended action, the City Council

may, before taking final action, refer the matter back to the Planning Commission with a statement detailing the reasons for referral.

**L. City Council Action.**

1. Approval of a proposed amendment shall require a majority vote of all members of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial shall require a two-thirds (2/3) (four [4] out of five [5] members of the City Council) majority vote of all members of the City Council.
2. Denial of applications for amendment shall be accompanied by written findings of fact of the City Council, including supporting data setting forth the reasons for the denial in terms of the ways in which the proposed use fails to meet the standards and intent of the Comprehensive Plan and/or this Chapter and is otherwise injurious to the public health, safety and welfare.
3. Approval of an amendment shall be effective upon its date of publication.

**M. Approvals Required.**

1. Approval of an amendment shall require a majority vote of all members of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial require a three-fifths (3/5) majority vote of all members of the City Council.
2. Approval of a request for conditional use permit, interim use permit, or variance shall require passage by a three-fifths (3/5) vote of all members of the City Council.
3. Approval of a request for site and building plan review shall require passage by a majority vote of the City Council.

**N. Notice to Applicant.** The Zoning Administrator shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings which may have been passed by the City Council.

**O. Filing of Notice of Action.** A certified copy of any Zoning Ordinance amendment, conditional use permit, interim use permit, or variance authorized shall be filed with the Wright County Recorder.

**P. Reconsideration.** Whenever an application has been considered and denied by the City Council, a similar application affecting substantially the same property

shall not be considered again by the Planning Commission or City Council before the expiration of six (6) months from the date of its denial and any succeeding denials. However, a decision to reconsider such matter may be made by not less than four-fifths (4/5) vote of all members of the City Council at any time.

**1003-4: EXPIRATION OF ZONING APPROVALS:**

- A. Unless otherwise specified by the City Council at the time it is authorized, a conditional use permit, interim use permit, variance, or site and building plan approvals, shall be null and void and expire if the applicant fails to implement such approvals and fulfill each and every condition attached thereto within one (1) year from the date of its authorization unless a petition for an extension of time in which to implement the approved plans has been granted by the Zoning Administrator provided that:
1. The extension is requested in writing and filed with the City at least thirty (30) days prior to the expiration of the initial conditional use permit request.
  2. The request for extension states facts demonstrating that a good faith attempt has been made to complete or utilize the use or activity permitted in the approval.
  3. A maximum of one (1) administrative extension shall be granted.
  4. The extension shall not exceed ninety (90) days from the initial expiration date.
  5. There shall be no charge for the filing of a petition for an administrative extension.
- B. Upon receiving a recommendation from the Planning Commission and City staff, the City Council may grant an extension of greater than ninety (90) days provided that:
1. The conditions described in Section 1003-4.A.1-3 above are satisfied.
  2. The extension shall not exceed one (1) year from the initial expiration date.
  3. The filing of a petition for extension is subject to fee requirements established by City Council resolution.

**1003-5: PERFORMANCE AGREEMENT:** Upon approval of a conditional use permit, interim use permit, variance, site plan and/or administrative permit, the City may require the applicant to enter into a performance agreement prior to the issuing of



building permits or initiation of work on the proposed improvement or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and the codes of the City. The performance agreement shall be prepared and approved by the City Attorney and shall contain, but not be limited to, the following items and conditions:

- A. **Performance Security.** The performance agreement shall require the applicant to provide financial security to assure compliance with the agreement and conditions of the approval. The security may be in the form of a surety bond, cash escrow, certificate of deposit, irrevocable letter of credit, securities or cash deposit. The security shall be in an amount determined by the City Engineer or Building Official under the direction of and approved by the Council, to cover estimated costs of labor and materials for the proposed improvements or development. The project can be handled in stages with prior approval of the City.
- B. **Security Release.** The City shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official.
- C. **Security Forfeiture.** Failure to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
- D. **Hold Harmless and Indemnification of City.** The applicant shall agree to indemnify and hold harmless the City and its agents and employees against any and all claims, demands, losses, damages and expenses (including attorney fees) arising out of or resulting from the applicant's negligent or intentional acts, violation of any safety law, and regulation or any code in the performance of this agreement, without regard to any inspection or review made or not made by the City, its agents or employees or failure to take any other prudent precaution. In the event any City employee, agent or representative shall come under the direct or indirect control of the applicant, or the City, upon failure of the applicant to comply with any conditions of the approval, performs said conditions pursuant to the bond, the applicant shall indemnify and hold harmless the City, its employees, agents and representatives for its own negligent or intentional acts in the performance of the applicant's required work under the permit.
- E. **Fees.** The applicant shall agree to pay any and all attorney and consultant fees incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said permits.

**1003-6: APPEALS FROM ADMINISTRATIVE ACTION:** The City Council, serving as the Board of Appeals and Adjustments, shall, after receiving the written report of the Zoning Administrator, make findings of fact and make a decision on appeals where it is alleged by the appellant that error has occurred in any order, interpretation requirement, decision or determination made by any administrative office or the Zoning Administrator in the enforcement of this Ordinance. However, said appeal shall be filed not later than sixty (60) days after the applicant has received a written order from the City or the appeal shall be void.

**1003-7: COST RECOVERY:**

- A. **Purpose.** The costs of the City for receiving, analyzing, processing, hearing and final process for requests of changes, modification, or special consideration under this Ordinance, such as requests for rezoning (map or text), conditional use permits, interim use permits, and variances are considered to be unique to the applicant requesting such consideration, and it is the intent of this section to provide that all costs of the City occasioned by such requests shall be borne by the applicant. The reimbursement to the City shall be limited to actual costs of the City. Actual costs shall include all engineering, legal, planning, or other consultant fees or costs paid by the City for other consultants for expert review of a development application.
- B. **Base Zoning Fee.** Each applicant shall pay a non-refundable base zoning fee at the time an application is presented to the City for a zoning change of any nature, site and building plan review, a conditional use, or a variance. This fee is intended to reimburse the City for its costs for administrative processing a development application. If this fee proves to be insufficient to cover such costs, such additional costs will be charged as a part of the zoning deposit, or the supplemental zoning deposit.
- C. **Escrow Deposit.** In addition to the non-refundable basic zoning fee, each applicant shall pay an escrow deposit in an amount established by City Council resolution at the time of application. All actual costs including, but not limited to, planning, engineering, legal, or other consultant fees or costs, incurred by the City in the processing of the application shall be paid from or reimbursed to the City, from the escrow deposit. Actual costs not fully paid or reimbursed from the base zoning fee shall be paid or reimbursed from this escrow or supplemental deposit.
- D. **Supplemental Deposit.** At any time while the application is pending and before its final conclusion, if the Zoning Administrator determines that the amount of the escrow deposit required by Section 1003-7.C of this Ordinance is or is estimated to be insufficient to pay for present or anticipated actual costs of the application, a supplementary deposit shall be required by the Zoning Administrator to be paid

by the applicant. The one (1) or more supplemental deposits shall be in an amount sufficient to pay all actual costs of the City.

- E. **Refunds – Administrative Costs.** The base zoning fee, intended to cover administrative costs, is non-refundable.
- F. **Refunds – Direct Costs.** If the direct costs of the City in processing the application are less than the amount of the escrow deposit and any supplemental deposit, any such coverage shall be refunded to the applicant upon the conclusion of the proceedings, and any such costs in excess of the supplemental deposits on hand with the City shall be paid by the applicant prior to completion of the proceedings by the City.

**1003-8: CERTIFICATION OF TAXES PAID:** Prior to approving an application for amendment, conditional use permit, interim use permit, variance, or administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates.

**1003-9: ENFORCEMENT:** This Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City of Montrose any appropriate actions or proceedings against a violator. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. That person shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

- A. **Enforcement Procedure:** For the enforcement of the provisions of the Zoning Ordinance, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail or return receipt requested to the property owner of which the violation is taking place. A copy of the zoning violation notice shall be sent to the City Council, Planning Commission, Police Chief, and City Attorney. The zoning violation notice shall contain the following information:
  - 1. A description of the violation which is taking place.
  - 2. A picture (if possible) of the violation which is taking place.
  - 3. Location and/or address of the property at which the violation is taking place.

4. Identification of the section of the Zoning Ordinance which is being violated.
  5. Date the violation was discovered.
  6. Steps necessary to correct the violation.
  7. Deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than thirty (30) days from the date the first notice is mailed.
- B. **Correction of the Zoning Violation:** Correction of the violation in the manner stipulated by the zoning notice violation, at any point during this enforcement process, shall deem the zoning violation notice null and void, and enforcement activity shall cease.
- C. **Failure to Correct Zoning Violation – Enforcement Remedies:** Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:
1. **Withhold Permits:** The City shall have the authority to withhold any permits or City approvals which are necessary until the violation is corrected to the City's satisfaction.
  2. **Stop Work Order:** The City shall have the authority to issue a stop work order on the subject violation.
  3. **Abatement:** The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice.
  4. **Injunctive Relief:** The City shall have the authority to seek an injunction in court to stop any violation of this Ordinance.
  5. **Civic Remedies:** The City shall have the authority to institute appropriate civil action to enforce the provisions of this Ordinance, and shall recover reasonable court costs and attorney's fees which are incurred due to the enforcement of the subject violation, at the discretion of the court.
  6. **Assessment:** The City shall have the authority to use the provisions of Minnesota State Statutes 429, assess any charge against the property benefited, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.

7. Criminal Remedies: The City shall have the authority to institute appropriate misdemeanor criminal action for a violation of this Ordinance. Upon conviction, a fine of not less than two hundred dollars (\$200.00) shall be imposed for each day or part of a day that the violation occurs, starting ten (10) days from the date the Zoning Administrator placed in the custody of the U.S. Postal Service, the zoning violation notice, certified or return receipt requested. It shall be unlawful to violate a provision of this Ordinance.
8. Cumulative Remedies: The powers and remedies of this section shall not be individually limited and are not exclusive. The powers and remedies of this section are cumulative and all power and remedies may apply, as well as any other remedies allowed under State law.

## CHAPTER 1004

### ADMINISTRATION – AMENDMENTS

#### SECTION:

- 1004-1: Amendments, Initiation
- 1004-2: Procedure
- 1004-3: Criteria
- 1004-4: Effectuation

**1004-1: AMENDMENTS, INITIATION:** The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of this section shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate.

**1004-2: PROCEDURE:** Application for an amendment of this Ordinance (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Section 1003-3 of this Ordinance.

**1004-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained in this Ordinance.
- D. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

**1004-4: EFFECTUATION:** Approval of an amendment of this Ordinance (text or map) shall become effective upon its passage and publication.

## CHAPTER 1005

### ADMINISTRATION – CONDITIONAL USE PERMITS

#### SECTION:

- 1005-1: Purpose
- 1005-2: Procedure
- 1005-3: Criteria
- 1005-4: General Performance Standards
- 1005-5: Revocation
- 1005-6: Permit Modifications

**1005-1: PURPOSE:** The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

**1005-2: PROCEDURE:** An application for a conditional use permit requires a public hearing and is to be processed in accordance with the procedures outlined in Section 1003-3 of this Ordinance.

**1005-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed conditional use. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Official City Comprehensive Plan.
- B. The proposed use is or will be compatible with present and future land uses of the area.
- C. The proposed use conforms with all performance standards contained in this Code.
- D. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.



- E. Traffic generation by the proposed use is within capabilities of streets serving the property.

**1005-4: GENERAL PERFORMANCE STANDARDS:** As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following general performance standards and criteria:

- A. The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right of way shall be provided.
- B. The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with Chapter 1019 of this Ordinance.
- C. If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- D. Adequate off-street parking and off-street loading shall be provided in compliance with Chapter 1019 of this Ordinance.
- E. Loading areas and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and provided in compliance with Chapter 1019 of this Ordinance.
- F. Whenever a nonresidential use is "adjacent" to a residential use or district, a buffer area with screening and landscaping shall be provided in compliance with Chapter 1020 of this Ordinance.
- G. General site screening and landscaping shall be provided in compliance with Chapter 1020 of this Ordinance.
- H. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right of way or neighboring residential uses or districts, and shall be in compliance with Section 1016-8 of this Ordinance.
- I. Potential exterior noise generated by the use shall be identified and mitigation measures, as may be necessary, shall be imposed to ensure compliance with Section 1016-12 of this Ordinance.
- J. The site drainage system shall be subject to the review and approval of the City Engineer.

- K. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- L. All signs and informational or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
- M. The use and site shall be in compliance with any Federal, State or County law or regulation that is applicable and any related permits shall be obtained and documented to the City.
- N. Any applicable business licenses mandated by the City Code are approved and obtained.
- O. The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.
- P. The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any nonconformities shall be eliminated.
- Q. All additional conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

<sup>11</sup> **1005-5: REVOCATION:** The City Council may suspend or revoke any conditional use permit upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in violation of this Ordinance, City codes, or other applicable regulations. A suspension or revocation of a conditional use permit will be preceded by written notice to the permittee, owner or other responsible party, and a hearing before the City Council.

**1005-6: PERMIT MODIFICATIONS:** Holders of a conditional use permit may propose modifications to the permit at any time. No changes in the approved plans or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the City. Proposed permit modifications shall be classified as major or minor, as determined by the Zoning Administrator. Major permit modifications may include, but shall not be limited to: hours of operation, number of employees, expansion of structures and/or premises, operational modifications resulting in increased traffic, and the like. Permit modifications shall be further subject to and processed as follows:

**A. Minor Permit Modifications.**

1. Additional Qualifications: In addition to other considerations noted above, minor permit modifications shall meet the following criteria:
  - a. Sites shall be in nonresidential zoning districts, and shall not abut any residential zoned property.
  - b. All sites shall be legal parcels of record at the time of application.
  - c. All applications for permit modification shall be complete and in full accordance with the requirements of Section 1009-6 of this Ordinance. All applicable fees shall be paid.
  - d. All permit modification proposals shall meet or exceed the standards of all applicable codes, ordinances, and policies and shall be free of any variances from those standards.
  - e. Only applications for pre-existing, pre-approved uses explicitly classified as conditional uses within the respective zoning districts of this Ordinance are eligible for administrative approval.
2. Procedure: Administrative approval of minor permit modifications shall be subject to the requirements of Chapter 1008 of this Ordinance.

**B. Major Permit Modifications.**

1. Qualifications: Any permit modification not classified or qualifying as minor shall be classified as major.
2. Procedure: Major permit modifications shall be processed according to Section 1005-2 of this Ordinance and shall be subject to all requirements and standards of this Chapter.

## CHAPTER 1006

### ADMINISTRATION – INTERIM USE PERMITS

#### SECTION:

- 1006-1: Purpose and Intent
- 1006-2: Procedure
- 1006-3: Criteria
- 1006-4: General Performance Standards
- 1006-5: Termination

**1006-1: PURPOSE AND INTENT:** The purpose and intent of allowing interim uses is:

- A. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
- B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- C. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

**1006-2: PROCEDURE:** An application for an interim use permit requires a public hearing and is to be processed in accordance with the procedures set forth in Section 1003-3 of this Ordinance.

**1006-3: CRITERIA:** The Planning Commission shall consider possible effects of the proposed interim use. Its judgment shall be based upon, but not limited to, the factors outlined in Section 1005-3 of this Ordinance.

**1006-4: GENERAL PERFORMANCE STANDARDS:** As may be applicable, the evaluation of any proposed interim use permit request shall be subject to and include, but not be limited to, the general performance standards and criteria outlined in Section 1005-4 of this Ordinance, and:

- A. The date or event that will terminate the use can be identified with certainty.
- B. The use will not impose additional unreasonable costs on the public.
- C. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
- D. The use is allowed as an interim use in the respective zoning district.

**1006-5: TERMINATION:** An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- A. The date or event stated in the permit.
- B. Upon violation of conditions under which the permit was issued.
- C. Upon change in the Zoning Ordinance which renders the use non-conforming.
- D. The property is redeveloped to a permitted or conditional use allowed in the respective zoning district.

## CHAPTER 1007

### ADMINISTRATION – VARIANCES

#### SECTION:

- 1007-1: Purpose
- 1007-2: Procedures
- 1007-3: Board of Adjustment and Appeals
- 1007-4: Criteria
- 1007-5: Practical Difficulties Defined

<sup>10</sup> **1007-1: PURPOSE:** The purpose of this chapter is to provide for deviations from the literal provisions of this Ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Ordinance.

**1007-2: PROCEDURES:** An application for variance from the provisions of this Ordinance requires a public hearing and is to be processed in accordance with the procedures set forth in Section 1003-3 of this Ordinance.

**1007-3: BOARD OF ADJUSTMENT AND APPEALS:** The City Council shall act as the Board of Adjustment and Appeals.

<sup>10</sup> **1007-4: CRITERIA:** The Board of Adjustment and Appeals shall not approve any variance request unless they find failure to grant the variance will result in practical difficulties. The following criteria shall also be met:

- A. That the variance would be consistent with the Comprehensive Plan.
- B. That the variance would be in harmony with the general purpose and intent of this Ordinance.
- C. That the purpose of the variance is not based exclusively upon economic considerations.
- D. That the plight of the landowner is due to circumstances unique to the property not created by the landowner.
- E. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.

- F. That the property owner proposes to use the property in a reasonable manner not permitted by this Ordinance.
- G. That the requested variance is the minimum action required to eliminate the practical difficulty.
- H. That the proposed variance does not involve a use that is not allowed within the respective zoning district.

<sup>10</sup> **1007-5: PRACTICAL DIFFICULTIES DEFINED:** "Practical difficulties," as used in connection with the granting of a variance, means that:

- A. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance; and
- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- C. The variance, if granted, will not alter the essential character of the locality.

Economic considerations alone shall not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

## CHAPTER 1008

### ADMINISTRATION – ADMINISTRATIVE PERMITS AND APPROVALS

#### SECTION:

- 1008-1: Purpose
- 1008-2: Administrative Permits
- 1008-3: Non-Permit Approvals
- 1008-4: Site Improvement Performance Agreement and Financial Guarantee

**1008-1: PURPOSE:** The purpose of this Chapter is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit, and of matters requiring the approval of the Zoning Administrator with the goal of protecting the health, safety, and welfare of the citizens of the City.

#### **1008-2: ADMINISTRATIVE PERMITS:**

##### **A. Procedure.**

1. Application for an administrative permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.
2. The application shall be accompanied by a fee as established by City Council resolution. Applications for amending administrative permits shall be accompanied by a fee as established by City Council resolution.
3. The Zoning Administrator shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance. The Zoning Administrator shall notify the applicant, in writing, of an incomplete application within fifteen (15) business days of the date of submission.
4. The Zoning Administrator's review shall be based upon the following factors:
  - a. Compliance with and effect upon the Comprehensive Plan and public facilities plans.



- b. The establishment, maintenance or operation of the use, event or activity will not be detrimental to or endanger the public health, safety, or welfare.
  - c. The establishment of the use, event or activity will not conflict with existing uses and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  - d. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
  - e. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located and to the performance standards as outlined in Section 1005-4 of this Ordinance and all other applicable provisions of this Ordinance.
- 5. The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application.
  - 6. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Ordinance shall be attached to the permit.
  - 7. Determination of noncompliance with applicable codes, ordinances, and the standards in this Section shall be communicated to the applicant in writing and the application for the permit shall be considered denied.
  - 8. Unresolved disputes as to administrative application of the requirements of this Section shall be subject to appeal as defined by Chapter 1003-6 of this Ordinance.

**B. Information Requirement.** The information required for all administrative permit applications shall include:

- 1. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
- 2. A copy of the approved site plan for the property or an "as-built" survey which accurately represents existing conditions on the site, including

entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.

3. An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exits.
4. Certification of current sales tax number as issued by the State, if applicable.
5. Information identified in Section 1009-6 of this Ordinance, as may be applicable.

C. **Performance Standards.** All structures, uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such structure, use, event or activity is proposed, as well as the applicable standards in Section 1005-4 of this Ordinance.

D. **Administration And Enforcement.**

1. The Zoning Administrator shall keep a record of applications and administrative permits.
2. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
3. Enforcement of the provisions of this Section shall be in accordance with Chapter 1003-9 of this Ordinance. Violation of an issued permit or of the provisions of this Chapter also shall be grounds for denial of future permit applications.

E. **Certification Of Taxes Paid.** Prior to approving an application for an administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the administrative permit application relates.

**1008-3: NON-PERMIT APPROVALS:** In cases where the Zoning Administrator is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in Section 1008-2.A.4 of this Ordinance.

**1008-4: SITE IMPROVEMENT PERFORMANCE AGREEMENT AND FINANCIAL GUARANTEE:** Following the approval of an administrative permit or non-permit approval as required by this Chapter and prior to the issuing of any building permits or the commencing of any work, the applicant, as may be applicable, shall guarantee to the City the completion of all private exterior amenities as shown on the approved site plan and as required by the administrative permit, or non-permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 1003-5 of this Ordinance.

## CHAPTER 1009

### ADMINISTRATION – SITE AND BUILDING PLAN REVIEW

#### SECTION:

- 1009-1: Purpose
- 1009-2: Exceptions to Review
- 1009-3: Sketch Plan
- 1009-4: Procedure
- 1009-5: Criteria
- 1009-6: Information Requirement
- 1009-7: Plan Modifications
- 1009-8: Building Codes
- 1009-9: Plan Agreements

**1009-1: PURPOSE:** The purpose of this Chapter is to establish a formal site and building plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance.

#### <sup>8</sup> **1009-2: EXCEPTIONS TO REVIEW:**

Except in those cases specifically cited within this Ordinance, the following shall be excepted from the foregoing requirements of this Chapter:

- A. Projects which require variances, subdivision approval, conditional use permits, other zoning permits or amendments.
- B. New construction (including modifications, additions and enlargements) of agricultural-related buildings, single-family detached dwellings and two-family attached dwellings.
- C. Modifications, additions or enlargements to multiple family residential, commercial, industrial and institutional buildings which do not increase the gross floor area more than twenty five (25) percent.
- D. Modifications to multiple family residential, commercial, industrial and institutional buildings which alter the design or materials of any single exterior building wall less than twenty five (25) percent.
- E. Changes in the use of leasable space in single or multi-tenant buildings where a change of tenant does not intensify the use of the space nor require additional off-street parking.

- F. Expansion of off-street parking which is not related to modifications, additions or enlargements to the gross floor area of an existing building.
- G. Construction of permitted accessory buildings or structures.

**1009-3: SKETCH PLAN:**

- A. Prior to the formulation of a site plan, applicants may present a sketch plan to the Zoning Administrator prior to filing of a formal application. The plan shall be conceptual but shall be drawn to scale with topography of a contour interval not greater than two feet (2') and may include the following:
  - 1. The proposed site with reference to existing development, topography, and drainage conditions on adjacent properties, at least to within two hundred feet (200').
  - 2. Natural features.
  - 3. General location of existing and proposed structures including signs.
  - 4. Tentative access, circulation and street arrangements, both public and private.
  - 5. Amenities to be provided such as recreational areas, open space, walkways, landscaping, etc.
  - 6. General location of parking areas.
  - 7. Proposed public sanitary sewer, water and storm drainage.
  - 8. A statement showing the proposed density of the project with the method of calculating said density also shown.
  - 9. Extent of and any proposed modifications to land within the special Environmental Protection Districts as established by Chapter 1095 and 1096 of this Ordinance.
  - 10. Other items as may be deemed necessary by the Zoning Administrator.
- B. The Zoning Administrator shall have the authority to refer the sketch plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided to the applicant by the Zoning Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision on the request.

- C. Sketch plan review shall not activate the sixty (60) day time requirements pursuant to Minnesota Statutes 15.99, as may be amended.

**1009-4: PROCEDURE:** An application for site and building plan review is to be processed in accordance with the provisions of Section 1003-3 of this Ordinance. A public hearing is not required to consider an application for site and building plan review.

**1009-5: CRITERIA:** The Zoning Administrator shall evaluate the proposed site plan based upon compliance with the City Comprehensive Plan, provisions of this Ordinance, and other applicable chapters of the City Code.

**1009-6: INFORMATION REQUIREMENT:** The information required for all site plan applications generally consists of the following items, and shall be submitted unless waived by the Zoning Administrator.

- A. Site boundaries, buildings, structures and other improvements shall be identified on-site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
1. Scale of plan (engineering scale only, at one inch equals fifty feet (1" = 50') or less.
  2. North point indication.
  3. Existing boundaries with lot dimension and area.
  4. Existing site improvements.
  5. All encroachments.
  6. Easements of record.
  7. Legal description of the property.
  8. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
- B. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
1. Name and address of developer/owner.

2. Name and address of architect/designer.
3. Date of plan preparation.
4. Dates and description of all revisions.
5. Name of project or development.
6. All proposed improvements, including:
  - a. Required and proposed setbacks.
  - b. Location, setback and dimensions of all proposed buildings and structures.
  - c. Location of all adjacent buildings located within two hundred feet (200') of the exterior boundaries of the property in question.
  - d. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.
  - e. Location, number, and dimensions of proposed loading spaces.
  - f. Location, width, and setbacks of all curb cuts and driveways.
  - g. Vehicular circulation.
  - h. Sidewalks, walkways, trails.
  - i. Location and type of all proposed lighting, including details of all proposed fixtures.
  - j. Location of recreation and service areas.
  - k. Location of rooftop equipment and proposed screening.
  - l. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
  - m. Location, sizing, and type of water and sewer system mains and proposed service connections.

- C. Grading/stormwater drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
1. Existing contours at two foot (2') intervals (may be prepared by a Minnesota licensed surveyor).
  2. Proposed grade elevations at two foot (2') maximum intervals.
  3. Drainage plan, including the configuration of drainage areas and calculations.
  4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
  5. Spot elevations (may be prepared by a Minnesota licensed surveyor).
  6. Proposed driveway grades.
  7. Surface water ponding and treatment areas.
  8. Erosion control measures.
- D. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
1. Planting schedule (table) containing:
    - a. Symbols.
    - b. Quantities.
    - c. Common names.
    - d. Botanical names.
    - e. Sizes of plant material.
    - f. Root specification (bare root, balled and burlapped, potted, etc.).
    - g. Special planting instructions.
  2. Location, type and size of all existing significant trees to be removed or preserved.



3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
  4. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  5. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
  6. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  7. Delineation of both sodded and seeded areas with respective areas in square feet.
  8. Coverage plan for underground irrigation system, if any.
  9. Where landscape or man-made materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
  10. Other existing or proposed conditions which could be expected to affect landscaping.
- E. Other plans and information as required by the Zoning Administrator including, but not limited to:
1. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  2. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
  3. Fire protection plan.
  4. Extent of and any proposed modifications to land within the Floodplain Overlay and Shoreland Overlay Districts, as may be applicable.
  5. Type, location and size (area and height) of all signs to be erected upon the property in question.
  6. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
  7. Sound source control plan.

8. Lighting plan.

**1009-7: PLAN MODIFICATIONS:** An amended site plan involving major changes shall be applied for and administered in a manner similar to that required for a new site plan.

**1009-8: BUILDING CODES:**

- A. **Review and Approval:** The review and approval of site improvements pursuant to the requirements of City adopted building and fire codes shall be in addition to the site plan review process established under this Chapter. The site plan approval process does not imply compliance with the requirements of these building and fire codes.
- B. **Building Permit Required:** Except as hereinafter provided, no person, firm, or corporation shall construct, erect, alter, wreck or move any building or structure or parts thereof within the corporate limits of the City of Montrose, without first securing a building permit from the City. Application for a building permit shall be made on a blank form to be furnished by the City of Montrose.
- C. **Building Permit Issuance:** The Building Inspector shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this Ordinance and State Building Code.
- D. **Schedule of Fees, Charges, and Expenses:** The City Council shall establish a schedule of fees, charges and expenses, and a collection procedure, for building permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Office of the City Clerk, and may be altered or amended only by the City Council.
- E. **Building Permit Information:**
1. All building permit applications shall be accompanied by the following documents, unless exempted by the Building Inspector:
    - a. Two (2) sets of building plans and specifications showing all easements and elevations (in relation to street grade).
    - b. Two (2) copies of a certified land survey.
    - <sup>12</sup> c. Two (2) copies of a plot plan indicating property lines, building setbacks (from right-of-way), location of all utility lines, delineated wetland boundaries, and wetland buffer line.

2. City utility information is available for review by the public during regular office hours at City Hall. If further information is required, the City Engineer shall be contacted at the inquirer's expense. The City accepts no liability for:
  - a. Locations of any service lines.
  - b. Locations of main lines not shown on City utility lines.
3. The processing of building permits takes up to one (1) week.
4. Applicants are responsible for pick up and payment of building permits.
5. No building permit will be issued until payment is made in full, including all deposit(s) (if any).
6. Inspections during construction may be made by contacting the Building Inspector to request an appointment a minimum of twenty-four (24) hours in advance. Applicants are advised that the site address, inspection record, and approved plans shall be posted on site or no inspection will be performed and a re-inspection fee may be charged.
7. Any work which begins prior to issuance of a building permit shall be subject to a civil penalty determined by the City Council.
8. Prior to occupancy of any building, a final inspection must be performed. When a final inspection is completed, the Building Inspector will issue a certificate of occupancy.

<sup>12</sup> F. **As-Built Grading Certificate:** An as-built grading certificate shall be submitted after all construction is complete and all grading including topsoil work is complete. The as-built grading certificate shall have the following requirements:

1. A "Certificate of Grading" form from the City of Montrose shall be filled out, signed by a registered land surveyor in the State of Minnesota and submitted along with the As-Built Grading Certificate drawing.
2. The As-Built Grading Certificate shall include the following:
  - a. Surveyed elevations of the lot after all grading and topsoil work is complete. At a minimum, elevations should be shown at all property corners, swales, grade breaks, emergency overflows, catch basins, curb and gutter at the driveway opening, both edges of any sidewalks in the right-of-way (including the sidewalk extended through the driveway), perimeter of the foundation, lowest

floor, lowest opening, garage floor, top of block, minimum of 15 feet (15') beyond the property line on all sides and abutting properties elevations at the foundation. All elevations shall be based on a benchmark that was used to design the subdivision.

- b. As-built locations of the building including as-built setback distances from property lines.
- c. Property irons showing that they were found by the land surveyor at the time of as-built grading certificate.
- d. Original designed elevation for the finished floor, lowest opening, lowest floor and garage floor.
- e. Delineated edge of all wetlands and buffer zones around the wetland boundary as required by the City of Montrose Wetland Ordinance.
- f. All easements, property lines and utility lines.
- g. Address and legal description.

G. **Certificate of Occupancy Requirement:** The purpose of a certificate of occupancy inspection is to insure that all aspects of the plans which were approved for a building permit have been complied with by verifying such with an on-site visual inspection of the project. At the completion of a building project, a request for a certificate of occupancy inspection shall be made for the following types of projects:

- 1. New residences and residential buildings.
- 2. New commercial, industrial, and institutional buildings.
- 3. Additions to existing commercial, industrial, and institutional buildings.
- 4. Change of commercial, industrial, and institutional use.
- 5. Changes of occupancy load of a commercial, industrial, and institutional use.
- 6. Changes of tenancy of a commercial, industrial, and institutional use.

**1009-9: PLAN AGREEMENTS:** All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the Zoning Administrator for review and approval.

## CHAPTER 1010

### PLANNED UNIT DEVELOPMENT PROCEDURES

#### SECTION:

- 1010-1: Purpose
- 1010-2: General Requirements and Standards
- 1010-3: Submission Requirements
- 1010-4: Procedure for Processing a Planned Unit Development

**1010-1: PURPOSE:** This Chapter is established to provide comprehensive procedures and standards designed to allow a mixture of densities/intensities, or use types when applied as a PUD Zoning District and variation from the strict provisions of this Ordinance related to setbacks, height, lot area, width and depth, yards, etc., when applied as a PUD conditional use permit. The PUD process is intended to encourage:

- A. Innovations in development to the end that the growing demands for all styles of economic expansion may be met by greater variety in type, design, and siting of structures and by the conservation and more efficient use of land in such developments.
- B. Higher standards of site and building design through the use of trained and experienced land planners, architects, and landscape architects.
- C. More convenience in location and design of development and service facilities.
- D. The preservation and enhancement of desirable site characteristics such as natural topography and geologic features and the prevention of soil erosion.
- E. A creative use of land and related physical development which allows a phased and orderly transition of land from rural to urban uses.
- F. An efficient use of land resulting in smaller networks of utilities and streets thereby lower development costs and public investments.
- G. A development pattern in harmony with the objectives of the Montrose Comprehensive Plan (PUD is not intended as a means to vary applicable planning and zoning principles).
- H. A more desirable and creative environment than might be possible through the strict application on zoning and subdivision regulations of the City.

## **1010-2: GENERAL REQUIREMENTS AND STANDARDS:**

- A. Ownership: An application for PUD approval shall be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple ownership, the approved final plan shall be binding on all owners.
- B. Comprehensive Plan Consistency: The proposed PUD shall be consistent with the City Comprehensive Plan.
- C. Utility Plan Consistency: The proposed PUD shall be consistent with the City's utility (sewer and water) plans.
- D. Common Open Space: Common open space at least sufficient to meet the minimum requirements established in the Comprehensive Plan and such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of the residents of the PUD shall be provided within the area of the PUD development.
- E. Operating and Maintenance Requirements for PUD Common Open Space/Facilities: Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Common open space and service facilities within a PUD may be placed under the ownership of one or more of the following, as approved by the City Council:
  - 1. Dedicated to public, where a community-wide use is anticipated and the City Council agrees to accept the dedication.
  - 2. Landlord control, where only use by tenants is anticipated.
  - 3. Property owners association, provided all of the following conditions are met:
    - a. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tracts, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document or a document such as specified by Minnesota Laws 1963, Chapter 456, Section 11 and a set of floor plans such as specified by Minnesota Laws 1963, Chapter 457, Section 13 shall be filed with the City, said filing with the City to be made prior to the filings of said declaration or document or floor plans with the recording officers of Wright County, Minnesota.

- b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject said properties to the terms of said declaration.
- c. The declaration of covenants, conditions and restrictions shall provided that an owner's association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
- d. The declaration shall also stipulate that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and in the event the said City incurs any expenses in enforcing its rule and regulations, which said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.
- e. Membership shall be mandatory for each owner, and any successive buyer.
- f. The open space restrictions shall be permanent and not for a given period of years.
- g. The association shall be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
- h. Property owners shall pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
- i. The association shall be able to adjust the assessment to meet changed needs.



- j. The bylaws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.
- F. Staging of Public and Common Open Space: When a PUD provides for common or public open space, and is planned as a staged development over a period of time, the total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
- G. Density: The maximum allowable density variation in a PUD shall be determined by standards negotiated and agreed upon between the applicant and the City. In all cases, the negotiated standards shall be consistent with the development policies as contained in the Montrose Comprehensive Plan. Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds one hundred twenty-five (125) percent of the proposed residential density of the entire PUD.
- H. Utilities: In any PUD, all utilities, including telephone, electricity, gas and telecable shall be installed underground.
- I. Utility Connections:
  - 1. Water Connections: Where more than one property is served from the same service line, individual unit shut off values shall be provided as required by the City Engineer.
  - 2. Sewer Connections: Where more than one unit is served by a sanitary sewer lateral which exceeds four hundred (400) feet in length, provision must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning shall be the responsibility of the property owners association or owner.
- J. Roadways: All streets shall conform to the design standards contained in the Montrose Subdivision Ordinance, unless otherwise approved by the City Council.
- K. Landscaping: In any PUD, landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the PUD plan.

- L. Servicing Requirements: All development will be carefully phased so as to ensure that all developable land will be accorded to a present vested right to develop at such time as services and facilities are available. Lands which have the necessary available municipal facilities and services will be granted approval in accordance with existing ordinances and development techniques. Lands which lack the available public facilities and services may be granted approval for development, provided that all applicable provisions of this Ordinance, the City Code, and State regulations are complied with.
- M. Setbacks:
  - 1. The front and side yard restrictions of the periphery of the planned unit development site at a minimum shall be the same as imposed in the respective districts.
  - 2. No building shall be located less than fifteen (15) feet from the back of the curb line along those roadways which are part of the internal street pattern.
  - 3. No building within the project shall be nearer to another building than one-half (1/2) the sum of the building heights of the two (2) buildings.

**1010-3: SUBMISSION REQUIREMENTS:**

- A. General Concept Stage:
  - 1. General Information:
    - a. The landowner's name and address and his interest in the subject property.
    - b. The applicant's name and address if different from the landowners.
    - c. The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.
    - d. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidences as the City Attorney may require to show the status of title or control of the subject property.

2. Present Status:
  - a. The address and legal description of the subject property.
  - b. The existing zoning classification and present use of the subject property and all lands within two hundred (200) feet of the subject property.
  - c. A map depicting the existing development of the subject property and all land within two hundred (200) feet thereof and indicating the location of existing streets, property lines, easements, water mains and storm and sanitary sewers, with invert elevations on and within two hundred (200) feet of the subject property.
3. General Description: A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the City's Comprehensive Plan and how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.
4. Site Conditions: Graphic reproductions of the existing site conditions at a scale of one (1) inch equals one hundred (100) feet.
  - a. Contours, minimum two (2) foot intervals.
  - b. Location, type and extent of tree cover.
  - c. Slope analysis.
  - d. Location and extent of waterbodies, wetlands and streams and floodplains within three hundred (300) feet of the subject property.
  - e. Significant rock outcroppings.
  - f. Existing drainage patterns.
  - g. Vistas and significant views.
  - h. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow each cross reference. The use of overlays is recommended for clear reference.

5. Schematic Drawing: Schematic drawing of the proposed development concept, including but not limited to the general location of the major circulation elements, public and common open space, residential and other land uses.
6. Total Dwelling Units: A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:
  - a. Area devoted to residential uses.
  - b. Area devoted to residential use by building type.
  - c. Area devoted to common open space.
  - d. Area devoted to public open space.
  - e. Approximate area devoted to streets.
  - f. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.
  - g. Approximate area, and floor area, devoted to commercial use.
  - h. Approximate area, and floor area, devoted to industrial or office use.
7. Stages: When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.
8. Open Space: When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.
9. Intent of Covenant: General intents of any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.
10. Utilities Plans: Schematic utilities plans indicating placement of water, sanitary and storm sewers.

11. Exception to Requirements: The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this stage, which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
  12. Additional Information: The Planning Commission may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD or any aspect or stage thereof.
- B. Development Stage: Development stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include, but not be limited to:
1. Zoning classification required for development stage submission and any other public decisions necessary for implementation of the proposed plan.
  2. Ten (10) sets of preliminary plans, drawn to a scale of not less than one (1) inch equals one hundred (100) feet (or scale requested by the Zoning Administrator) containing at least the following information:
    - a. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County where the subject property is situated).
    - b. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
    - c. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, of proposed buildings, including mobile homes, and existing buildings which will remain, if any.
    - d. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total site coverage of all circulation elements.
    - e. Location, designation and total area of all common open space.
    - f. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

- g. Proposed lots and blocks, if any, and numbering system.
  - h. The location, use and size of structures and other land uses on adjacent properties.
  - i. Detailed sketches and provisions of proposed landscaping.
  - j. General grading and drainage plans for the developed PUD.
  - k. Any other information that may have been required by the Planning Commission or Council in conjunction with the approval of the general concept plan.
- 3. An accurate legal description of the entire area within the PUD for which final development plan approval is sought.
  - 4. A tabulation indicating the number of residential dwelling units and expected population.
  - 5. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g., drug store, dry cleaning, supermarket.).
  - 6. Preliminary architectural “typical” plans indicating use, floor plan, elevations and exterior wall finishes of proposed building, including mobile homes.
  - 7. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, rights-of-way, utility lines and facilities, lots, block, public and common open space, general landscaping plan, structure, including mobile homes, and uses.
  - 8. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan.
  - 9. A preliminary plat prepared in accordance with the Montrose Subdivision Ordinance.
  - 10. A soil erosion control plan in accordance with the Minnesota Pollution Control Agency’s Best Management Practices and in compliance with National Pollutant Discharge Elimination System (NPDES) Phase II permit requirements or an other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

11. A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.
  12. Such other and further information as the Planning Commission, Administrator or Council shall find necessary to a full consideration of the entire proposed PUD or any stage thereof.
  13. The Planning Commission may excuse an applicant from submitting any specific item of information or document required in this section which it finds to be unnecessary to the consideration of the specific proposal for PUD approval.
- C. Final Plan Stage: After approval of a general concept plan for the PUD and approval of a development stage plan for a section of the proposed PUD, the applicant will submit the following material for review by the City staff prior to issuance of a building permit.
1. Proof of recording any easements and restrictive covenants prior to the sale of any land or dwelling unit within the PUD and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.
  2. All certificates, seals and signatures required for the dedication of land and recordation of documents.
  3. Final architectural working drawings of all structures.
  4. A final plat and final engineering plans and specifications for streets, utilities and other public improvements, together with a development contract agreement for the installation of such improvements and financial guarantees for the completion of such improvements.
  5. Any other plan, agreements, or specifications necessary for the City staff to review the proposed construction. All work shall be in conformance with the Minnesota State Uniform Building Code.

#### **1010-4: PROCEDURE FOR PROCESSING A PLANNED UNIT DEVELOPMENT:**

- A. Application Conference: Upon filing of an application for PUD, the applicant of the proposed PUD is encouraged to arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its

conformity to the provisions of this Ordinance before incurring substantial expense in the preparation of plans, surveys, and other data.

B. General Concept Plan:

1. Purpose: The general concept plan provides an opportunity for the applicant to submit a plan to the City showing his basic intent and the general nature of the entire development without incurring substantial cost. The following elements of the proposed general concept plan represent the immediately significant elements for City review and comments:
  - a. Overall maximum PUD density range.
  - b. General location of major streets and pedestrian ways.
  - c. General location and extent of public and common open space.
  - d. General location of residential and non-residential land uses with approximate type and intensities of development.
  - e. Staging and time schedule of development.
  - f. Other special criteria for development.
2. Schedule:
  - a. Developer meets with the Zoning Administrator to discuss the proposed developments.
  - b. The applicant shall file the concept stage application, together with all supporting data and filing fee as established by City Council resolution.
  - c. Within thirty (30) days after verification by the staff that the required plan and supporting data is adequate, the Planning Commission shall hold a public hearing.
  - d. The Zoning Administrator, upon verification of said application, shall set a public hearing for the next regular meeting of the Planning Commission. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing



shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.

- e. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within the Ordinance.
  - f. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate and provide general assistance in preparing a recommendation on the action of the City Council.
  - g. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operation factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
  - h. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
  - i. Within sixty (60) days of the public hearing, or such further time as may be agreed to by the applicant, the Planning Commission shall itself review said reports and plans and submit its written report and recommendations to the Council and applicant. Such report shall contain the findings of the Planning Commission with respect to the general concept plan. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.
  - j. Within thirty (30) days of receipt of the report and recommendation of the Planning Commission, the Council shall grant approval, resubmit the plan to the Planning Commission for further consideration of specified items or deny approval of the plan.
3. Optional Submission of Development Stage Plan: In cases of single stage PUDs or where the applicant wishes to begin the first stage of a multiple stage PUD immediately, he may, at his option, initially submit development stage plans for the proposed PUD. In such case, the Planning Commission and Council shall consider such plans, grant or deny development stage plan approval in accordance with the provisions of this Sub-section B.

4. **Effect of Concept Plan Approval:** Unless the applicant shall fail to meet time schedules for filing development stage and final plans or shall fail to proceed with development in accordance with the plans as approved or shall in any other manner fail to comply with any condition of this Ordinance or of any approval granted pursuant to it, a general concept plan which has been approved shall not be modified, revoked or otherwise impaired pending this application of development stage and final plans by any action of the City without the consent of the applicant.
5. **Limitation of General Concept Plan Approval:** Unless a development stage plan covering at least ten (10) dwelling units or the area designated in the general concept plan as the first stage of the PUD, whichever is greater, has been filed within six (6) months from the date Council grants general concept plan approval, or in any case where the applicant fails to file development stage and final plans and to proceed with development in accordance with the provisions of this Ordinance and of an approved general concept plan, the approval may be revoked by Council action. In such cases, the Council shall forthwith adopt a resolution repealing the general concept plan approval for that portion of the PUD that has not received final approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. Upon application by the applicant, the Council at its discretion may extend for additional periods not in excess of six (6) months each, the filing deadline for any development stage plan, when, for good cause shown, such extension is necessary.

C. **Development Stage:**

1. **Purpose:** The purpose of the development stage plan is to provide a specific and particular plan upon which the Planning Commission will base its recommendation to the Council and with which substantial compliance is necessary for the preparation of the final plan.
2. **Submission of Development Stage:** Upon approval of the general concept plan, and within the time established in Sub-section B.5 above, the applicant shall file with the Zoning Administrator a development stage plan consisting of the information and submissions required by Section 1010-4.B for the entire PUD or for one or more stages thereof in accordance with a staging plan approved as part of the general concept plan. The development stage plan shall refine, implement and be in substantial conformity with the approved general concept plan.
3. **Review and Action by City Staff and Planning Commission:** Immediately upon receipt of a completed development stage plan, the Administrator shall refer such plan to the following City staff and/or official bodies for the indicated action:

- a. The City Attorney for legal review of all documents.
- b. The City Engineer for review of all engineering data and the development contract.
- c. The City Building Official for review of all building plans.
- d. The Zoning Administrator for review of all plans for compliance with the intent, purpose and requirements of this Ordinance and conformity with the general concept plan and Comprehensive Plan.
- e. The City Planning Commission for review and recommendation to the Council.
- f. When appropriate, as determined by the Zoning Administrator, to other special review agencies such as the Watershed Districts, Soil Conservation Services, Wright County Highway Departments or other affected agencies.

All staff designated in Section 1013-3.C.3.a through 1010-3.C.3.d hereof shall submit their reports in writing to the Planning Commission and applicant.

4. Schedule:

- a. Developer meets with the Zoning Administrator and City staff to discuss specific development plans.
- b. The applicant shall file the development stage application within six (6) months after concept plan review, together with all supporting data and filing fee as established by City Council resolution.
- c. A technical staff report shall be prepared on the proposed development, and distributed to the Planning Commission and the applicant prior to the meeting.
- d. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.
- e. Planning Commission will make a recommendation to the City Council on the general concept plan.
- f. City Council reviews all recommendations and approves/denies the plan.



and submissions required by Sub-section 1010-3 of this Ordinance for the entire PUD or for one or more stages. This plan will be reviewed and approved/denied by City staff, unless otherwise specified by the City Council.

- b. Within thirty (30) days of its approval, the applicant shall cause the final plan, or such portions thereof as are appropriate, to be recorded with the Wright County Register of Deeds or Registrar of Titles. The applicant shall provide the City with a signed copy verifying County recording within forty (40) days of the date of approval.
3. Building and Other Permits: Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved final plan has been recorded and upon application of the applicant pursuant to the applicable ordinances of the City, all appropriate officials of the City may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved final plan provided, however, that no such permit shall be issued unless the appropriate official is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.
4. Limitation on Final Plan Approval: Within one (1) year after the approval of a final plan for PUD, or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an extension shall have been granted as hereinafter provided, automatically render void the PUD permit and all approvals of the PUD plan and the area encompassed within the PUD shall thereafter be subject to those provisions of this Ordinance, and other ordinances, applicable in the district in which it is located. In such case, the Council shall forthwith adopt an ordinance repealing the PUD permit and all PUD approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this sub-section may, at the discretion of the Council, be extended for not more than one (1) year.
5. Inspections During Development; Compliance With Overall Plan:
  - a. Following final plan approval of a PUD, or a stage thereof, the Zoning Administrator shall, at least annually until the completion of development, review all permits issued and construction undertaken and compare actual development with the approved development schedule.

- b. If the Zoning Administrator finds that development is not proceeding in accordance with the approved schedule, or that it fails in any other respect to comply with the PUD plans as finally approved, he shall immediately notify the Council.
- c. Within thirty (30) days of such notice, the Council shall either by ordinance revoke the PUD permit, and the land shall thereafter be governed by the regulations applicable in the district in which it is located; or shall take such steps as it shall deem necessary to compel compliance with the final plans as approved; or shall require the landowner or applicant to seek an amendment of the final plan.

**CHAPTERS 1011 - 1014**

**RESERVED**

## CHAPTER 1015

### NON-CONFORMING BUILDINGS, STRUCTURES AND USES

#### SECTION:

- 1015-1: Purpose
- 1015-2: General Provisions
- 1015-3: Non-Conforming Uses
- 1015-4: Non-Conforming Buildings and Structures
- 1015-5: Non-Conforming Lots

**1015-1: PURPOSE:** It is the purpose of this chapter to provide for the regulation of non-conforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. This Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all non-conforming uses shall be eventually brought into conformity.

#### **1015-2: GENERAL PROVISIONS:**

- A. **Conditional Uses/Interim Uses/Uses By Administrative Permit:** Any established use or building legally existing prior to the effective date of this Ordinance, and which is herein classified as a conditional use, interim use, or use by administrative permit may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including, but not limited to, building and/or site alteration, shall however, require a new permit be processed according to this Ordinance.
- B. **Moving Non-Conforming Buildings:** Subject to Section 1017-12 of this Ordinance, no non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted prior to the effective date of this Ordinance, hereof unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- C. **Subdivision:** No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming non-conforming.



### **1015-3: NON-CONFORMING USES:**

- A. **Effective Date:** Except as provided in Section 1015-2.B of this chapter, the legal use of buildings or land existing on the effective date of this Ordinance, which do not conform to the provisions of this Ordinance may be continued at the same size and in the same manner of operation; provided, however, that no such non-conforming use of land shall be enlarged or increased, nor shall any such non-conforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Ordinance, nor shall any such non-conforming use be moved to any other part of the parcel of land upon which the same was conducted at the time of the adoption of this Ordinance.
- B. **Changes to Non-Conforming Uses:**
1. When a legal, non-conforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
  2. A legal, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.
  3. In cases of non-conformities not addressed by Section 1015-4.C or 1015-4.D. of this chapter, legal, non-conforming single-family and two-family units may be improved to maintain the livability of the dwelling, provided the structure is not expanded.
- C. **Discontinuance:** In the event a non-conforming use of any building or premises is discontinued for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located. If a non-conforming use is interrupted or prevented from operating because of governmental action, such as road construction, that period shall not be deemed as discontinuance of the non-conforming use.

### **1015-4: NON-CONFORMING BUILDINGS AND STRUCTURES:**

- A. **Proposed Structures:** Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been legally granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure shall thereafter be a legally non-conforming structure.

**B. Restoration:**

1. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, as determined by the Building Official, shall not be restored, except in conformity with the regulations of this Ordinance, and as specifically provided in Section 1015-4.B.2 below.
2. Any legal, non-conforming building or structure which has been damaged by fire, explosion, act of God or public enemy, to the extent of more than fifty percent (50%) of its market value, as determined by the Building Official, may be repaired or replaced provided a permit is sought within one hundred eighty (180) days of the date the property was damaged.

**C. Alterations:** Alteration and normal maintenance to a legal non-conforming building or structure may be made through the building permit process provided:

1. The alterations do not expand the foundation and/or building volume, unless specifically allowed by this Ordinance.
2. The alterations do not increase the building occupancy capacity or parking demand.
3. The alteration does not increase the non-conformity of the building or the use.

**D. Expansion Of Non-Conforming Buildings Or Structures:**

1. Administrative Approvals: Except in the environmental protection districts established by Chapter 1050 of this Ordinance, the following expansions of legal, non-conforming single and two-family residential buildings may be approved through the administrative permit process by the Zoning Administrator subject to the provisions of Chapter 1008 of this Ordinance. The Zoning Administrator shall make a determination that the building expansion will comply with the intent and purpose of this chapter and this Ordinance.
  - a. Expansion of principal buildings found to be non-conforming only by reason of height and yard setback may be allowed provided the expansion complies with the performance standards of this Ordinance.
  - b. Expansion of non-conforming detached accessory structures shall not be allowed.

2. Conditional Use Permit: Legal, non-conforming commercial, industrial, public, semi-public, and multiple-family residential principal structures may be expanded on the same lot by conditional use permit provided:
  - a. The expansion will not increase the non-conformity of the building or site.
  - b. The new building expansion will conform with all the applicable performance standards of this Ordinance. A conditional use permit shall not be issued under this Chapter for a deviation from other requirements of this Ordinance unless variances are also approved.
  - c. The request for conditional use permit shall be evaluated based on standards and criteria set forth in Chapter 1005 of this Ordinance.

**1015-5: NON-CONFORMING LOTS:**

- A. **Vacant Lots:** Except in environmental protection districts, legal, non-conforming, vacant lots of record may be developed for single family detached dwellings upon approval of an administrative permit, provided that:
  1. The lot in question was legally established in accordance with city code requirements existing at the time of its creation and is a separate, distinct tax parcel.
  2. The lot is properly zoned for single-family residential land uses.
  3. Minimum Lot Size: A lot of record as of the effective date of this Ordinance, having direct access to municipal sewer and water shall be considered buildable provided measurements for lot area and/or width meet minimum requirements or are within seventy percent (70%) of the requirement of the district.
  4. The lot in question has frontage on and will directly access an improved public street.
  5. The setback and yard requirements of the base zoning district can be achieved while simultaneously resulting in development which complies with the character and general design of the immediate area and the objectives of the City's Comprehensive Plan and this Ordinance.
- B. **Developed Lots:** An existing conforming use on a lot of substandard size and/or width may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.

## CHAPTER 1016

### GENERAL PERFORMANCE STANDARDS

#### SECTION:

- 1016-1: Purpose
- 1016-2: Dwelling Unit Restriction
- 1016-3: Platted and Unplatted Property
- 1016-4: Erosion and Drainage
- 1016-5: Wetlands
- 1016-6: Public Rights-of-Way
- 1016-7: Traffic Sight Visibility Triangle
- 1016-8: Exterior Lighting
- 1016-9: Smoke
- 1016-10: Dust and Other Particulate Matter
- 1016-11: Air Pollution
- 1016-12: Noise
- 1016-13: Bulk Storage (Liquid)
- 1016-14: Waste, Refuse, and Recyclable Material
- 1016-15: Outdoor Storage

**1016-1: PURPOSE:** The purpose of this Chapter is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

#### **1016-2: DWELLING UNIT RESTRICTION:**

- A. Except as may be expressly allowed by this Ordinance, no garage, tent, accessory building or motor home shall at any time be used as living quarters, temporarily or permanently. Tents, playhouses or similar structures may be used for play or recreational purposes.
- B. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling, only in conformance with the State Building Code.

#### **1016-3: PLATTED AND UNPLATTED PROPERTY:**

- A. Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property,

encroachments, and any other information which may be necessary to ensure conformance to City ordinances.

- B. All structures shall be placed so that they will not obstruct future public streets which may be constructed in conformity with existing streets and according to the system and standards employed by the City.
- C. Except in the case of a PUD District established by Chapter 1090 of this Ordinance or as specifically allowed and stated in a respective zoning district, not more than one (1) principal building shall be located on a lot. The words "principal building" shall be given their common, ordinary meaning as defined in Section 1002-2 of this Ordinance. In case of doubt or on any questions or interpretation the decision of the Zoning Administrator shall be final, subject to the right to appeal to the Board of Adjustment and Appeals.
- D. On a through lot, both street lines shall be front lot lines for applying the yard setback regulations of this Ordinance except in the case of a buffer yard fence or accessory building. In addition, no home on a through lot or corner lot in any residential zone shall be allowed direct access to any major collector or arterial street designated as such by the City's Transportation Plan, except as may be permitted by the City Engineer.
- E. In the case of properties which abut street easements, applicable setbacks shall be measured from the easement line and shall be related to roadway classification as identified in the Montrose Transportation Plan and Subdivision Ordinance.
- F. Outlots are deemed unbuildable and no building permit shall be issued for such properties, except in the case of public park facilities and essential services.
- G. Except as may be allowed by conditional use permit and property subdivision, each lot shall have frontage and access directly onto an abutting, improved and City accepted public street.

#### **1016-4: EROSION AND DRAINAGE:**

- A. **Minnesota Pollution Control Agency (MPCA) Requirements:** Every applicant for a building permit, subdivision approval, or a grading permit to allow land disturbing activities shall adhere to erosion control measure standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas", as may be amended, or as approved by the City Engineer and applicable City's stormwater management requirements. All applications shall comply with Minnesota Pollution Control Agency's National Pollutant Discharge Elimination System (NPDES) Phase II requirements.

- B. **Prohibited Development:** No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the City Engineer.
- C. **Stormwater Management:** All residential, commercial, industrial, and institutional developments shall satisfy the provisions of the Subdivision Ordinance in regard to stormwater management.
- D. **City Engineer Approval:** In the case of all single-family lots, multiple-family lots, business, industrial and institutional developments, the drainage and erosion control plans shall be subject to the City Engineer's written approval. No modification in grade and drainage flow through fill, cuts, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.
- E. **Approval Of Erosion Control Measures:** Proposed erosion control measures may be approved by the City Engineer as part of grading plan review. Erosion control may be specified by the City Engineer as part of a site survey for individual building permits. Erosion control measures may also be specified by the City Engineer as needed and deemed appropriate during the construction and post-construction periods separate from the above.
- F. **Storm Sewer Inlets:** All storm sewer inlets which are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
- G. **Stormwater Channels:** All on-site stormwater conveyance channels shall be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls shall be provided at the outlets of all storm sewer pipes.
- H. **Sediment Control Practices:** All temporary and permanent erosion and sediment control practices shall be maintained and repaired whenever necessary to assure the continued performance of their intended function.
- I. **Tracking:** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- J. **Seeding:** All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.

- K. **Sites Over One Acre:** For sites with more than one (1) acre disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three feet (3') of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet (3'). The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
- L. **Sites Under One Acre:** For sites with less than one (1) acre disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.
- M. **Removal:** All temporary erosion control devices including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal shall occur within thirty (30) days of the establishment of permanent vegetative cover on the disturbed area.
- N. **Site Dewatering:** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels of a wetland. All dewatering shall be in accordance with all applicable County, State, and Federal rules and regulations.
- O. **Waste And Material Disposal:** All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- P. **Foundation, Garage Floor:** Unless approved by the City Engineer, the top of the foundation and garage floor of all structures shall be at least eighteen inches (18") above the grade of the crown of the street. Elevations shall be in accordance with the approved grading plan for the development.
- Q. **Stop Work Order:** The City's Building Official or City Engineer may issue stop work orders for any violation of this Ordinance.

**1016-5: WETLANDS:**

- A. **Delineation Report:** Every applicant for a grading permit to allow wetland disturbing activities shall submit a wetland delineation report to the City Engineer. No grading permit to allow wetland disturbing activities shall be issued until approval of the wetland replacement plan application or a certificate of exemption has been obtained in strict conformance with the provisions of this Ordinance and the Minnesota Wetland Conservation Act. This Ordinance applies to all land, public or private, located within the City.
- B. **Impacts:** Utilization and development impacts to wetlands shall be consistent with the stormwater management policies of the City.
- C. **Impacts To Wetland:**
1. Concentrated runoff discharge into wetlands shall be consistent with the stormwater management policies of the City of Montrose. All stormwater shall be treated for water quality improvements prior to discharge to a wetland.
  - <sup>13</sup> 2. A protective buffer strip of natural vegetation of thirty feet (30') in width from the delineated edge at the time of development shall surround all wetlands within areas developed or redeveloped after December 1, 2005. Developments with approved preliminary plats prior to December 1, 2005 are not subject to the wetland buffer requirement. If a preliminary plat was approved prior to December 1, 2005 but has expired without final plat approval according to Section 1106 of the City of Montrose Ordinances, any future applications for preliminary plats on that property will be subject to the wetland buffer requirements. Grading or construction within this buffer is prohibited.
  - <sup>13</sup> 3. A building setback of thirty feet (30') shall exist from the delineated edge of all wetlands at the time of development within areas developed or redeveloped after December 1, 2005. Developments with approved preliminary plats prior to December 1, 2005 are not subject to the building setback requirement. If a preliminary plat was approved prior to December 1, 2005 but has expired without final plat approval according to Section 1106 of the City of Montrose Ordinances, any future applications for preliminary plats on that property will be subject to the building setback requirements. Portable structures will not be subject to the setback requirements. A portable structure is defined as two people being able to pick up the structure and move it without any assistance from mechanical or power devices.
  4. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value in



accordance with the Minnesota Wetland Conservation Act. Replacement shall be guided by the following principles in descending order of priority:

- a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland.
- b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation.
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment.
- d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity.
- e. Compensating for the impact by replacing or providing approved substitute wetland resources or environments.

**1016-6: PUBLIC RIGHTS-OF-WAY:**

- A. **Coverage:** The erection and/or placement of any structure in the public right-of-way or on City property by any person, or group other than the City of Montrose, Wright County, the State of Minnesota, Federal Government or franchised utility shall require the processing of a conditional use permit in accordance with Chapter 1005 of this Ordinance.
- B. **Exceptions:** Exceptions to this provision include newsstands, USPS mail boxes, essential services, signs allowed under Chapter 1024 of this Ordinance, radio receivers and transmitters as an accessory use to essential services, and personal wireless communication antennas located on existing lattice electrical transmission towers, provided that the use and equipment comply with all applicable requirements of this Ordinance.
- C. **Liability:** As a condition of approval for the erection or placement of a structure in the public right-of-way, or on City property by any party other than those specified above, the applicant shall be required to demonstrate a significant need for such structure placement and that it will not interfere or conflict with the public use and/or purpose of the right-of-way. Additionally, the applicant shall sign a contract with the City that holds harmless the City for any potential liability and shall demonstrate to the Zoning Administrator proof of adequate liability insurance.
- D. **Compliance Required:** The erection and/or placement of any structure in the public right-of-way on City property shall be done in conformance with the provisions of this Ordinance.

**1016-7: TRAFFIC SIGHT VISIBILITY TRIANGLE:** Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into a yard or right-of-way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed above a height of three feet (3'), measured from where both street or driveway center lines intersect within the triangle described as beginning at the intersection of the projected curb line of two (2) intersecting streets or drives, thence forty five feet (45') along one curb line, thence diagonally to a point forty five feet (45') from the point of beginning along the other curb line. The exception to this requirement shall be where there is a tree, planting or landscape arrangement within such area that will not create a total obstruction wider than three feet (3'). These requirements shall not apply to conditions of this Ordinance that legally exist prior to the effective date of this Ordinance, unless the City Council determines that such conditions constitute a safety hazard.

**1016-8: EXTERIOR LIGHTING:**

- A. **Purpose:** It is the purpose of this section to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing night-time safety, utility, security and productivity.
- B. **Exemptions:** The provisions of this section shall not apply to the following:
1. Temporary outdoor lighting used during customary holiday seasons:
  2. Temporary outdoor lighting used for civic celebrations and promotions.
  3. Lighting required by a government agency for the safe operation of airplanes, or security lighting required on government buildings or structures.
  4. Emergency lighting by police, fire, and rescue authorities.
  5. Architectural/historical light fixtures and street lights that feature globes that are not shielded. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
  6. All outdoor lighting fixtures existing and legally installed prior to the effective date of this Ordinance are exempt from regulations of this Section but shall comply with the following standards:

- a. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property.
- b. Replacement. Whenever a light fixture that was existing on the effective date of this Ordinance is replaced by a new outdoor light fixture, the provisions of this Section shall be complied with.

**C. Performance Standards.**

- 1. No light source or combination thereof which cast light on a public street shall exceed one (1) foot candle meter reading as measured from the center line of said street nor shall any light source or combination thereof which cast light on adjacent property exceed four-tenths (0.4) foot candles as measured at the property line.
- 2. The foot candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.
- 3. Residential District Standards. In all residential districts, any lighting used to illuminate an off-street parking area, structure, or area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way in accordance with the following provisions:
  - a. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
  - b. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent fixture.

4. Commercial, Industrial, and Institutional District Standards. Any lighting used to illuminate an off-street parking area, structure, or area shall be arranged so as to deflect light away from any adjoining property or from any public right-of-way in accordance with the following provisions:
  - a. Shielding. The light fixture shall contain a cutoff which directs the light at an angle of ninety (90) degrees or less. Exposure of the light source shall not be permitted in view of adjacent property or public right-of-way.
  - b. Lighting of entire facades or architectural features of a building shall be approved by the City Council. Building facades or architectural features may not be internally illuminated and shall only utilize illuminating devices mounted on top and facing downward onto the structure. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
  - c. Intensity. Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Section 1016-8.C.1 of this Ordinance.
5. Height. The maximum height above the ground grade permitted for poles, fixtures, and light sources mounted on a pole is twenty-five (25) feet. A light source mounted on a building shall not exceed the height of the building. Exceptions to the height limits for light sources may be approved by conditional use permit provided that all other requirements of this Section are complied with.
6. Location.
  - a. All non-public outdoor light fixtures shall be set back a minimum of ten (10) feet from a street right-of-way and five (5) feet from an interior side or rear lot line.
  - b. No light sources shall be located on the roof unless said light enhances the architectural features of the building and is approved by the City Council.
7. Hours.
  - a. The use of outdoor lighting for parking lots serving commercial, industrial, and institutional uses shall be turned off one (1) hour after closing, except for approved security lighting.

- b. All illuminated business identification signs shall be turned off between 11:00 PM and sunrise, except that said signs may be illuminated while the business facility on the premise is open for service.
- 8. Glare. Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.
- 9. Outdoor Recreation. Outdoor recreational uses such as, but not limited to, baseball fields, football fields, and tennis courts have special requirements for night-time lighting. Due to these unique circumstances, a conditional use permit shall be required for outdoor lighting systems for such uses that do not comply with regulations of this Section, provided that:
  - a. No public or private outdoor recreation facility shall be illuminated after 11:00 PM, except for required security lighting.
  - b. Off-street parking areas for outdoor recreation uses that are illuminated shall meet the requirements for commercial, industrial, and institutional applications as found in Section 1016-8.C.4 of this Ordinance.
  - c. The provisions of Section 1005-3 of this Ordinance are considered and satisfactorily met.
- 10. Outdoor Signs. Outdoor signs constructed of translucent materials and wholly illuminated from within do not require shielding.
- 11. The use of search lights for any business shall be allowed by administrative permit subject to the following standards:
  - a. The use of search lights is limited to not more than two (2) events per calendar year.
  - b. During any one event, the use of search lights shall be limited to five (5) days consecutively and shall not be used between the hours of 10:00 PM and sunrise.

D. **Prohibitions:** The following outdoor lights are prohibited:

- 1. Flashing lights.

**1016-9: SMOKE:** The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017, as may be amended.

**1016-10: DUST AND OTHER PARTICULATE MATTER:** The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7011, as may be amended.

**1016-11: AIR POLLUTION:** The emission of air pollution, including potentially hazardous emissions, by any use shall be in compliance with and regulated by Minnesota Statutes 116, as may be amended.

**1016-12: NOISE:** Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as may be amended. In no case shall noise emanations constitute a nuisance as defined and regulated by this Code.

**1016-13: BULK STORAGE (LIQUID):** All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with County, State, and Federal agency requirements, and have documents from those respective agencies stating the use is in compliance.

**1016-14: WASTE, REFUSE AND RECYCLABLE MATERIAL:**

- A. **Waste Disposal:** All waste generated shall be disposed in a manner consistent with all Minnesota Pollution Control Agency rules.
- B. **Waste Not Stored in Containers:** Any accumulation of waste generated on any premises not stored in containers which comply with applicable requirements of this Ordinance and Minnesota Pollution Control Agency rules, or any accumulation of mixed Municipal solid waste generated on any premises which has remained thereon for more than one (1) week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored and disposed in a manner consistent with Minnesota Pollution Control Agency rules is a nuisance and shall be abated and the cost of abatement may be assessed against the property where the nuisance is found.
- C. **Off-Site Waste:** The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.

D. **Abandoned, Unlicensed, or Inoperable Vehicles:** Passenger automobiles and trucks not currently licensed by the State, or which are because of mechanical deficiency incapable of movement under their own power, parked or stored outside for a period in exceed of thirty (30) days, and all materials stored outside in violation of City Code provisions are considered refuse or junk and shall be abated in the manner provided for by Section 1003-9 of this Ordinance.

E. **Location and Screening:**

1. Single Family Dwellings, Duplexes, and all Other Residential Structures With Four (4) or Less Residential Units: Garbage cans and recycling bins shall be kept in rear or side yards and shall be screened from neighboring properties and the public right-of-way or shall be kept indoors.
2. Other Uses: All refuse, recyclable materials, and necessary handling equipment including but not limited to garbage cans, recycling bins, and dumpsters shall be stored within the principal structure, within an accessory building, or totally screened from eye-level view from all neighboring uses and the public right-of-way.
3. Exterior storage shall require the following:
  - a. Exterior wall or fence treatment shall be similar and/or complement the principal building.
  - b. The enclosed trash and/or recycling receptacle area shall be located in the rear or side yard and shall observe all applicable setback requirements and easements.
  - c. The trash and/or recycling enclosure shall be in an accessible location for pick up hauling vehicles.
  - d. The trash and/or recycling receptacles shall be fully screened from view of adjacent properties and the public right-of-way by a fence or wall of at least six (6) feet in height and a minimum opaqueness of eighty (80) percent.
  - e. All dumpsters, recycling bins, handling equipment, and enclosures shall be kept in a good state of repair with tight-fitting lids to prevent spilling and spread of debris. The construction of trash and recycling enclosures shall be per standards established by the City Building Official and all design and construction of such enclosures shall be subject to the Building Official's approval.

**1016-15: OUTDOOR STORAGE:**

A. **District Requirements:** Except as herein provided or as specifically allowed within the specific zoning districts established by Chapter 1050 of this Ordinance, all materials and equipment shall be stored within a building.

B. **Exceptions:**

1. Clothes line pole and wires and play equipment.
2. Recreational vehicles and equipment may be parked or stored outdoors as follows:
  - a. Two (2) recreational vehicles or pieces of equipment may be parked or stored outdoors.
  - b. The recreational vehicle or equipment shall be parked or stored upon a hard, dust-free surface.
  - c. The recreational vehicle or equipment shall be set back a minimum of five feet (5') from any side or rear lot line and fifteen feet (15') from the edge of any public street.
  - d. Unless mounted on a trailer, or equipped with wheels, ice fishing houses or other such structures used or designed to be used as temporary shelters shall be subject to the area, setback and other provisions of Chapter 1018 of this Ordinance.
3. Construction and landscaping material currently being used on the premises.
4. Off-street parking of motor vehicles as specified in the respective zoning districts.

C. **Vehicle/Equipment Sales:**

1. Residential Districts:
  - a. Personal vehicles, recreational vehicles, farm machinery, and equipment and similar merchandise offered for sale in residential zoning districts shall comply with the following:
    - (1) The merchandise sold in residential areas shall be the personal property of the occupant.



- (2) Sales of personal merchandise herein addressed shall be limited to no more than three (3) items per calendar year.
    - (3) Merchandise items for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
    - (4) For sale signs on or in such merchandise shall be limited to four (4) square feet in area and three (3) feet in height.
  - b. Garage or rummage sales conducted in residential zones shall comply with the following:
    - (1) Sales shall be limited to a maximum of four (4) consecutive days and occurring no more than two (2) times within one calendar year per property.
    - (2) Signs shall be governed by Chapter 1024 of this Ordinance.
- 2. Non-Residential Districts: Motor, commercial and recreational vehicles shall not be displayed “for sale” or sold within non-residential districts unless as part of an approved licensed sales dealership or for short-term parking (twelve (12) hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.

## CHAPTER 1017

### GENERAL YARD, LOT AREA, AND BUILDING REGULATIONS

#### SECTION:

- 1017-1: Purpose
- 1017-2: High Water Elevation
- 1017-3: Building Height
- 1017-4: Building Type and Construction
- 1017-5: Yards
- 1017-6: Minimum Floor Area Per Dwelling Unit
- 1017-7: Efficiency Apartments
- 1017-8: Minimum Floor Area, Commercial and Industrial Structures
- 1017-9: Single Family Dwellings
- 1017-10: Building Relocation
- 1017-11: Temporary Structures
- 1017-12: Model Homes
- 1017-13: Temporary/Seasonal Outdoor Sales

**1017-1: PURPOSE:** This Chapter identifies yard, lot area, building size, building type, and height requirements in each zoning district.

**1017-2: HIGH-WATER ELEVATION:** No structure, except piers, docks, and retaining walls shall be placed at an elevation such that the lowest floor, including basement floor, is less than three feet (3') above the highest known water level, or less than one foot (1') above the 100-year regulatory flood protection elevation, if determined, of any adjacent lake, pond, river, watercourse, or wetland. If sufficient data on known high-water levels is not available, the elevation of the line of permanent aquatic vegetation shall be used as the estimated high-water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Building Official. If requested by the Building Official, the ground water table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.

**1017-3: BUILDING HEIGHT:**

- A. No structure shall exceed the maximum height requirement of the applicable zoning district provisions except by conditional use permit and provided that:
  - 1. The site is capable of accommodating the increased intensity of use.

2. The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
  3. Public utilities and services are adequate.
  4. For each additional story over three (3) stories or for each additional ten feet (10') above thirty five feet (35'), front and side yard setback requirements shall be increased by five percent (5%).
  5. The performance standards and criteria of Chapter 1005 of this Ordinance are considered and satisfied.
- B. The building height limits established herein for districts shall not apply to the following:
1. Agricultural buildings on farm properties.
  2. Antenna support structures as regulated by Chapter 1023 of this Ordinance.
  3. Belfries.
  4. Chimneys or flues.
  5. Church spires.
  6. Cooling towers.
  7. Cupolas and domes which do not contain usable space.
  8. Elevator penthouses.
  9. Flagpoles.
  10. Monuments.
  11. Necessary mechanical and electrical appurtenances.
  12. Parapet walls extending not more than three feet (3') above the limiting height of the building.
  13. Poles, towers and other structures for essential services.
  14. Wind energy conversion system towers as regulated by Chapter 1029 of this Ordinance.

## **1017-4: BUILDING TYPE AND CONSTRUCTION:**

### **A. General Provisions:**

1. Steel or Aluminum Buildings: Except in association with farming activities, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish shall be permitted in any zoning district.
2. Architectural and Aesthetic Compatibility: Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the community's public health, safety and general welfare.
3. Exterior Building Finishes:
  - a. Residential Uses. The primary exterior building facade finishes for residential uses shall consist of materials comparable in grade to the following:
    - (1) Brick.
    - (2) Concrete composite board.
    - (3) Stone (natural or artificial).
    - (4) Integral colored split face (rock face) concrete block.
    - (5) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
    - (6) Stucco (natural or artificial)/EIFS (exterior insulated finish system).
    - (7) Vinyl, steel, aluminum.
  - b. Commercial, Industrial and Institutional Uses. The primary exterior building facade finishes for commercial, industrial, and institutional uses shall consist of materials comparable in grade to the following:
    - (1) Brick.
    - (2) Concrete composite board.

- (3) Stone (natural or artificial).
  - (4) Cast in place concrete or precast concrete panels.
  - (5) Integral colored split face (rock face) concrete block.
  - (6) Wood, natural or composite, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood or cypress.
  - (7) Glass curtain wall panels.
  - (8) Stucco (natural or artificial)/EIFS (exterior insulated finish system).
  - (9) Steel or aluminum siding.
- c. Building Foundations. Building foundations not exceeding two feet (2') and other such portions of a building's facade need not comply with the requirements for the primary facade treatment or materials.
4. Pole Buildings. Except for farming operations, pole buildings or post and beam construction shall not be allowed as a principal or accessory structure.

**B. Industrial Districts:**

1. In I-1 and I-2 Zoning Districts, all buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or precast concrete panels on wall surfaces abutting public rights of way, a residential zoning district, or public areas. The required wall surface treatment may allow a maximum of fifty percent (50%) of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design and is similar to the building frontage.

**C. Exceptions:** Exceptions to the provisions of this Section may be granted as a conditional use permit by the City Council, provided that:

1. The proposed building maintains the quality intended by this Ordinance.
2. The proposed building is compatible and in harmony with other structures within the district.
3. The provisions of Chapter 1005 of this Ordinance are considered and satisfied.

**1017-5: YARDS:** Except as provided below, no lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance, and if the existing yard or other open space is less than the minimum required, it shall not be further reduced. No required open space provided around any building or structure shall be included as part of any open space required for another structure.

A. **Exceptions:** The following shall not be considered as encroachments on yard setback requirements:

1. Cantilevers up to ten feet (10') in width, chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two feet (2') into a yard.
2. Terraces, steps, decks, uncovered porches, stoops or similar structures limited to not more than a height of three (3) feet above grade may extend to within five feet (5') of side yard and ten feet (10') of rear yard lot lines, but not more than five feet (5') into a required front yard or side yard adjacent to a public right of way.
3. Recreational and laundry drying equipment, arbors and trellises, gazebos, and air-conditioning or heating equipment shall be allowed only in a rear or side yard, provided they are at a distance of five feet (5') from any lot line. No encroachment shall be permitted in existing or required drainage and/or utility easements.
4. In residential districts, a one (1) story entrance for a detached single-family or two-family dwelling may extend into the front yard setback not more than five feet (5'), and shall not exceed fifty (50) square feet in size.
5. No encroachment shall be permitted in existing or required drainage and utility easements.

B. **Front Yard Setback Exceptions:** In the case of lots platted prior to the effective date of this Ordinance, the principal building setback requirements for front and side yards adjacent to a public right of way, as established by the respective zoning districts, may be reduced upon the approval of an administrative permit, to a distance equaling the average setback of principal buildings within the block frontage in which the lot is located. In no case shall this distance be less than fifteen feet (15'), nor shall a principal structure be placed more than seven feet (7') beyond the setback of any principal structure on a directly abutting lot.

- C. **Triangular Lots:** In the case of triangular lots, where the rear lot line is a single vertex, the rear yard setback points of reference shall be determined by measuring the length of the setback distance from the vertex along the side lot lines. The rear setback line shall be determined by traversing the lot and connecting these points of reference.

**1017-6: MINIMUM FLOOR AREA PER DWELLING UNIT:**

- A. **Single-Family Dwelling Units:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, single-family homes as classified below shall have the following minimum floor areas per unit:

1 and 2 bedroom	960 square feet above grade
3 bedrooms or more	1,040 square feet above grade

- B. **Multiple Dwelling Units:** Except as otherwise specified in zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as multiple dwelling (excepting elderly housing) shall have the following minimum floor areas per unit:

Efficiency units	500 square feet
1 bedroom units	700 square feet
2 bedroom units	800 square feet
More than 2 bedroom units	An additional 80 square feet for each additional bedroom

- C. **Elderly (Senior Citizen) Housing:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, living units classified as elderly (senior citizen) housing units shall have the following minimum floor areas per unit:

Efficiency units	440 square feet
1 bedroom	520 square feet
More than 1 bedroom units	An additional 80 square feet for each additional bedroom

- D. **Two-Family Dwelling Units, Manor Homes, Quadraminiums And Townhouses:** Except as otherwise specified in the zoning district provisions, or except as allowed by conditional use permit based upon justifiable cause, two-family, quadraminiums, manor homes, and townhouses, as classified below, shall have the minimum floor area per unit:

Two-Family	650 square feet first floor above grade, plus 100 additional square feet for each bedroom
Quadraminiums, manor homes and townhouses	600 square feet first floor above grade, plus 100 additional square feet for each bedroom

**1017-7: EFFICIENCY APARTMENTS:** Except for elderly (senior citizen) housing, the number of efficiency apartments in multiple-family dwellings shall not exceed one unit or ten percent (10%) of the total number of dwelling units in the building, whichever is greater. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty percent (30%) of the total number of apartments.

**1017-8: MINIMUM FLOOR AREA, COMMERCIAL AND INDUSTRIAL STRUCTURES:** Commercial and industrial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit.

**1017-9: SINGLE FAMILY DWELLINGS:** All single-family detached homes, except in the R-2, Single Family Manufactured Home Park District, shall conform to the following requirements:

- A. **Perimeter Foundation:** Be constructed upon a continuous perimeter foundation that meets the requirements of the State Building Code.
- B. **Dimensional Requirements:** Not be less than thirty feet (30') in length and not less than twenty-two feet (22') in width over that entire minimum length. Width measurements shall not take into account overhangs and other projections beyond the principal walls. Dwellings shall also meet the minimum floor area requirements as set out in this Chapter.
- C. **Roof:** Have an earth covered, composition, metal, shingled or tiled roof.
- D. **Building Permit:**
  - 1. The application for a building permit, in addition to other information required, shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used, and the delineation of future deck, porch and/or garage additions whether or not such construction is intended.



2. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.
  3. The requirements of the State Building Code or the applicable manufactured housing code shall be met.
- E. **Three Stall Garage:** For lots of record established after the effective date of this Ordinance, all site plans for single family homes shall provide for the location of a three (3) stall garage, whether or not construction is intended, in conformance with all provisions of this Ordinance.

**1017-10: BUILDING RELOCATION:**

- A. The relocation of any building or structure on a lot or onto another lot within the City shall require an administrative permit, subject to the following conditions:
1. Upon relocation, the building shall comply with the applicable requirements of this Ordinance, the City Code, and the Uniform Building Code.
  2. The relocated structure shall be ready for occupancy within six (6) months from the date of location on the site.
  3. A performance security shall be provided in an amount determined by the Building Official to ensure timely completion of the project and to protect against damage to public facilities during the building relocation.
- B. The following are exempt from the provisions of this Section:
1. Relocations which occur solely within the confines of a single lot or parcel.
  2. Manufactured homes within manufactured home parks.
  3. Prefabricated and industrialized/modular buildings as defined by the State Building Code being relocated to their first permanent building site.
  4. Temporary structures as allowed by Section 1017-11 of this Ordinance.

## **1017-11: TEMPORARY STRUCTURES:**

- A. **Purpose:** The purpose of this Section is to provide for the erection of temporary structures (not including model homes/temporary real estate offices or temporary classroom structures for use by a public or private institution) needed for emergency purposes or for temporary use during the construction of a permanent structure.
- B. **Procedure:** The erection of a temporary structure shall require an administrative permit, as may be issued by the Zoning Administrator, except as otherwise provided by this Ordinance in all zoning districts.
- C. **Special Requirements:**
1. **Site Plan Required:** No administrative permit shall be issued for a temporary structure unless a site plan pursuant to Chapter 1009 of this Ordinance has also been approved if applicable, or unless a building permit has been issued for a new structure, addition or remodeling of an existing structure on the property.
  2. **Termination of Permit:** The administrative permit shall terminate nine (9) months from its date of issuance, or within thirty (30) days after a certificate of occupancy has been issued by the Building Official for the permanent structure, whichever occurs first, unless a different time schedule is approved as part of the permit. If circumstances exist to warrant an extension, the permit may be extended for an additional ninety (90) days by the Zoning Administrator.
  3. **Setback:** Temporary structures may be placed in a required building setback area, provided that no such structure may be placed within thirty feet (30') of a public right-of-way or obstruct the traffic visibility triangle required by Section 1016-7 of this Ordinance.
  4. **State Building Code:** All applicable requirements of the State Building Code shall be met.
  5. **Water and Sewer:** Provisions for water and sewer servicing the temporary structures shall be subject to the review and approval of the Building Official.
  6. **Security Measures:** Security measures such as lighting shall be implemented subject to the review and approval of the Zoning Administrator.
  7. **Off-Street Parking.** Off-street parking shall be provided subject to the provisions of Chapter 1019 of this Ordinance.

8. **Signage:** Any signage shall conform to the provisions of Chapter 1024 of this Ordinance.

**1017-12: MODEL HOMES:**

- A. **Purpose:** The purpose of this Section is to provide for the erection of model homes, which may include temporary real estate offices, in new subdivisions without adversely affecting the character of surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration shall be given to the peculiar problems associated with them and special standards must be applied to ensure reasonable compatibility with their environment.
- B. **Qualification:** To qualify for a building permit for a model home, which may include a temporary real estate office, the following shall be required:
1. Upon receipt of final plat approval and recording, four (4) building permits for model homes per subdivision may be granted. No final certificate of occupancy shall be issued until the infrastructure improvements including the first lift of asphalt have been completed and approved by the City.
  2. Upon completion of infrastructure improvements including the first lift of asphalt within the respective final plat subdivision, additional building permits may be issued for model homes and/or temporary real estate offices, provided that the number of model homes and/or temporary real estate offices shall not exceed ten percent (10%) of the number of lots within the final plat.
- C. **Procedure:** The erection of a model home(s) within all residential districts, which may include a temporary real estate office(s), shall require an administrative permit, as may be issued by the Zoning Administrator.
- D. **Special Requirements:**
1. Model homes and model homes with temporary real estate offices shall be allowed in all residential zoning districts in which they are located and shall be utilized solely for selling purposes of lots and/or homes within the subdivision in which they are located.
  2. Temporary parking facilities equal to four (4) paved spaces per model home dwelling unit or a model home with a temporary real estate office shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator or City Engineer.

3. Access from a temporary parking facility shall be directed away from developed and occupied residential neighborhoods to the greatest extent possible.
  4. No model home or model home with a temporary real estate office shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 1016-8 of this Ordinance.
  5. All signage shall comply with the sign regulations as contained in Chapter 1024 of this Ordinance for the zoning district in which the model home and/or temporary real estate office is located.
  6. The administrative permit shall terminate three (3) years from its date of issuance or when eighty-five percent (85%) of the development is completed, whichever comes first, unless extended by the City Council.
  7. No residential certificate of occupancy shall be issued for a model home or model home with a temporary real estate office until such time as the structure has been fully converted to a residence in compliance with the Uniform Building Code. Additionally, such conversion shall include, but not be limited to, parking lot restoration and the removal of signage and lighting.
  8. The restoration of all temporary parking areas with appropriate landscaping shall be completed by the end of the following growing season.
- E. **Restricted Use:** Model homes and model homes with temporary real estate offices shall be used solely for the display and sale of home fixtures and products, and real estate for the subdivision in which they are located unless approved by the Zoning Administrator through an administrative permit.

<sup>1</sup> **1017-13: TEMPORARY/SEASONAL OUTDOOR SALES:**

- A. **Zoning District Allowance:** Temporary/seasonal outdoor sales shall be limited to urban reserve, business, industrial and institutional zoning districts.
- B. **Administrative Permit Required:** All temporary/seasonal outdoor sales shall be allowed only through the issuance of an administrative permit as stipulated in Chapter 1008 of this Ordinance.
- C. **Duration:** Administrative permits for temporary/seasonal outdoor sales shall be for a period not to exceed ninety (90) days. No more than two (2) permits shall be issued to the same applicant or property in any calendar year.

**D. Performance Standards:**

1. Off-street parking and loading shall be provided as required by Chapter 1019 of this Ordinance.
2. The use of a public address system shall not be allowed.
3. The site upon which the temporary/seasonal outdoor sale is to be conducted shall be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste which results in offensive odors or unsightly conditions.
4. Display of items shall be arranged in as compact a manner as reasonably practicable with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
5. No uses or displays shall be permitted in required parking areas, required green areas, parking setback areas, or any right-of-way or other public property.
6. Tents, stands, and other similar temporary structures may be utilized subject to the following requirements:
  - a. A site plan be submitted which clearly identifies the location of the temporary structure.
  - b. The Zoning Administrator determine that the size and location such structure shall not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
  - c. If the temporary structure is greater than one hundred twenty (120) square feet in size and/or includes electrical service, the City Administrator may defer matter to the City Building Official for review and approval.
7. Signage shall be limited to one (1) sign not to exceed thirty-two (32) square feet. The sign may be a banner, shall have a professional appearance, and shall be mounted or erected in an appropriate location. This limitation applies to all signs associated with the sale, including those affixed to vehicles. The sign may be illuminated but shall comply with all requirements of Chapter 1024 of this Ordinance.
8. All lighting shall comply with the lighting standards of Section 1016-8 of this Ordinance.

9. The sale and associated parking shall not obstruct parking spaces needed by any permanent business established on the site except when a sale is held when the business is closed.
10. No portion of the use or event shall take place within one hundred (100) feet of any residential buildings.

## CHAPTER 1018

### ACCESSORY BUILDINGS, STRUCTURES, AND USES

#### SECTION:

- 1018-1: Purpose
- 1018-2: Time of Construction
- 1018-3: Application
- 1018-4: Building Permits
- 1018-5: Exterior Building Standards
- 1018-6: Area Limitations
- 1018-7: Number of Structures
- 1018-8: Setbacks
- 1018-9: Height
- 1018-10: Conditional Use Permits
- 1018-11: Animal Enclosures
- 1018-12: Compost Structures and Firewood Piles

**1018-1: PURPOSE:** The purpose of this chapter is to provide performance standards for the erection, siting and use of accessory buildings, structures and uses that may be allowed within the various zoning districts to ensure compatibility with the principal use and with surrounding properties, as well as to protect the general health, safety and welfare of the community.

**1018-2: TIME OF CONSTRUCTION:** No detached accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory. Agricultural buildings on farm properties are exempt from the requirements of this Chapter.

**1018-3: APPLICATION:** Any structure which requires a building permit or which is thirty inches (30") or more in height shall be subject to setback, floor area and other requirements of this Ordinance.

**1018-4: BUILDING PERMITS:**

- A. Detached accessory buildings not exceeding one hundred twenty (120) square feet in floor area shall be allowed without issuance of a building permit, but shall comply with all other provisions of this Ordinance.
- B. Detached accessory buildings greater than one hundred twenty (120) square feet in floor area shall require a building permit. The Building Official shall review the

site plan and construction drawings to determine compliance with the Building Code and other applicable ordinances, laws, and regulations.

**1018-5: EXTERIOR BUILDING STANDARDS:** Architectural details for accessory buildings are to be the same or similar as for the principal building based upon (but not limited to) the following criteria:

- A. Scale and detailing.
- B. Roof pitch orientation and slope.
- C. Overhang depth and details.
- D. Window and exterior door proportion and types.
- E. Building material.
- F. Exterior color.

**1018-6: AREA LIMITATIONS:** Accessory structures shall comply with the following area limitations:

- A. The combination of attached garages and detached accessory structures shall not exceed one thousand (1,000) square feet, except by conditional use permit.
- B. In no case shall the combination of attached garages and detached accessory structures exceed one thousand five hundred (1,500) square feet.
- <sup>3</sup> C. The area of an accessory building shall be comprised of the floor area lying beneath a roof and within the building footprint. The building footprint shall be considered the area lying within a perimeter or pier foundation. Roof overhangs, eaves and cantilevers, as allowed by Section 1017-5 of this Ordinance which project beyond the building footprint, shall not be considered in the calculation of accessory building area.

<sup>3</sup> **1018-7: NUMBER OF STRUCTURES:**

- A. **R-B Districts:** In R-B Zoning Districts, there shall be no more than two (2) detached accessory buildings per lot.
- B. **Other Residential Districts:** Except in R-B Districts as specified in Section 1018-7.A above, there shall be no more than one (1) detached accessory building per lot, except by conditional use permit.



**1018-8: SETBACKS:**

- A. **Attached Buildings/Garages:** An attached garage shall be considered an integral part of the principal building and shall conform to district setback requirements.
- B. **Detached Buildings:** Detached accessory buildings shall comply with the following minimum setbacks:
1. Front Yard: Per applicable district requirements.
  - <sup>3</sup> 2. Side Yard:
    - a. Interior: Ten (10) feet for structures one hundred twenty (120) square feet or more, and five (5) feet for structures less than one hundred twenty (120) square feet.
    - b. Corner: Twenty-five (25) feet.
  3. Rear Yard:
    - a. Structures One Hundred Twenty (120) Square Feet or More: Ten (10) feet.
    - b. Structures Less Than One Hundred Twenty (120) Square Feet: Five (5) feet.
- C. No accessory building shall be located within a drainage or utility easement.

**1018-9: HEIGHT:** Except as expressly permitted by conditional use permit, accessory buildings shall comply with the following height limitations:

Zoning District	Maximum Height
R, Residential Districts	16 feet
B, Business Districts and INS, Institutional Districts	20 feet
I, Industrial Districts	26 feet
Other Districts	16 feet

**1018-10: CONDITIONAL USE PERMITS:** Application for a conditional use permit under this Section shall be regulated by Section 1005 of this Ordinance. Such a conditional use permit may be granted, provided that:

- A. There is a demonstrated need and potential for continued use of the structure for the purpose stated.
- B. No commercial or home occupation activities are conducted on the property.
- C. The building has an evident reuse or function related to a single family residential environment in urban service areas or hobby farm environment in non-urban service areas of the City.
- D. Accessory buildings shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare.
- E. The provisions of Section 1005-3 of this Ordinance shall be considered and a determination made that the proposed activity is in compliance with such criteria.

**1018-11: ANIMAL ENCLOSURES:**

- A. Domestic animal enclosures shall not be placed in the front yard or in the side yards abutting a street, shall not be placed closer than ten feet (10') to any property line, and shall not be placed closer than twenty five feet (25') to any dwelling unit other than on the owner's property.
- B. No encroachment shall be permitted in existing or required drainage and/or utility easements.
- C. Screening and/or a hard surface will be required if problems occur with appearance, noise, odor, and sanitation as determined by the Zoning Administrator.
- D. No such enclosure shall exceed one hundred twenty (120) square feet, unless approved by an administrative permit.

**1018-12: COMPOST STRUCTURES AND FIREWOOD PILES:** Compost structures and firewood piles shall be considered accessory uses, shall be limited to rear yards, and shall be subject to setback, square footage and other requirements of this Ordinance.

## CHAPTER 1019

### OFF-STREET PARKING AND LOADING REQUIREMENTS

#### SECTION:

- 1019-1: Purpose
- 1019-2: Application
- 1019-3: General Provisions
- 1019-4: Parking Stall, Aisle and Driveway Design
- 1019-5: Number of Parking Spaces Required
- 1019-6: Parking Deferment
- 1019-7: Joint Facilities
- 1019-8: Off-Site Parking
- 1019-9: Off-Street Loading

**1019-1: PURPOSE:** The regulation of off-street parking spaces and loading areas in this Ordinance is to alleviate or prevent congestion of the public rights-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking and loading areas for motor vehicles in accordance with the intensity of utilization of various parcels of land or structures.

**1019-2: APPLICATION:** The regulations and requirements set forth herein shall apply to all off-street parking and loading areas in all of the zoning districts of the City.

#### **1019-3: GENERAL PROVISIONS:**

- A. **Reduction of Existing Off-Street Parking Space or Lot Area:** Off-street parking spaces and loading areas existing upon the effective date of this Ordinance hereof shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use.
- B. **Change of Use or Occupancy of Land:** No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading areas shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, loading, or circulation below the minimum prescribed by this Ordinance.
- C. **Change of Use or Occupancy of Buildings:** Any change of use or occupancy of any building or buildings including additions thereto requiring more parking and loading area shall not be permitted until there is furnished such additional parking and loading areas as required by this Ordinance.

- D. **Disability Accessible Parking:** Disability accessible parking spaces shall be provided as applicable pursuant to Minnesota Statutes 168.021, as may be amended.
- E. **Restrictions on Parking:**
1. Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, and/or storage of snow. All site plans required by this Ordinance shall illustrate the size and location of snow storage space on the property in question.
  2. Except as may be otherwise allowed by this Ordinance, on- and off-street parking facilities accessory to a residential use shall be utilized solely for the parking of licensed and operable motor vehicles not to exceed twenty two feet (22') in length and eight feet (8') in height; and recreational vehicles and equipment. Exceptions, for cause and in compliance with the intent and purpose of this Ordinance, may be approved by the Zoning Administrator as an administrative permit.
  3. Semi-Tractor and Semi-Trailer Parking. Semi-tractor and semi-trailers shall not be permitted within residential zoned districts except for the specific purpose of loading or unloading cargo or freight.
  4. Except where specifically allowed, contracting, excavating equipment, or other commercial vehicles and equipment may not be parked or stored on any property in the City unless it is being used in conjunction with a temporary service benefiting the premises.
- F. **Repair Work:** No motor vehicle repair work of any kind shall be permitted in conjunction with exterior off-street parking facilities, except for temporary (not exceeding eight (8) hours) minor repairs of vehicles owned by the occupant or resident of the principal use for which the parking space is intended. No exterior storage of car parts is allowed at any time.
- G. **Maintenance:** It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, loading areas, accessways, striping, landscaping, and required fences/screening.
- H. **Location:** All accessory off-street parking and loading areas required by this Ordinance shall be located and restricted as follows:
1. **Lot and Ownership:** Required off-street parking and loading areas shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Section 1019-8 of this Ordinance.

2. Direct Access: Except for single family, two family, townhouse and quadraminium dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.
3. Boulevard: The boulevard portion of the street right-of-way shall not be used for parking, loading areas, or circulation.
4. Setback Area: Required accessory off-street parking shall not be provided in required front yards or in required side yards adjacent to a public right-of-way (in the case of a corner lot) in residential districts defined by Chapter 1050 of this Ordinance.
5. Prohibited in Yard: In the case of single family, two family, townhouse and quadraminium dwellings, parking shall be prohibited in any portion of the front, side, or rear yard, except on designated driveways leading directly into a garage or one (1) open, surfaced space located on the side of a driveway, away from the principal use. Said extra space shall be surfaced with paver bricks, concrete or bituminous material.

**1019-4: PARKING STALL, AISLE AND DRIVEWAY DESIGN:**

**A. Design Standards:**

1. Except for single-family and two-family residential uses or as otherwise provided for herein, all off-street parking facilities shall conform with the following design standards:

**PARKING LOT DIMENSIONS TABLE\***

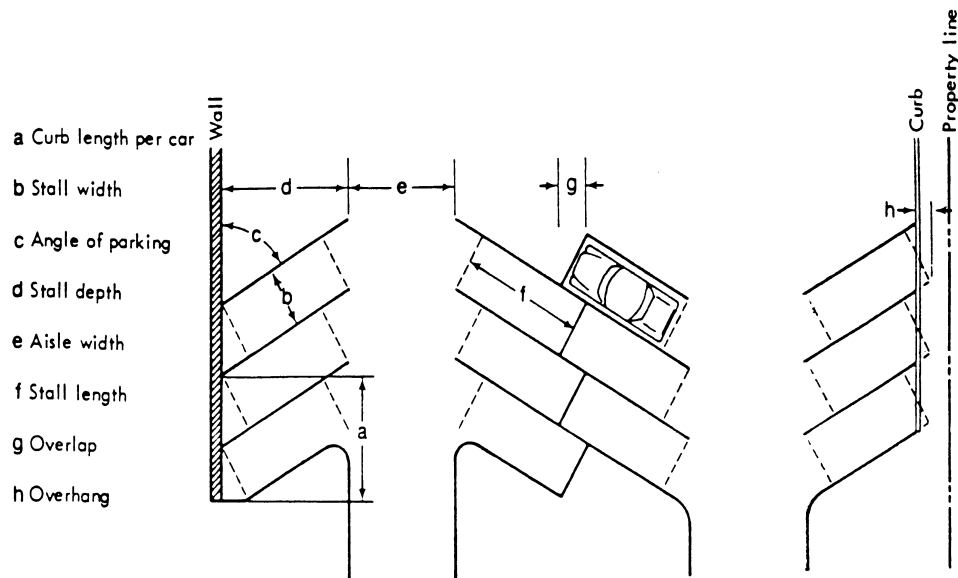
Curb					Curb				
Angle Of Parking	Stall Width	Length Per Car	Stall Depth	Aisle Width	Angle Of Parking	Stall Width	Length Per Car	Stall Depth	Aisle Width
<b>0 degrees</b>	9'0"	23' 0"	9' 0"	12'0"	<b>50 degrees</b>	9'0"	11' 9"	20' 5"	12'0"
	9'6"	23' 0"	9' 6"	12'0"		9'6"	12' 5"	20' 9"	12'0"
	10'0"	23' 0"	10' 0"	12'0"		10'0"	13' 2"	21' 0"	12'0"
<b>20 degrees</b>	9'0"	26' 4"	15' 0"	11'0"	<b>60 degrees</b>	9'0"	10' 5"	21' 0"	18'0"
	9'6"	27'10"	15' 6"	11'0"		9'6"	11' 0"	21' 3"	18'0"
	10'0"	29' 3"	15'11"	11'0"		10'0"	11' 6"	21' 6"	18'0"
<b>30 degrees</b>	9'0"	18' 0"	17' 4"	11'0"	<b>70 degrees</b>	9'0"	9' 8"	21' 0"	19'0"
	9'6"	19' 0"	17'10"	11'0"		9'6"	10' 2"	21' 3"	18'6"
	10'0"	20' 0"	18' 3"	11'0"		10'0"	10' 8"	21' 3"	18'0"
<b>40 degrees</b>	9'0"	14' 0"	19' 2"	12'0"	<b>80 degrees</b>	9'0"	9' 2"	20' 4"	24'0"
	9'6"	14'10"	19' 6"	12'0"		9'6"	9' 8"	20' 5"	24'0"
	10'0"	15' 8"	19'11"	12'0"		10'0"	10' 3"	20' 6"	24'0"
<b>45 degrees</b>	9'0"	12' 9"	19'10"	13'0"	<b>90 degrees</b>	9'0"	9' 0"	20' 0"	24'0"
	9'6"	13' 5"	20' 2"	13'0"		9'6"	9' 6"	20' 0"	24'0"
	10'0"	14' 2"	20' 6"	13'0"		10'0"	10' 0"	20' 0"	24'0"

\* This table pertains to a wall-to-wall situation.

2. Parking Area and Drive Aisle Setbacks:

Parking Area and Drive Setbacks		
Dimension	Land Use	Setback
Front yard and side yard abutting a street setback of parking and drive to lot line	R Districts	30.0 feet
	Business/Institutional Districts	10.0 feet
	Industrial Districts	10.0 feet
Interior side and rear yard setback of parking to lot line	R Districts	5.0 feet
	Business/Institutional Districts	10.0 feet
	Industrial Districts	10.0 feet

3. Joint or combined parking facilities on separate lots as authorized and when constructed adjacent to a common lot line separating two (2) or more parking areas are not required to observe the parking area setback from such common lot line.
4. For commercial and industrial uses, side and rear yard setbacks shall be twenty feet (20') when abutting a residential district.



5. Within Structures:
  - a. The off-street parking requirements may be furnished by providing a space so designed within the principal building or detached accessory structure.
  - b. Unless alternative provisions in compliance with this Chapter and Title are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity.
6. Circulation:
  - a. Except in the case of single-family, two-family, townhouse and quadraminium dwellings, access and parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley.

- b. Except in the case of single-family, two-family, townhouse and quadraminium dwellings, access and parking area design which requires backing into the public street is prohibited.
  - c. Subject to approval of an administrative permit by the Zoning Administrator, the required parking spaces serving one- and two-family dwellings constructed prior to the effective date of this Ordinance, may be designed for parking not more than two (2) vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this Ordinance. In no case shall such space project into a sidewalk, or public or private street or driveway.
- 7. Curb Cut Location/Driveway Access Spacing: Curb cut locations and driveway access spacing shall meet the following setbacks:
  - a. No curb cut/driveway access shall be located less than thirty (30) feet from the intersection of two (2) or more local street rights-of-way. This distance shall be measured from the intersection of lot lines. Curb cut/driveway access setbacks from the intersection of streets with higher functional classifications shall be consistent with the recommendations of the Comprehensive Plan and require approval by the City Engineer.
    - (1) Street functional classification shall be defined by the Montrose Comprehensive Plan.
    - (2) The setback measurement shall be measured from the edge of the street right-of-way to the nearest edge of the curb cut.
    - (3) Driveways onto arterials and major collectors shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and major collectors may be permitted, provided a site plan is submitted for review and approval of the City Engineer. Approval is also subject to the conditions of this Ordinance.
  - b. Except for single, two family, and townhouse dwellings, curb cut/driveway access on a public street shall not be located less than forty (40) feet from one another.
  - c. Unless otherwise approved by the City Engineer, curb cut openings and driveways shall be a minimum of five (5) feet from the side yard property line in all districts. Any shared driveway shall include a maintenance and access agreement.



8. Curb Cut Width: No driveway curb cut access within the public right-of-way shall exceed the following unless approved by the City Engineer:
  - a. Single family dwellings with two stall garages 24 feet
  - b. Single family dwellings with three stall garages 27 feet
  - c. All other uses 24 feet
9. Property Lines: Except as allowed by administrative permit, curb cut openings shall be a minimum of five feet (5') from the side yard property line in all districts.
10. Grade Elevation:
  - a. Parking Spaces And Areas: The grade elevation of any parking area shall not exceed five percent (5%), except as approved by the City Engineer.
  - b. Driveways: Unless approved by the City Engineer, the grade elevation of any driveway shall not exceed:
    - (1) Ten percent (10%) for single-family and two-family dwellings.
    - (2) Five percent (5%) for all other uses.
11. Number Allowed: Each property shall be allowed one (1) curb cut access for each one hundred twenty five feet (125') of street frontage, except by administrative permit. All property shall be entitled to at least one (1) curb cut. Single-family uses shall be limited to one (1) curb cut access per property unless an administrative permit is approved, subject to the following criteria:
  - a. The additional access is necessary to provide adequate on-site circulation.
  - b. The additional access shall create a minimum of conflict with through traffic movement and shall comply with the requirements of this Chapter.
12. Surfacing:
  - a. All areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Except in the case of farm dwellings and farm operations, driveways and parking stalls shall be surfaced with asphalt, concrete, cobblestone or paving brick.

- b. Except for single family, two family, townhouse and quadraminium dwellings or as required or exempted by the City Engineer, drive aisles and parking stalls shall be constructed in accordance with the following minimum tonnage standards:
    - (1) One and one-half inch (1.5") wear course.
    - (2) Two inch (2") base course.
    - (3) Twelve inch (12") aggregate base (Class 5).
    - (4) Subgrade subject to City Engineer's approval.
  - c. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the Engineer's written approval.
- 13. Striping: Except for single-family, two-family, townhouse, and quadraminiums, all parking areas of five (5) spaces or more shall be marked with white or yellow painted lines not less than four inches (4") wide.
- 14. Lighting: Any lighting used to illuminate an off-street parking area shall be in compliance with Section 1016-8 of this Ordinance.
- 15. Curbing: Except for single-family, two-family, townhouse and quadraminiums, all open off-street parking shall have a perimeter continuous concrete curb around the entire parking lot.
- 16. Pedestrian Provision: Off-street parking areas shall be designed such that vehicle and pedestrian circulation is accommodated in a safe, complementary, and orderly fashion. When curb separated sidewalks are provided at the head of parking stalls, the minimum width shall be five feet (5').
- 17. Parking Lot Landscaping:
  - a. Required Screening: All open, non-residential off-street parking areas of five (5) or more spaces shall be screened and buffered from abutting or surrounding residential districts in compliance with Chapter 1020 of this Ordinance.
  - b. No landscaping or screening shall interfere with drive or pedestrian visibility for vehicles entering, circulating, or exiting the premises.

18. Compact Car Spaces: Up to twenty percent (20%) of the parking spaces in a parking lot may be permanently marked for compact cars only, provided that:
  - a. The parking lot contains eighty (80) or more off-street parking spaces.
  - b. All compact car spaces are a minimum of nine feet (9') in width and sixteen feet (16') in length.
  - c. Signs and markings, as approved by the City, are placed and maintained in each compact car space.
  - d. All required off-street parking aisle widths are maintained.
  - e. The compact car stalls shall not displace preferred disability accessible parking stall locations.
  - f. The design, layout, and location of designated compact car spaces shall not be located in immediate proximity to building entrances, shall not encourage utilization by oversized vehicles, and shall be subject to approval by the Zoning Administrator.
19. Cart Storage: Retail commercial uses shall provide ample space for the storage of customer service carts within off-street parking areas, subject to the approval of the Zoning Administrator. The need and specific amount of required cart storage space shall be determined as part of site plan review. When required, cart storage areas shall not occupy required off-street parking space, shall be clearly delineated, and shall include facilities for cart confinement.
20. Drive-Through Windows: Service windows shall be allowed subject to the following requirements:
  - a. Stacking: Not less than one hundred eighty feet (180') of segregated automobile stacking lane shall be provided for the service window.
  - b. Traffic Control: The stacking lane and its access shall be designed to control traffic in a manner to protect the pedestrians, buildings, and green area on the site.
  - c. Use of Street: No part of the public street or boulevard may be used for stacking of automobiles.

**1019-5: NUMBER OF PARKING SPACES REQUIRED:**

**A. Calculating Space:**

1. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
2. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten percent (10%), except as may hereinafter be provided or modified.
3. In stadiums, sports arenas, religious institutions, and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each eighteen inches (18”) of such design capacity seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
4. Except as provided for under joint parking and for shopping centers, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.

- B.** The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth:

Use	Number of Required Stalls
<b><i>Residential:</i></b>	
Single family	2 spaces
Two family	2 spaces per unit
Multiple family, townhouses, Manor homes	2.5 spaces per unit – The City Council may require additional clustered guest parking for projects with more than 8 units.
Housing for the elderly (uses with occupancy limited to persons age 55 and over)	1 space per unit – ½ of required stalls may be provided at initial development for projects with occupancy restricted to persons age 55 and older. The City Council shall reserve the right to require additional stalls if determined necessary.
<b><i>Institutional:</i></b>	
Auditoriums, theaters, religious institutions, sports arenas	1 space per 3 seats of design capacity of the main assembly with a maximum capacity less than or equal to 1,000 persons or 1 space per 2.5 seats of design capacity of the main assembly with a maximum capacity greater than 1,000 persons, plus additional spaces required for adjoined facilities, not including private or private non-profit baseball fields (see below).

<b>Use</b>	<b>Number of Required Stalls</b>
Community center, physical culture Studio, libraries, museums	10 spaces plus 1 space per 300 square feet over 2,000 square feet of floor area for the principal structure
Nursing homes, rest homes, residential facility	2 spaces per unit for uses serving 6 or fewer persons in a residential district. Other. 4 spaces plus 1 space for each 3 beds and additional space as determined by the Zoning Administrator.
Private or private non-private baseball Fields	1 space per 8 seats of design capacity
School, elementary and junior high	1 space per 7 students based upon building design
School, high school and post high School facilities	1 space per 3 students based on building design capacity, plus 1 space per classroom.
<b><i>Commercial/Industrial</i></b>	
Animal hospital/kennel	5 spaces plus 1 space per 500 square feet over 1,000 square feet.
Auto sales	1 space per 500 square feet of showroom plus 1 space for each 3,000 square feet of outdoor sales lot, plus additional parking required for ancillary service or repair.
Auto repair, major bus terminal, boat/marine sales and repair, bottling company, trade shop with 6 or less employees, garden supply or building material sales	8 spaces plus 1 space per 800 square feet of manufacturing or display floor area over 1,000 square feet.
Auto wash, drive through	10 spaces
Auto wash, self-service	1 space per wash bay
Auto wash, motor fuel stations	None in addition to that required for the principal use
Banks (remote)	1 space per 350 square feet of floor area
Beauty or barber shop	2 spaces per chair
Bed and Breakfast Establishments	2 spaces per permanent dwelling plus one space per guest room
Bowling alleys	5 spaces per lane plus spaces as required for other uses within the principal structure.
Office and/or retail commercial uses not Including restaurants	3 spaces per 1,000 square feet of floor area
Day care facilities in a residential district serving less than 12 persons	2 spaces per use. All others – 1 space for each 4 persons of licensed capacity.
Fitness centers	1 space per exercise station (e.g. strength machine or cardiovascular) plus 1 space per employee on the largest shift plus additional parking required for ancillary uses.
Furniture sales	1 space per 400 square feet for first 25,000 square feet, plus 1 space per 600 square feet thereafter.
Golf course	4 spaces per hold, plus 50 percent of the requirements for any other associated use, except in planned residential, resort, or commercial developments, which have otherwise adequate provisions for parking.
Manufacturing	1 space per 350 square feet of floor area, plus 1 space per company vehicle not stored within the principal structure.

Use	Number of Required Stalls
Medical, chiropractics, dental office or clinics	3 spaces plus 1 space for each 200 square feet of floor area
Motels	1 space per rentable room plus 1 space per 2 employees
Hotels	1.25 spaces for each rentable room or suite plus 1 space for each 400 square feet of meeting area and/or restaurant space
Motor fuel stations and auto repair	4 spaces plus 2 spaces for each service stall plus other requirements for uses or sale of goods not directly auto related.
Office buildings and professional Offices, banks, public administration (other than medical)	3 spaces plus 1 space for each 200 square feet of floor area
Restaurant (drive in or convenience)	1 space per 15 square feet of gross floor area designated for patron queuing, but not less than 15 spaces plus 1 space per 40 square feet of dining area and 1 space for each 80 square feet of kitchen area.
Restaurant (sit down), clubs, lodges	1 space per 40 square feet of dining area and 1 space for each 80 square feet of kitchen area
Retail commercial uses (other)	1 space per 200 square feet
Retail sales and service with 50% or more gross floor area as storage/warehouse or industry	8 spaces or 1 space for each 200 square feet of public sales/service area, plus 1 space for each 500 square feet of storage area.
Shopping center	5.5 spaces per 1,000 square feet of gross leasable floor area. The total required spaces may be reduced by up to 15 percent based upon approval of an administrative permit by the Zoning Administrator.
Skating rink, banquet hall, private or public auction house	20 spaces plus 1 space per 200 square feet over 2,000 square feet.
Truck wash	3 spaces plus 1 space per service bay
Undertaking	20 spaces per chapel or parlor, plus 1 space for each company vehicle maintained on site. Adequate stacking space shall also be provided for staging funeral processions.
Warehousing	Office: 1 space per 200 square feet. Other: 1 space per 1,000 square feet plus 1 space per company vehicle not stored within the principal structure.
Uses not specified or not precisely Identified	Calculated by Zoning Administrator based upon, but not limited to, characteristics for similar uses and professional studies prepared by APA or ITE.

NOTE: APA = American Planning Association  
ITE = Institute of Transportation Engineers

- C. **Off-Street Bicycle Parking:** Provisions shall be made for the off street parking of bicycles in all multiple-family and nonresidential developments and uses. Plans for such facilities shall be reviewed and evaluated on an individual project or use basis as part of site plan review provisions of Chapter 1009 of this Ordinance.

**1019-6: PARKING DEFERMENT:** The City may allow a reduction in the number of required parking stalls for commercial, industrial, and institutional uses by administrative permit provided that:

- A. The proposed use will have a peak parking demand less than the required parking under Section 1019-5.B of this Chapter. Factors to be considered when reviewing the proposed parking demand shall include, but not be limited to:
  - 1. Size of building.
  - 2. Type and use.
  - 3. Number of employees.
  - 4. Projected volume and turnover of customer traffic.
  - 5. Projected frequency and volume of delivery or service vehicles.
  - 6. Number of company-owned vehicles.
  - 7. Storage of vehicles on-site.
- B. In no case shall the amount of parking provided be less than one-half ( $\frac{1}{2}$ ) of the amount of parking required by ordinance.
- C. The site has sufficient property under the same ownership to accommodate the expansion of the parking facilities to meet the minimum requirements of this Chapter if the parking demand exceeds on-site supply.
- D. On-site parking shall only occur in areas designed and constructed for parking in accordance with this Chapter.
- E. The applicant and City enter into a development agreement, to be recorded against the subject property, which includes a clause requiring the owner to install the additional parking stalls, upon a finding of the Zoning Administrator that such additional parking stalls are necessary to accommodate the use.
- F. A change of use will necessitate compliance with the applicable Zoning Ordinance standard for parking.

**1019-7: JOINT FACILITIES:** The City Council may, after receiving a report and recommendations from the planning commission, approve as applicable a conditional use permit for long term permanent joint parking facilities as regulated under the provisions of Chapter 1005 of this Ordinance, or an interim use permit for short term temporary joint parking facilities as regulated under the provisions of Chapter 1006 of

this Ordinance, for one (1) or more businesses to provide the required off street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the planning commission shall not recommend that such permit be granted nor the Council approve such a permit except when the following conditions are found to exist:

- A. Up to fifty percent (50%) of the parking facilities required for a conference center, theater, bowling alley, banquet hall, bar or restaurant may be supplied by the off street parking facilities provided by types of uses specified as primarily daytime uses in Section 1019-7.D of this Ordinance.
- B. Up to fifty percent (50%) of the off street parking facilities required for any use specified under Section 1019-7.D of this Ordinance as primary daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to a public or parochial school, religious buildings, bowling alleys, banquet halls, theaters, bars, apartments, restaurants, or health clubs.
- C. Up to eighty percent (80%) of the parking facilities required by this chapter for a religious building or for any auditorium incidental to a public or parochial school may be supplied by the off street parking facilities provided by uses specified under subsection D of this section as primarily daytime uses.
- D. For the purpose of this section the following uses are considered as primarily daytime uses: banks, business offices, manufacturing, wholesale and similar uses, as determined by the Zoning Administrator.
- E. Conditions required for joint use:
  - 1. The building or use for which application is being made to utilize the off street parking facilities provided by another building or use shall be located within five hundred feet (500') of such parking facilities.
  - 2. There shall be no substantial conflict in the principal operating hours of the two (2) buildings or uses (for which joint use of off street parking facilities is proposed).
  - 3. A properly drawn legal instrument, executed by the parties involved in joint use of off street parking facilities, duly approved as to form and manner of execution by the city attorney, shall be filed with the city clerk and recorded with the Wright County Recorder. The legal instrument shall legally bind all parties and provide for amendment or cancellation only upon written approval from the City.



**1019-8: OFF-SITE PARKING:**

- A. Any off site parking which is used to meet the requirements of this chapter may, as applicable, be allowed by a conditional use permit for long term off site parking facilities as regulated under the provisions of Chapter 1005 of this Ordinance, or an interim use permit for short term temporary off site parking facilities as regulated under the provisions of Chapter 1006 of this Ordinance, and shall be subject to the conditions listed below.
- B. Off site parking shall be developed and maintained in compliance with all requirements and standards of this chapter.
- C. Reasonable access from off site parking facilities to the use being served shall be provided.
- D. Except as provided by subsection H of this section, the site used for meeting the off street parking requirements of this chapter shall be under the same ownership as the principal use being served or under public ownership.
- E. Off-site parking for multiple-family dwellings shall not be located more than two hundred fifty feet (250') from any normally used entrance of the principal use served.
- F. Off-site parking for non-residential uses shall not be located more than five hundred feet (500') from the main public entrance of the principal use being served. Off site parking located more than five hundred feet (500') from the main entrance may be allowed with the provision of a private shuttle service.
- G. Any use which depends upon off site parking to meet the requirements of this Ordinance shall maintain ownership and parking utilization of the off site location until such time as on site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.
- H. Compliance with off street parking requirements provided through leased off street parking may be approved by the City Council, subject to the following additional conditions:
  - 1. The lease shall specify the total number and location of parking spaces under contract and this number, when added to any on site parking provided, shall be equal to or exceed the total number of parking spaces required.
  - 2. The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the City.

3. The lease agreement shall incorporate any other provisions, as recommended by the City Attorney that are deemed necessary to ensure compliance with the intent of this Ordinance.

**1019-9: OFF-STREET LOADING:**

A. **Loading Area Required:** Any structure erected or substantially altered for a use that requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading area as required for a new structure.

B. **Number of Loading Spaces Required:** The number of required off-street loading area spaces shall be as follows:

1. Residential Uses:

- a. Single family and two family dwellings, townhomes, quadraminiums: None.
- b. Other multiple family dwellings:
  - (1) Less than four (4) dwelling units: None.
  - (2) Four (4) to twenty-four (24) dwelling units: One (1).
  - (3) For each additional twenty-four (24) dwelling units over twenty-four (24): One (1).

2. Non-Residential Uses:

Gross Floor Area (Square Feet)	Spaces Required
Less than 25,000	1
25,001 to 50,000	2
50,001 to 75,000	3
75,001 to 100,000	4
For each additional 50,000 over 100,000	1

C. **Reduction in Spaces:** Reductions to the number of loading spaces required by this section may be granted by administrative permit upon determination of facility need.

**D. Location:**

1. Except for uses allowed within residential districts, loading areas established after the effective date of this Ordinance shall be prohibited within one hundred feet (100') of residentially zoned or guided property unless completely screened by an intervening building.
2. Loading areas not screened by an intervening building shall be screened from adjacent residentially zoned or guided property by the use of berms, fences, or walls to provide one hundred percent (100%) opacity to a height of at least ten feet (10').
3. Loading areas shall not occupy the required front yard in residential districts and the front yard or side yard of a corner lot in commercial and industrial districts, except by conditional use permit provided that:
  - a. Loading areas shall not conflict with pedestrian movement.
  - b. Loading areas shall not obstruct the view of the public right-of-way from off-street parking access.

**E. Surfacing:** All loading areas and accessways shall be improved to control the dust and drainage according to a plan submitted to and subject to the approval of the City Engineer.

**F. Accessory Use, Parking and Storage:** Any space allocated as a required loading area or access drive so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet the off-street parking area.

**G. Screening:** Except in the case of multiple family dwellings, all loading areas shall be screened and landscaped from abutting and surrounding residential uses and districts and public rights-of-way in compliance with Chapter 1020 of this Ordinance.

**H. Size:**

1. The first loading area shall be not less than seventy feet (70') in length and additional areas required shall be not less than thirty feet (30') in length and all loading areas shall be not less than ten feet (10') in width, exclusive of aisle and maneuvering space, and fourteen feet (14') in clearance height.

2. The size of the loading area may be reduced upon approval of an administrative permit. To qualify for such exception, the following provisions shall be met:
  - a. It is demonstrated that the site cannot physically accommodate a loading area to the size required.
  - b. It is demonstrated that semi-trailer truck deliveries will not occur at the site or all deliveries will occur at such a time as to not conflict with customer or employee access to the building and parking demand.
- I. **Circulation:** In addition to the required loading space, all loading spaces shall include a maneuvering area. The maneuvering area shall not use any of that portion of the site containing parking stalls or customer service areas. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into the loading space, without blocking the use of other loading spaces, drives, parking spaces, or maneuvering areas on public right-of-way.
- J. **Construction Standards:** The construction and setback standards listed in Section 1019-4 of this Ordinance shall apply to all loading spaces.

## CHAPTER 1020

### FENCING / SCREENING / LANDSCAPING

#### SECTION:

- 1020-1: Purpose
- 1020-2: Fences
- 1020-3: General Landscaping and Maintenance
- 1020-4: Required Landscaping
- 1020-5: Required Landscape Screening
- 1020-6: Tree Preservation
- 1020-7: Screening of Mechanical Equipment

**1020-1: PURPOSE:** The purpose of this Chapter is to establish standards for the installation of fencing, screening, and landscaping as may be required by other chapters of this Ordinance and to protect the general health, safety, and welfare of the City.

**1020-2: FENCES:** Fences shall be permitted in all yards subject to the following:

#### A. Permit Required:

1. No person except on a farm and related to agricultural uses, but not including hobby farms, shall construct any fence without first making an application for and securing an administrative permit for fences not exceeding six feet (6') in height, and a building permit for fences exceeding six feet (6') in height.
- <sup>7a</sup> 2. A fence permit is required to erect, move or replace an existing fence or repair (50) percent or more of an existing fence. A fence permit shall be obtained from City Hall and must be obtained prior to installation of or replacement of a fence. The information required includes the height, materials, location of the fence, and lot size. Tenants shall have property owner authorization to apply for a fence permit. Cost of the fence permit is as required by the City's fee schedule. The applicant shall be required to comply with subdivision or property owner's restrictive covenants, or deed restrictions, as appropriate. The fence location shall be cleared of underground utility lines.
- <sup>7a</sup> 3. Utility and Drainage Easement: Fences are permitted in utility and drainage easements located in the side yard and/or rear yard. Placement of a fence in the utility or drainage easement is however at the risk of the property owner as the utility companies/city officials have no responsibility

for repair of any fence damaged by the utility company's/city official construction or maintenance activities on the property.

**B. Locations; Boundary Line Fences:**

- <sup>7a</sup>
1. A fence that is placed less than two feet (2') from any side or rear lot line on the property must provide that an agreement addressing construction, maintenance, and repair responsibilities, as well as trespassing rights, is established between the adjoining property owners.
  2. A fence that is maintenance free, such as a chain link of steel, plastic or vinyl, and is acceptable as such to the Zoning Administrator, may be constructed up to the side or rear yard property line.
  3. The City may require the owner of the property upon which a fence now exists, or may require any applicant for a fence permit to establish the boundary lines of the property by a survey thereof to be made by any land surveyor.
  4. No fences shall be placed on or extend into public rights-of-way or onto public property.

**C. Construction and Maintenance:**

1. Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof.
2. That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property or street right-of-way.
3. Electric fences shall only be permitted in the UR District when related to agriculture, and on farms in other districts when related to agricultural purposes, but not as boundary fences.
4. Barbed wire fences shall only be permitted on farms related to agriculture except as provided for by Section 1020-2.H.3 of this Ordinance.

- D. **Solid Walls:** Solid walls up to eight feet (8') in height that are not part of buildings may be constructed and maintained only within the buildable area of a lot.
- E. **Traffic Sight Visibility Triangle:** On corner lots, no fence or screen shall be permitted within the traffic sight visibility triangle specified by Section 1016-7 of this Ordinance.
- F. **Residential Fencing and Screening:**
1. Except as provided herein, fences shall be at least five percent (5%) open for passage of air, light, and drainage.
  - <sup>4</sup> 2. Except as provided herein, fences which abut residential uses may not exceed six feet (6') in height.
  - <sup>4</sup> 3. Except as provided herein, fences which abut non-residential uses may not exceed eight feet (8') in height.
  4. Fences extending across front yards and side yards abutting a public right-of-way shall not exceed forty-eight inches (48") in height and shall be at least seventy five percent (75%) open space for passage of air and light and shall conform to the traffic visibility triangle requirements of Section 1016-7 of this Ordinance.
- G. **Swimming Pool Protection:**
1. All in-ground pools regardless of capacity and all aboveground swimming pools that exceed five thousand (5,000) gallons shall require a building permit before installation.
  2. Each application for a building permit (to construct a swimming pool) shall be accompanied by plans of sufficient detail to illustrate:
    - a. The proposed location of the pool and its relationship to the principal building on the lot.
    - b. The size of the pool.
    - c. Fencing and other fixtures existing and proposed on the lot, including utility location and trees.
    - d. The location, size, and types of equipment to be used in connection with the pool, including, but not limited to, filter unit, pump fencing, and the pool itself.

- e. The requirements contained in Sections 1020.G.2 and 1020.G.3 of this Ordinance will be satisfied including submission and approval of a site plan.
- 3. All swimming pools for which a permit is required shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof, of sufficient density as to be impenetrable. If fences are employed, they shall be at least four feet (4') in height. The bottoms of the fences shall not be more than four inches (4") from the ground nor shall any open space in the fence be more than four inches (4"). Fences shall be of a non-corrosive material and shall be constructed as to be not easily climbable. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. The fencing requirements of this Section need only be provided around the means of access on aboveground pools which have four feet (4') high, vertical or outward inclined side walls. Prior to filling the pool, the approved fence and/or screen shall be completely in place and inspected and approved by the City Building Official.
- 4. In all residential districts, swimming pools shall be set back ten feet (10') from all adjoining lots and, except for fences and pump enclosures, shall be located at least ten feet (10') away from any other building or structure on the same lot and shall not be located within a drainage or utility easement. Swimming pools shall not be permitted in a front yard or in the area between the street right-of-way and the minimum required building side yard setback line.

**H. Business and Industrial Fencing:**

- 1. No fence shall be allowed in the front yard of a business use except by conditional use permit.
- 2. Except in a required front yard, business and industrial fences may be erected up to eight feet (8') in height. Fences in excess of eight feet (8'), not located in a required front yard, shall require a conditional use permit.
- 3. Business and industrial fences with barbed wire security arms shall be erected a minimum of six feet (6') in height (measured without the security arm). The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public. Security fencing shall be prohibited within a required front yard or when located along a property line abutting a residential use.



- I. **Special Purpose Fences:** Fences for special purposes and fences differing in construction, height or setback that are not constructed within a required front yard may be permitted in any district as a conditional use permit subject to Chapter 1005 of this Ordinance.

**1020-3: GENERAL LANDSCAPING AND MAINTENANCE:**

- A. All exposed ground areas, including street boulevards, and areas not devoted to off-street parking, drives, sidewalks, patios or other such improvements shall be landscaped with grass, shrubs, trees or other ornamental landscape materials within one year following the certificate of occupancy is issued.
- B. All landscaped areas shall be maintained by the property owner and kept neat, clear and uncluttered, and where landscaping is required as part of City approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size.
- C. Fences and/or plantings placed upon utility easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. In such case, costs for removal and replacement shall be the responsibility of the property owner. Trees on utility easements containing overhead wires shall not exceed fifteen feet (15') in height, and such trees shall be the property owner's responsibility to maintain.

**1020-4: REQUIRED LANDSCAPING:** All new residential subdivisions with three (3) or more lots, residential structures with four (4) or more dwelling units, commercial uses, industrial uses, and institutional uses shall be subject to minimum landscaping and planting material specification requirements outlined in this Section.

- A. **Landscape Plan Required.** A landscape plan shall be developed with an emphasis upon the boundary of the subject site, parking lots, and foundation of the principal structure, in accordance with the information requirements outlined in Section 1009-6.D of this Ordinance.
- B. **Design Standards and Criteria.** All landscaping incorporated in the landscape plan shall conform to the following standards and criteria:
1. **Types Of New Trees:** Trees suitable for complying with this Chapter shall include those specified below:

<u>Botanical Name</u>	<u>Common Name</u>
Quercus (varieties)	Oak
Acer platanoides (and	Norway Maple (and Schwedler,

Varieties)	Emerald Queen, etc.)
Acer saccharum	Sugar Maple
Celtis occidentalis	Hackberry
Betula (varieties)	Birch
Gleditsia triacanthos	Honeylocust (Imperial, Majestic, Skyline, Sunburst & Thornless)
Tilia cordata (and Varieties)	Little Leaf Linden and Redmond, Greenspire, etc.
Tilia Americana	Basswood (American Linden)
Fraxinus Pennsylvania Lanceolata	Green Ash (and Summit, Marshall's)
Ginkgo biloba (male Tree only)	Ginkgo
Guymnocladus dioicus	Kentucky Coffee Tree

- b. Minimum Size: All plants shall at least equal the following minimum sizes: (NOTE: Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.)

	<u>Potted/Bare Root or Balled or Burlapped</u>
Shade trees	2 <sup>1</sup> / <sub>2</sub> inch diameter
Ornamental trees (flowering crabs, Russian olive, hawthorn, etc.)	2 inch diameter
Evergreen trees	6 feet
Tall shrubs and hedge material (evergreen or deciduous)	3 to 4 feet
Low Shrubs	
- Deciduous	24 to 30 inches
- Evergreen	24 to 30 inches
	24 to 30 inch
- Spreading evergreens	18 to 24 inches

c. Spacing:

- (1) Plant material centers shall not be located closer than three feet (3') from the fence line or property line and shall not be planted to conflict with public plantings, sidewalks, trails, fences, parking areas, and driveways based on the judgment of the Zoning Administrator.
- (2) Where plant materials are planted in two (2) or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.
- (3) Deciduous trees intended for screening shall be planted not more than forty feet (40') apart. Evergreen trees intended for screening shall be planted not more than fifteen feet (15') apart.
- (4) Where massing of plants or screening is intended, large deciduous shrubs shall be planted four feet (4') on center or closer, and/or, evergreen shrubs shall be planted three feet (3') on center or closer.

d. Design (except for pond slopes which shall be subject to the review and approval of the City Engineer):

- (1) The landscape plan shall show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc.) which are largely intended for aesthetic purposes.
- (2) All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage shall be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the Zoning Administrator.
- (3) Each single family lot is to be provided a minimum of two (2) shade trees.
- (4) Turf slopes in excess of three to one (3:1) are prohibited.
- (5) All ground areas under the building roof overhang shall be treated with a decorative mulch and/or foundation planting.

- (6) All buildings shall have an exterior water spigot or irrigation system to ensure that landscape maintenance can be accomplished.
- (7) Trees and shrubs shall not be planted in the right-of-way except as approved by the City Council.
- (8) All plants required as part of an approved landscaping plan shall be maintained and kept alive. Dead plants shall be replaced in accordance with the approved landscape plan.

C. **Landscape Guarantee:** All new plants shall be guaranteed for twelve (12) months from the time planting has been completed. All plants shall be alive, of good quality, and disease free at the end of the warranty period or be replaced. Any replacements shall be warranted for twelve (12) months from the time of planting.

#### **1020-5: REQUIRED LANDSCAPE SCREENING:**

- A. All commercial, industrial, or institutional uses shall provide screening along the boundary of any abutting residential district or when the side or rear of the use (as determined by the Zoning Administrator) is separated from any residential district by a public right-of-way. All screening required by this Section shall be subject to Section 1016-7 of this Ordinance (traffic visibility) and is to consist of a green belt strip as provided below:
- 1. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be a minimum of twenty feet (20') in width and of a sufficient density to provide a visual screen and reasonable buffer. This planting strip shall be designed to provide visual screening to a minimum height of six feet (6'). The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The planting plan and type of plantings shall require the approval of the Zoning Administrator.
  - 2. A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be constructed of masonry, brick, or wood, except as otherwise provided herein. Such fence shall provide a solid screening effect and shall be a minimum of six feet (6') in height but shall not exceed eight feet (8') in height. The grade for determining height shall be the grade elevation of the building or use for which the screening is providing protection, unless otherwise established by the Zoning Administrator. The design and materials used in constructing a required screening fence shall be subject to the approval of the Zoning Administrator.

**B. Residential Buffer Yards:**

1. Lot Depth Requirements: Except for lots of record and preliminary platted lots having legal standing on the effective date of this Ordinance, double frontage residential lots shall have an additional depth of at least twenty feet (20'), designated as an additional drainage and utility easement, in order to allow space for buffering/screen planting along the back lot line.
2. Lot Width Requirements: Except for lots of record and preliminary platted lots having legal standing established on the effective date of this Ordinance, lots which border major collector or arterial streets on a side yard shall have an additional width of at least ten feet (10'), designated as an additional drainage and utility easement in order to allow space for buffering and screening plantings along the lot line bordering such streets.
3. Screening Plan Required: For applicable subdivisions, a comprehensive screening plan shall be submitted. The plan shall identify all proposed buffer screening in both plan and sectional view.
4. Timing/Responsibility of Installation: Weather permitting, all buffer, bermings, and/or plantings shall be constructed or planted prior to the issuance of a final certificate of occupancy.
5. Design Standards:
  - a. Plantings: All designated buffer yards shall be seeded or sodded except in areas of steep slopes where natural vegetation is acceptable as approved by the Zoning Administrator. All plantings within designated buffer yards shall adhere to the following:
    - (1) Plant material centers shall not be located closer than three feet (3') from the fence line or property line, and shall not conflict with public plantings, sidewalks, trails, etc.
    - (2) Landscape screen plant material shall be planted in two (2) or more rows. Plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.
    - (3) Deciduous shrubs shall not be planted more than four feet (4') on center, and/or evergreen shrubs shall not be planted more than three feet (3') on center.
    - (4) Deciduous trees intended for screening shall be planted not more than forty feet (40') apart. Evergreen trees intended for

screening shall be planted not more than fifteen feet (15') apart.

b. Walls And Fences: All walls and fences erected within designated buffer yards shall adhere to the following:

- (1) Only walls and fences formally approved as part of the subdivision and site plan process shall be permitted within the buffer yard.
- (2) At least fifty percent (50%) of the street side of a screening fence shall be landscaped with plant materials. Plant materials shall be at least equal to the fence height.
- (3) Exposed fences shall run a maximum length of fifty feet (50') between landscaping areas or clusters.
- (4) Fences and landscaping shall not be located within the traffic visibility triangle defined by Section 1016-7 of this Ordinance.

c. Earth Berms:

- (1) Except in areas of steep slopes or where other topographic features will not permit, as determined by the City Engineer, an earth berm at least four feet (4') in height shall be installed in all designated buffer yards.
- (2) Shall not exceed a three to one (3:1) slope unless approved by the City Engineer.
- (3) Shall contain no less than four inches (4") of topsoil.

6. Maintenance:

- a. Maintenance of the buffer strip planting and/or fence shall be the responsibility of the individual property owners or, if applicable, the homeowners' association.
- b. All repairs to the fence or wall shall be consistent with the original fence design in regard to location and appearance.
- c. Replacement of landscape materials or plantings in a buffer yard area shall be consistent with the original screen design.

- d. All repair or plant replacement shall be done within forty five (45) days of written notification from the Zoning Administrator or if applicable, the homeowners' association.

**1020- 6: TREE PRESERVATION:** Prior to the issuance of building permits for all new and/or expanded multiple-family residential, commercial, industrial, and institutional uses, a tree preservation plan shall be submitted. The plan and its implementation shall be in accordance with the requirements as outlined in the Subdivision Ordinance and shall be subject to the review and approval of the City Engineer and Zoning Administrator. The City may exempt an applicant from the submission of a tree preservation plan upon demonstration by the applicant that such a plan is not considered relevant to the site in question.

**1020-7: SCREENING OF MECHANICAL EQUIPMENT:** All rooftop and ground-mounted mechanical equipment for residential buildings having five (5) units or more and for non-residential buildings shall comply with the following standards:

- A. All rooftop and ground-mounted mechanical equipment shall be screened so as to mitigate noise in compliance with Section 1016-12 of this Ordinance.
- B. All rooftop and ground-mounted mechanical equipment shall be designed (including exterior color) and located so as to be aesthetically harmonious and compatible with the building. Screening of and landscaping around the equipment may be required where the design, color, and location of the equipment are found to not effectively buffer noise or provide aesthetic harmony and compatibility. Screening shall be constructed of durable materials which are aesthetically compatible with the structure and which may be an integral part of the structure.
- C. Rooftop mechanical equipment less than three feet (3') in height may be exempt from screening requirements by the Zoning Administrator.

## CHAPTER 1021

### HOME OCCUPATIONS

#### SECTION:

- 1021-1: Purpose
- 1021-2: Application
- 1021-3: Procedures and Permits
- 1021-4: General Provisions
- 1021-5: Non-Conforming Use
- 1021-6: Inspection

**1021-1: PURPOSE:** The purpose of this Chapter is to maintain the character and integrity of residential areas, to prevent competition with business districts, to encourage telecommuting, and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood.

**1021-2: APPLICATION:** Subject to the non-conforming use provision of this Ordinance, all occupations conducted in the home shall comply with the provisions of this Chapter. This Chapter shall not be construed, however, to apply to home occupations accessory to farming, nor home offices as defined by this Ordinance.

#### **1021-3: PROCEDURES AND PERMITS:**

- A. **Home Occupation.** Any home occupation, as defined in this Ordinance, shall require an administrative permit. Such permits shall be issued subject to the conditions of this Chapter, Chapter 1008 of this Ordinance and applicable City ordinances and State law.
- B. **Special Home Occupation.** Any home occupation which does not meet the specific requirements for a home occupation, as defined in Sections 1021-4.A and 1021-4.B of this Ordinance shall require an interim use permit which shall be applied for, reviewed and terminated in accordance with the provisions of Chapter 1006 of this Ordinance and the following:
  - 1. **Declaration of Conditions.** The Planning Commission and City Council may impose such conditions on the granting of an interim use permit as may be necessary to carry out the purpose and provisions of this Section.



2. **Effect of Permit.** An interim use permit may be issued for a period of one (1) year, after which the permit may be reissued for periods of up to three (3) years each. Each application for permit renewal shall, however, be processed in accordance with the provisions of Chapter 1006-2 of this Ordinance regarding interim use permits, except that no public hearing is required on the permit renewal, unless deemed necessary by the Planning Commission or City Council. However, notice of the permit renewal application shall be provided to all property owners of land within five hundred feet (500') of the boundary of the property in question. The notice shall provide the date of consideration before the Planning Commission and indicate that parties may be heard to consider the application. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
3. **Renewal of Permits.** An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered new without taking into consideration that a previous permit has been granted. The previous granting or renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.

C. **Transferability.** Administrative or interim use permits shall not run with the land and shall not be transferable.

**1021-4: GENERAL PROVISIONS:** All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions:

A. **All Uses.**

1. No home occupation shall produce light, glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
2. No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
3. All home occupations shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall not result in incompatibility or disturbance to the surrounding residential uses.

4. No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and State fire and police recommendations.
5. There shall be no exterior storage of equipment or materials used in the home occupation, except personal automobiles used in the home occupation may be parked on the site.
6. The home occupation shall meet all applicable fire and building codes.
7. There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of one (1) directional or identification/business sign not to exceed two (2) square feet in area.
8. No home occupation shall be conducted between the hours of ten o'clock (10:00) PM and seven o'clock (7:00) AM, unless said occupation will not require any on-street or off-street parking facilities.

**B. Home Occupations.**

1. No person other than those who customarily reside on the premises shall be employed.
2. Home occupations include and are limited to: art studio, tailoring, secretarial services, consulting services, professional offices, and teaching with musical, dancing and other instructions which consist of no more than one (1) pupil at a time and similar uses.
3. The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than found in a dwelling; teaching or services which consists of more than one (1) pupil, client, or customer at a time; over-the-counter sale of merchandise produced off the premises.
4. Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway or guest parking area for multiple family dwellings, where no vehicle is parked closer than fifteen feet (15') from the curb line or edge of paved surface.

**C. Special Home Occupations.**

1. No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for non-resident assistance and that this exception would not compromise the intent of this Chapter.

2. Examples of special home occupations include: barber and beauty services, massage therapy, photography studio, group lessons, small appliances repair, the marketing of non-over-the-counter brand name products, and the like.
3. The special home occupation may involve any of the following: stock-in-trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching with musical, dancing and other instruction of more than one (1) pupil at a time.
4. Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on-street parking facilities are necessary, however, the City Council shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

**1021-5: NON-CONFORMING USE:** Existing home occupations lawfully existing on the effective date of this Ordinance, may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the provisions under which it was initially established, shall be brought into conformity with the provisions of this Chapter.

**1021-6: INSPECTION:** The City hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Chapter or any conditions additionally imposed.

## CHAPTER 1022

### ANIMALS

#### SECTION:

- 1022-1: Purpose
- 1022-2: Special Requirements
- 1022-3: Domestic Animals
- 1022-4: Commercial, Public and Quasi-Public Animal Shelters or Kennels
- 1022-5: Farm Animals
- 1022-6: Wright County Fair/Education Programs
- 1022-7: Animals Other Than Farm or Domestic

**1022-1: PURPOSE:** The purpose of this Chapter is to provide standards for the keeping of animals in association with various allowed uses in a manner compatible with surrounding uses and consistent with the health, safety, and general welfare of the community.

#### **1022-2: SPECIAL REQUIREMENTS:**

- A. The size, number, species, facilities for and location of animals kept shall be maintained so as not to cause a nuisance or endanger the health, safety, or general welfare of the community and shall be in compliance with this Section and all other applicable provisions of this Ordinance.
- B. Animals may only be kept for commercial purposes if such activities are authorized in the zoning district where the animals are to be located.
- C. Facilities for housing animal(s) shall be:
  - a. Constructed of such material as is appropriate for the animal(s) involved.
  - b. Maintained in good repair.
  - c. Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).
  - d. Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition of debility, stress or abnormal behavior patterns.

- e. Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.

**1022-3: DOMESTIC ANIMALS:**

- A. The keeping of domestic animals is an allowed accessory use in all zoning districts, as defined in Chapter 1050 of this Ordinance and subject to applicable provisions of the City Code.
- B. The keeping of more than two (2) dogs and/or cats over six (6) months of age within a residential dwelling unit shall be prohibited.

**1022-4: COMMERCIAL, PUBLIC AND QUASI-PUBLIC ANIMAL SHELTERS OR KENNELS:**

- A. No person shall maintain or operate any commercial, public or quasi-public kennel or shelter keeping two (2) or more dogs and/or cats over six (6) months of age on their premises in the City without obtaining a license pursuant to this Section and the City Code.
- B. A minimum lot size of one (1) acre is required to be licensed for operation of a commercial, public or quasi-public kennel or shelter.
- C. Every commercial, public or quasi-public kennel or shelter shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein.
- D. Provisions are made to control animal noise.
- E. Commercial, public or quasi-public dog kennels or cat shelters shall be open for inspection by the City authorities at any time.

**1022-5: FARM ANIMALS:**

- A. The keeping and maintaining of farm animals, including livestock and horses, shall be an allowed use on sites qualifying as farms in all zoning districts, but not including animal feedlots as defined by the Minnesota Pollution Control Agency (MPCA).
- B. The keeping of horses is allowed in the UR District provided:
  - 1. The minimum lot size is two and one-half (2<sup>1</sup>/<sub>2</sub>) acres.

2. The number of horses does not exceed one per acre unless a higher number is granted by the issuance of a conditional use permit.
3. No manure or waste shall be deposited, stored, kept, or allowed to remain in or upon any site without reasonable safeguards adequate to prevent the escape or movement of such manure, waste, or a solution thereof from the site which may result in pollution of any public waters or any health hazard.
4. All regulations imposed by the Minnesota Pollution Control Agency relating to the keeping of farm animals shall be adhered to.
5. Animal feedlots, as defined by the MPCA, are prohibited.

**1022-6: WRIGHT COUNTY FAIR/EDUCATION PROGRAMS:** Keeping animals, including domestic, farm, and wild animals, as part of the Wright County Fair or an accredited education program shall be an allowed use within all zoning districts. The program must notify the Zoning Administrator in writing of the number and identity of animals being kept and all applicable details for keeping said animals.

**1022-7: ANIMALS OTHER THAN FARM OR DOMESTIC:** Except as provided for by Section 1022-6 of this Ordinance, the keeping of wild animals, or animals not defined as farm animals or house pets, shall be prohibited.

## CHAPTER 1023

### ANTENNAS

#### SECTION:

- 1023-1: Purpose
- 1023-2: General Standards
- 1023-3: Tower Design
- 1023-4: Co-Location Requirement
- 1023-5: Setbacks
- 1023-6: Accessory and Secondary Use Antennas
- 1023-7: Amateur Radio Service
- 1023-8: Satellite Dishes
- 1023-9: Personal Wireless Service Antennas
- 1023-10: Temporary Mobile Towers
- 1023-11: Commercial and Public Radio and Television Transmitting Antennas, Public Safety Communication Antennas, and Public Utility Microwave Antennas
- 1023-12: Telecommunications Rights-of-Way Users

**1023-1: PURPOSE:** The purpose of this Chapter is to establish predictable and balanced regulations for the siting and screening of wireless communications equipment, including technology associated with amateur radio service, satellite dishes, personal wireless service, radio or television transmitting antennas, public safety communication, and public utility microwave equipment, in order to accommodate the growth of wireless communication systems within the City while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. The provisions of this Chapter are intended to maximize the use of existing towers, structures, buildings, and collocations to accommodate new wireless telecommunication antennas in order to minimize the number of towers needed to serve the community.

**1023-2: GENERAL STANDARDS:** The following standards shall apply to all cellular telephone, public utility, microwave, radio and television broadcast transmitting, radio and television receiving, satellite dish and short-wave radio transmitting and receiving antennas:

- A. All obsolete and unused antennas shall be removed by the property owner within twelve (12) months of cessation of operation at the site, unless an exemption is granted by issuance of an administrative permit.
- B. All antennas shall be in compliance with all City building and electrical code requirements and as applicable shall require related permits.

- C. Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications, and as may be necessary as determined by the Zoning Administrator and Building Official, shall be verified and approved by a structural engineer.
- D. When applicable, written authorization for antenna erection shall be provided by the property owner.
- E. No advertising message shall be affixed to the antenna structure or tower.
- F. The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by an engineer or other qualified professional.
- G. Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- H. When applicable, proposals to erect new antennas shall be accompanied by any required Federal, State, or local agency licenses or permits.
- I. If a new tower is to be constructed, it shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional use, including, but not limited to, other cellular communication companies, local police, fire and ambulance companies. Towers shall be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- J. Towers under two hundred feet (200') in height shall be painted a non-contrasting color consistent with the surrounding area such as: blue, gray, brown, or silver, or have a galvanized or oxidized finish to reduce visual impact.
- K. Documentation or studies utilized to determine the necessary location and height of the antenna shall be provided.
- L. In addition to the information required elsewhere in this Ordinance, development applications for towers, excluding amateur radio towers, shall include the following supplemental information:
  - 1. A letter of intent committing the tower owner and their successors to allow the shared use of the tower if an additional use agrees in writing to meet reasonable terms and conditions for shared use.
  - 2. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities when they are abandoned, unused or become hazardous shall be submitted to the City.



**1023-3: TOWER DESIGN:** General wireless communication towers shall be of a monopole design unless the City Council determines that an alternative design requested by the applicant would better blend into the surrounding environment. This provision does not apply to amateur radio towers or commercial and public radio or television towers.

**1023-4: CO-LOCATION REQUIREMENT:** Except for amateur radio towers, a proposal for a new tower shall not be approved unless the City finds that the antennas cannot be accommodated on an existing or approved tower, building, or structure within one (1) mile search radius ( $\frac{1}{2}$  mile search radius for towers under 100 feet in height) of the proposed tower due to one (1) or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved tower, building, or structure as documented by a structural engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified engineer and interference cannot be prevented at a reasonable cost.
- C. Existing or approved towers, buildings, or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified engineer.
- D. Other unforeseen reasons that make it unfeasible to locate the antennas upon an existing or approved tower or structure.
- E. Existing or approved towers, buildings, or other structures do not exist in the service area, or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
- F. The applicant shall demonstrate in writing that a good faith effort to collocate on existing towers or structures was made, but an agreement could not be reached.

**1023-5: SETBACKS:** All towers shall comply with each of the following minimum setback requirements:

- A. Towers shall meet the principal structure setbacks of the base zoning district with the exception of industrial zoning districts, where the tower may encroach into the rear setback area, provided that the rear property line abuts another industrial use and zoning district and the tower does not encroach upon any easements.

- B. Setback requirements for all personal wireless service or commercial and public radio and television transmitting antennas, public safety communication antennas, and public utility towers, may be reduced or its location in relation to a public street modified at the discretion of the City Council, to allow the integration of the structure into an existing or proposed structure, such as a light standard, power line support device, or similar structure.

**1023-6: ACCESSORY AND SECONDARY USE ANTENNAS:** The following standards shall apply to all accessory and secondary use antennas including radio and television receiving antennas, satellite dishes, TVROs two meters (2 m) or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment including radio receivers, ham radio transmitters and television receivers.

- A. Single satellite TVROs accessory to a residential use shall not exceed one meter (1 m) in diameter except as provided for by Section 1023-8 of this Chapter.
- B. Accessory and secondary use antennas used for federally licensed amateur radio stations or for the amateur radio service shall be regulated by Section 1023-7 of this Chapter.
- C. Accessory or secondary use antennas shall not be erected in any required yard (except a rear yard) or within public or private utility and drainage easements, or buffer yard, and shall be set back a minimum of ten feet (10') from all lot lines.
- D. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements, and shall be set back a minimum of five feet (5') from all lot lines.
- E. Accessory or secondary use antennas and necessary support structures or towers, whether freestanding or mounted on another structure, may extend a maximum of fifteen feet (15') above the normal height restriction for the affected zoning district.
- F. The installation of more than one (1) support structure per property shall require the approval of an interim use permit.

**1023-7: AMATEUR RADIO SERVICE:** The following standards shall apply to all accessory use antennas and towers used in the amateur radio service:

- A. **Exempt Provisions:** Antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service shall be exempt

from the requirement of subsections 1023-2.F, 1023-2.I and 1023-2.K of this Chapter. All other provisions of Section 1023-2 of this Chapter shall apply.

- B. **Installation Requirements:** Antennas and towers used in the amateur radio service shall be installed in accordance with the instructions furnished by the manufacture of the antenna or tower. Because of the experimental nature of the amateur radio service, antennas mounted on such towers may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
- C. **Location:**
1. Amateur radio service antennas and towers shall not be erected in any required yard (except a rear yard) or within a public or private utility and drainage easement, and shall be set back a minimum of ten feet (10') from all lot lines.
  2. Guy wires or guy wire anchors shall not be erected within public or private utility and drainage easements or required buffer yard, and shall be set back a minimum of five feet (5') from all lot lines.
- D. **Tower Design:**
1. Height:
    - a. Except as provided for in Section 1023-7.D.1.b of this Ordinance, antennas and towers used in the amateur radio service may extend a maximum of two (2) times the maximum height restriction for the specific zoning district when in use. When not in use, such equipment shall be restricted to a height not greater than the height of the principal structure or thirty five feet (35'), whichever is higher.
    - b. Vertical pole antennas not exceeding three inches (3") in diameter that are utilized in the amateur radio service may extend to a maximum height of forty five feet (45').
  2. Fail Points: Amateur radio towers shall have fail points so as to assure that the structure will collapse on the subject site and not extend to and jeopardize life or adjacent property.
- E. **Multiple Towers:** The installation of more than one tower or support structure per property shall require approval of an interim use permit, subject to the provisions of Chapter 1006 of this Ordinance.

## **1023-8: SATELLITE DISHES:**

- A. **Urban Reserve and Residential District Standards:** Single satellite dish TVROs greater than one meter (1 m) in diameter may be allowed as an interim use within the urban reserve and residential zoning districts of the City and shall comply with the following standards:
1. All accessory and secondary use provisions of Section 1023-6 of this Chapter are satisfactorily met.
  2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership.
  3. Except where the satellite dish is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the receive window.
  4. The interim use permit performance standards of Chapter 1006 of this Ordinance are considered and determined to be satisfied.
- B. **Business and Institutional District Standards:** Satellite dish antennas within business and institutional districts of the City shall be limited to those listed as permitted accessory and secondary uses in the applicable zoning district subject to the provisions of Sections 1023-11 of this Ordinance.
- C. **Industrial District Standards:** Commercial, private and public satellite dish transmitting or receiving antennas in excess of two feet (2') may be allowed as a conditional use within industrial districts of the City and shall comply with the following standards:
1. All accessory and secondary use provisions of Sections 1023-6 of this Chapter are satisfactorily met.
  2. The lot on which the satellite dish antenna is located shall be of sufficient size to assure that an obstruction-free transmit-receive window or windows can be maintained within the limits of the property ownership.
  3. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the satellite dish antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window.
  4. The conditional use permit performance standards of Chapter 1005 of this Ordinance are considered and determined to be satisfied.

**1023-9: PERSONAL WIRELESS SERVICE ANTENNAS:**

**A. Urban Reserve and Residential District Standards:**

1. Antennas Located Upon a Public or Quasi-Public Structure or Existing Tower: Personal wireless service antennas located upon public structures or existing towers shall require the processing of an administrative permit and shall comply with the following standards:
  - a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a qualified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate wireless coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
  - b. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
  - c. An administrative permit is issued in compliance with the provisions of Chapter 1008 of this Ordinance and the following standards:
    - (1) Antennas mounted on public structures shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.
    - (2) Roof-mounted antennas shall not extend more than ten feet (10') above the roof, and shall be set back at least the height of the antenna structure from the roof edge.
    - (3) Wall or facade-mounted antennas may not exceed more than five feet (5') above the cornice line and shall be constructed of a material or color which matches the exterior of the building.
    - (4) Antennas may be mounted to quasi-public structures that are allowed to exceed the maximum height requirements of the base district pursuant to Section 1017-3 of this Ordinance. The location of antennas on such structures may not exceed

the height of the structure and shall be architecturally compatible in form and color.

2. Antennas Not Located Upon a Public Structure or Existing Tower: Personal wireless service antenna not located upon a public or quasi-public structure or existing tower shall require the processing of a conditional use permit and shall comply with the following standards:
  - a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a qualified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the wireless system and to provide adequate portable coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
  - b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a single ground-mounted pole provided that:
    - (1) The pole does not exceed seventy five feet (75') in height, except as may be allowed by approval of an interim use permit.
    - (2) The setback of the pole from the nearest residential property line is not less than the height of the antenna. Exceptions to such setback may be granted if a qualified engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.
  - c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
  - d. At the discretion of the City, a security fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure.
  - e. The interim use permit provisions of Chapter 1006 of this Ordinance are considered and determined to be satisfied.

**B. Business and Institutional District Standards:**

1. Antennas Located Upon An Existing Structure Or Tower: Personal wireless service antennas located upon an existing structure or collocated on an existing structure shall require the processing of an administrative permit.
  - a. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
  - b. An administrative permit is issued in compliance with the provisions of Chapter 1008 of this Ordinance and the following standards:
    - (1) Antennas mounted on public structures shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.
    - (2) Roof-mounted antennas shall not extend more than ten feet (10') above the roof, and shall be setback at least the height of the antenna structure from the roof edge.
    - (3) Wall or facade-mounted antennas may not exceed more than five feet (5') above the cornice line and shall be constructed of a material or color which matches the exterior of the building.
    - (4) Antennas may be mounted to quasi-public structures that are allowed to exceed the maximum height requirements of the base district pursuant to Section 1017-3 of this Ordinance. The location of antennas on such structures may not exceed the height of the structure and shall be architecturally compatible in form and color.
2. Antennas Not Located Upon an Existing Structure or Existing Tower: Personal wireless antennas not located upon an existing structure shall require the processing of a conditional use permit and shall comply with the following standards:
  - a. The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a qualified engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and

capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.

- b. If no existing structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be mounted on a monopole tower provided that:
  - (1) The pole does not exceed seventy five feet (75') in height, except as may be allowed by approval of an interim use permit.
  - (2) The setback of the pole from the nearest residential property line is not less than the height of the antenna. Exceptions to such setback may be granted if a qualified engineer specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances.
- c. Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping where appropriate.
- d. At the discretion of the Zoning Administrator, a security fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure.
- e. The conditional use permit provisions of Chapter 1005 of this Ordinance are considered and determined to be satisfied.

**C. Industrial District Standards:**

- 1. Antennas Located Upon an Existing Structure or Existing Tower: Personal wireless service antennas located upon an existing structure or collocated on an existing tower shall require the processing of an administrative permit and shall comply with the following standards:
  - a. An administrative permit is issued in compliance with the provisions of Chapter 1008 of this Ordinance and the following standards:
    - (1) Antennas mounted on public structures shall not extend more than fifteen feet (15') above the structural height of the structure to which they are attached.



- (2) Roof-mounted antennas shall not extend more than ten feet (10') above the roof, and shall be set back at least the height of the antenna structure from the roof edge.
  - (3) Wall or facade-mounted antennas may not exceed more than five feet (5') above the cornice line and shall be constructed of a material or color which matches the exterior of the building.
  - (4) Antennas may be mounted to quasi-public structures that are allowed to exceed the maximum height requirements of the base district pursuant to Section 1017-3 of this Ordinance. The location of antennas on such structures may not exceed the height of the structure and shall be architecturally compatible in form and color.
- 2. Antennas Not Located Upon an Existing Structure or Existing Tower: Personal wireless service antennas not located upon a public structure or tower shall require the processing of an administrative permit and shall comply with the following standards:
  - a. If there is no existing structure which meets the height requirements for mounting the antennas, the antennas may be mounted upon a monopole tower not exceeding one hundred fifty feet (150') in height. The tower shall be located on a parcel having a setback equal to the height of the tower measured between the base of the pole or tower located nearest the property line and said property line, unless a qualified engineer specifies in writing that the collapse of the pole or tower will occur within a lesser distance under all foreseeable circumstances.
  - b. An administrative permit is issued in compliance with the provisions of Chapter 1008 of this Ordinance.

**1023-10: TEMPORARY MOBILE TOWERS:** Personal wireless service antennas in all commercial, industrial and public/institutional districts, located upon a temporary mobile tower used on an interim basis, shall require the processing of an administrative permit and shall comply with the following standards:

- A. Temporary mobile towers are exempt from permanent tower structure design and collocation standards contained in Sections 1023-3 and 1023-4 of this Chapter.
- B. The termination date of the permit shall not exceed one hundred twenty (120) days. Temporary mobile towers located on a site longer than one hundred twenty

(120) days shall require the processing of an interim use permit as provided in Chapter 1006 of this Ordinance.

- C. Guyed towers are prohibited.
- D. Mobile units shall have a minimum tower design wind load of eighty (80) miles per hour, or be setback from all structures a distance equal to the height of the tower.
- E. All towers shall be protected against unauthorized climbing.
- F. The height of the tower shall not exceed ninety feet (90'), except as may be allowed by approval of an interim use permit.
- G. Temporary towers shall be prohibited in residential zoning districts.

**1023-11: COMMERCIAL AND PUBLIC RADIO AND TELEVISION TRANSMITTING ANTENNAS, PUBLIC SAFETY COMMUNICATION ANTENNAS, AND PUBLIC UTILITY MICROWAVE ANTENNAS:** Commercial and public radio and television transmitting and public utility microwave antennas shall comply with the following standards:

- A. Such antennas shall be considered an allowed interim use within the industrial districts and shall be subject to the regulations and requirements of Chapter 1006 of this Ordinance.
- B. The antennas, transmitting towers, or array of towers shall be located on a continuous parcel having a setback equal to the height of the antenna, transmitting tower, or array of towers measured between the base of the antenna or tower located nearest a property line and said property line, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances.
- C. Unless the antenna is mounted on an existing structure, at the discretion of the City, a fence not greater than eight feet (8') in height with a maximum opacity of fifty percent (50%) shall be provided around the support structure and other equipment.
- D. Towers in excess of one hundred fifty feet (150') may be of a lattice design.

**1023-12: TELECOMMUNICATIONS RIGHTS-OF-WAY USERS:**

- A. **Purpose:** The purpose of this Section is to establish predictable and balanced regulations for the siting and placement of telecommunication facilities, including

wireless equipment within public rights of way under the jurisdiction of the City. The City holds the rights of way within its geographical boundaries as an asset in trust for its citizens. The City strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances. The uncontrolled and unregulated placement of telecommunication equipment in the right-of-way may cause obstruction to pedestrian and vehicular traffic; thereby endangering the public health and safety. This Section establishes the minimum requirements for locating telecommunication facilities within the City's public rights of way in a manner that does not jeopardize the public health, safety and general welfare.

**B. Administrative Permit Required:** The placement of any telecommunication equipment in the public right-of-way shall require an administrative permit subject to the provisions of Chapter 1008 of this Ordinance and shall be processed according to the following:

1. Prior to the installation of any telecommunication equipment, the owner of such service shall file with the City, maps, site plans and other pertinent information as deemed necessary by the Zoning Administrator for review of the proposed project.
2. All wireless communication poles, antennas, radio receivers, and transmitters shall comply with the following standards:
  - a. Antennas and radio transmitter and receiver devices shall be permitted on all electrical transmission towers, and on utility and light poles that do not exceed sixty feet (60') in height.
  - b. The replacement or extension of a utility or light pole shall be permitted provided the pole or extension does not exceed sixty feet (60') in height.
  - c. Antennas and radio transmitter and receiver devices shall not extend horizontally more than twenty four inches (24") from the pole.
  - d. An application to locate wireless antennas and equipment in the right-of-way shall not be approved unless the applicant demonstrates that the antennas cannot be accommodated on an existing tower, building, or structure located outside of a public right-of-way within a one-half ( $\frac{1}{2}$ ) mile search radius, subject to the criteria and standards provided in Section 1023-2 of this Chapter.
  - e. Wireless antennas and equipment located in the right-of-way abutting residentially zoned property shall be prohibited, unless the applicant demonstrates by providing a coverage or capacity analysis prepared by a professional engineer that location of the

antennas as proposed is necessary to meet the frequency reuse and spacing needs of the wireless system and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in the right-of-way abutting a less restrictive zoning district.

- f. Radio transmitters and receivers attached to an existing utility pole or light standard shall be exempt from Sections 1023-12.B.2.c and 1023-12.B.2.d of this Ordinance provided the following conditions are met:
    - (1) Transmitter and receiver devices do not exceed two (2) cubic feet.
    - (2) Transmitter and receiver devices do not extend more than eighteen inches (18") from the pole or any existing attachments to the pole.
    - (3) Any antennas do not extend more than twenty four inches (24") from the equipment.
    - (4) There is no ground-mounted equipment or structures.
  - g. All ground-mounted accessory equipment shall be set back at least fifty feet (50') from the nearest principal residential structure.
  - h. All ground-mounted equipment shall not exceed five feet (5') in height and twenty (20) square feet in size, and shall be located as far as possible, but at least five feet (5') from the road surface.
  - i. In addition to receiving the necessary permits and approvals, the City may require the applicant to enter into an encroachment agreement.
- 3. Upon determining compliance with the provisions of this Code and Comprehensive Plan, the Zoning Administrator shall issue an administrative permit for the installation and operation of any structure or equipment.
  - 4. The Zoning Administrator may deny a permit or attach conditions to the permit approval to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Zoning Administrator may consider one (1) or more of the following factors:

- a. The extent to which right-of-way space where the permit is sought is available.
  - b. The competing demands for the particular space in the right-of-way.
  - c. The availability of other locations in the right-of-way or in other rights of way for the equipment of the permit application.
  - d. The preservation of the right-of-way for uses that, due to their physical nature, do not have the option of locating on private property.
  - e. The applicability of ordinances or other regulations of the right-of-way that affect location of equipment in the right-of-way.
- 5. The decision to either grant or deny a permit may be appealed in accordance with the rules set forth in Chapter 1003 of this Ordinance.
  - 6. The permittee shall notify the Zoning Administrator upon completion of the work specified in the permit.
- C. **Conditional Use Permit Required:** The following require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance.
- 1. Poles and towers used exclusively for the placement of wireless antennas, provided the pole or tower complies with the standards and criteria set forth in this Chapter.
  - 2. Ground-mounted equipment that exceeds the size limit specified in Section 1023-12.B.2.h of this Ordinance.

## CHAPTER 1024

### SIGNS

#### SECTION:

- 1024-1: Purpose
- 1024-2: Existing Signs and Non-Conforming Signs
- 1024-3: General Provisions
- 1024-4: Permitted and Prohibited Signs
- 1024-5: General District Regulations
- 1024-6: Special District Regulations
- 1024-7: Inspection
- 1024-8: Permit, Application, License, Variance, and City Council Approval
- 1024-9: Enforcement
- 1024-10: Violation a Misdemeanor

**1024-1: PURPOSE:** The purpose of this Ordinance is to establish minimum requirements, adopted to protect the public health, safety, morals, comfort and general welfare of the people of the City of Montrose, by providing regulations governing all signs, including but not limited to, the type, area, height, materials, construction, illumination, location and maintenance of all signs and sign structures in the City.

#### **1024-2: EXISTING SIGNS AND NON-CONFORMING SIGNS:**

- A. **Existing Signs.** Except for signs determined to create a public safety hazard due to content or due to disrepair and condition, or illegally established signs, all legally established signs existing upon the effective date of this Ordinance shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date.
- B. **Alterations.**
  - 1. A non-conforming sign may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
    - a. The non-conforming sign is discontinued for a period exceeding one (1) year; or
    - b. The non-conforming sign is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no permit has been applied for within one hundred eighty (180) days of when the non-conforming sign is damaged.

2. Any such permit is subject to reasonable conditions imposed by the City Council to mitigate the impact on adjacent properties.
- C. **Non-Conforming Sign Maintenance and Repair.** Nothing in this Ordinance shall be construed as relieving the owner or user of a legal non-conforming sign or owner of the property on which the legal non-conforming sign is located from the provisions of this Ordinance regarding safety, maintenance, and repair of signs; provided, however, that any repainting, cleaning, and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way which makes it more non-conforming or the sign shall lose its legal non-conforming status.
- D. **Non-Conforming Uses.** When the principal use of land is legally non-conforming, all existing or proposed signs in conjunction with that land, shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the principal use is allowed.

**1024-3: GENERAL PROVISIONS:**

- A. The design and construction standards for signs, as set forth in the Uniform Building Code, as may be amended, are hereby adopted.
- B. The installation of electrical signs shall be subject to the State's Electrical Code. Electrical service to such sign shall be underground.
- C. Signs containing non-commercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.
- D. Signs shall not create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop", "caution", "warning", unless the sign is intended to direct traffic on the premises.
- E. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated or defaced shall be repainted, repaired, or replaced by the licensee, owner or agent of the building upon which the sign stands.
- F. No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the Building Official.

- G. No signs, guys, stays, or attachments shall be erected, placed or maintained on rocks, fences or trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.
- H. The use of search lights, banners, pennants and similar devices shall require a license. The license shall be valid for no more than fifteen (15) consecutive days. No more than two (2) licenses per business shall be granted during any twelve (12) month period.
- I. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the drive. Nor shall such signs interfere with or obscure an official traffic sign or signal. This includes indoor signs which are visible from public streets.
- J. Except for legal, non-conforming portable signs existing prior to the effective date of this Ordinance, portable signs may not exceed thirty-two (32) square feet and may not be illuminated with any flashing device. Use of a portable sign shall require a license. The license shall be valid for no more than fifteen (15) consecutive days. No more than two (2) licenses per business shall be granted during any twelve (12) month period.
- <sup>5</sup> K. No sign or sign structure shall be closer than ten (10) feet to any property or right-of-way line. No sign shall be placed within any drainage or utility easement.
- L. Signs requiring licenses shall display in a conspicuous manner the license sticker or sticker number.
- M. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.
- N. A freestanding sign or sign structure constructed so that the faces are not back to back, shall not have an angle separating the faces exceeding twenty (20) degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.
- O. Signs prohibited in residential districts shall be positioned so that the copy is not visible from residential uses or districts along adjoining side and rear yard property lines.
- P. Except for farm buildings, at least one (1) address sign identifying the correct property number, as assigned by the City, shall be required on each principal building in all districts. The address number shall be at least three (3) inches in height.



#### **1024-4: PERMITTED AND PROHIBITED SIGNS:**

**A. Permitted Signs.** The following signs are allowed without a permit:

1. **Public Signs.** Signs of a public, non-commercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.
2. **Identification Signs.** Identification signs not exceeding three (3) square feet.
3. **Informational Signs.** Informational signs not exceeding sixteen (16) square feet.
4. **Directional Signs.**
  - a. **On-Premise Signs.** On-premise signs shall not be larger than four (4) square feet. The number of signs shall not exceed four (4) unless approved by the Council.
  - b. **Off-Premise Signs.** Off-premise signs shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The size of the sign shall be approved by the Council and shall contain no advertising.
5. **Integral Signs.**
6. **Campaign Signs.** Campaign signs in agricultural, commercial, industrial, and institutional zones not exceeding eight (8) square feet, and in all residential zones not exceeding four (4) square feet. The sign shall contain the name and address of the person responsible for such sign, and that person shall be responsible for its removal. Such signs shall remain for no longer than seventy-five (75) days in any calendar year. The City shall have the right to remove and destroy signs not conforming to this Ordinance.
7. **Holiday Signs.** Signs or displays which contain or depict a message pertaining to a religious, national, state or local holiday and no other matter and which are displayed for a period not to exceed seventy-five (75) days in any calendar year.
8. **Construction Signs.** A non-illuminated construction sign confined to the site of the construction, alteration or repair. Such sign shall be removed

within two (2) years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner. One (1) sign shall be permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in the R-1 and R-2 Districts, or sixty-four (64) square feet in the UR, R-3, R-4, R-B, business, industrial and institutional districts.

9. "For Sale" and "To Rent" Signs. "For sale" and "to rent" signs shall be permitted subject to the following regulations:
  - a. Six (6) or Less Residential Dwelling Units. The following applies to the sale or rent of a single family residence or where six (6) or less dwelling units (or lots for residential development) are for sale or rent:
    - 1) No more than one (1) such sign per lot, except on a corner lot, two (2) signs shall exceed sixteen (16) square feet in area, or be illuminated.
    - 2) Each such sign shall be devoted solely to the sale or rental of the property being offered and shall be removed immediately upon the sale or rental of the property.
    - 3) Each sign shall be placed only upon the property offered for sale or rent.
  - b. Seven (7) or More Residential Dwelling Units. Where more than six (6) dwelling lots (or lots for residential development purposes) are offered for sale or rent by the same party, signs advertising such sale or rental may be constructed therefore in any district. There shall be permitted one (1) sign facing each public street provided access to the property being offered. Each such sign shall not exceed thirty-two (32) square feet in area; shall be located at least one hundred (100) feet from any pre-existing home; and shall be removed within one (1) year from the date of building permit issuance, or when less than six (6) units remain for sale or rent, whichever is less. Said sign shall fully comply with the setback requirement for the zoning district in which the property is located.
  - c. Commercial, Industrial or Institutional Property. In the event of the sale or rental of commercial, industrial, or institutional property, there shall be permitted one (1) sign facing each public street, providing access to the property being offered. Each sign shall not exceed sixty-four (64) square feet in area and shall be devoted solely to the sale or rental of the property being offered and must be removed immediately upon the sale or rental of the last property

offered at that location. Said sign may be located closer to the property line than fifty (50) percent of the setback required within the particular zoning district in which the property is located.

- <sup>9</sup> 10. Rummage (Garage) Sale Signs. Rummage sale signs shall not be posted until a week before the sale and must be removed promptly at the end of the sale and shall not exceed six (6) square feet. Rummage sale signs shall not be located in any public right-of-way, or on utility poles or equipment. The City shall have the right to remove and destroy signs not conforming to this Ordinance.
11. Window Signs. Window signs shall not exceed fifty (50) percent of the total area of the window in which they are displayed.

**B. Prohibited Signs.** The following signs are prohibited:

1. Advertising signs with the following exceptions:
  - a. Signs advertising non-profit organizations are permitted subject to the restrictions imposed within the zoning district in which the sign is located.
  - b. A real estate development sign advertising lots or property for sale may be located off-premises by permit. The permit shall be renewable annually and conditioned upon documentation allowing such sign or structure by the property owner upon which it is to be located. The sign shall conform to the size restriction of signs imposed within the respective district in which the sign is located or a maximum of sixty-four (64) square feet each side, whichever is greater.
2. Advertising or business signs on or attached to equipment such as semi-truck trailers where signing is a principal use of the equipment on either a temporary or permanent basis.
3. Motion signs and flashing signs, except time and temperature signs and barber poles.
4. Projecting signs except as provided for in Section 1024-6 of this Ordinance.
5. Roof signs, except that a business sign may be placed on the fascia or marquee of a building, and provided:
  - a. The sign does not extend above the highest elevation of the building, excluding chimneys.

- b. The sign is thoroughly secured and anchored to the frames of the building over when they are constructed and erected.
  - c. No portion of the sign extends beyond the periphery of the roof.
- 6. Business signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises is seeking a new tenant, such signs may remain in place for not more than thirty (30) days from the date of vacancy.

**1024-5: GENERAL DISTRICT REGULATIONS:**

**A. UR, R-1, and R-2 Districts.**

- 1. Residential Area Identification. Only one (1) sign for each area. Sign area may not exceed thirty-two (32) square feet with a maximum height of eight (8) feet for freestanding signs.

**B. R-3, R-4, and R-B Districts.**

- 1. Residential Area Identification. Only one (1) sign for each area. Sign area may not exceed sixty-four (64) square feet with a maximum height of ten (10) feet for freestanding signs.
- 2. Single or Double Occupancy Multiple Family or Business Sign. The total sign area may not exceed ten (10) percent of the total front building facade, except that both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
  - a. Freestanding. Not more than one (1) freestanding sign. Sign area may not exceed sixty-four (64) square feet with a maximum height of ten (10) feet.
  - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area may not exceed sixty-four (64) square feet.

**C. B-1 and B-2 Districts.**

1. Area Identification. Only one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of twenty-five (25) feet for freestanding signs.
2. Single or Double Occupancy Business Sign. The total sign area may not exceed two hundred fifty (250) square feet or fifteen (15) percent of the total front building facade, whichever is less. In calculating building facade, both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
  - a. Freestanding. Not more than one (1) sign. Sign area may not exceed a maximum height of twenty-five (25) feet.
  - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area for the second wall sign shall not be calculated in the maximum for the property, but shall be limited so as not to exceed one hundred (100) square feet.

**D. I-1 and I-2 Districts.**

1. Area Identification. Only one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of ten (10) feet for freestanding signs.
2. Single or Double Occupancy Business Sign. The total sign area may not exceed fifteen (15) percent of the front building facade, except that both front and side facades may be counted on a corner lot. Signs chosen to comprise the total sign area shall be consistent with the following provisions:
  - a. Freestanding. Not more than one (1) sign. Sign area may not exceed one hundred (100) square feet with a maximum height of ten (10) feet.
  - b. Wall, Canopy or Marquee. Not more than one (1) wall, canopy or marquee sign per building. However, on corner lots, two (2) such signs are allowed, one (1) per street frontage. Individual sign area may not exceed one hundred (100) square feet.

**E. Institutional Districts.** Except as provided for in Section 1-24-6 of this Ordinance, only one (1) sign per principal use. Sign area may not exceed sixty-

four (64) square feet with a maximum height of ten (10) feet for freestanding signs.

- F. **PUD, Planned Unit Development District.** In a PUD District, signing restrictions shall be based upon the individual uses and structures contained in the complex. Signs shall be in compliance with the restrictions applied in the most restrictive zoning district in which the use is allowed.

#### **1024-6: SPECIAL DISTRICT REGULATIONS:**

- A. **Motor Fuel Stations.** Signs for motor fuel stations shall be regulated by the single occupancy business structure sign provisions for the zoning district in which the station is located. In addition, motor fuel stations may also display signs which identify current fuel prices and car wash facilities. Such signs shall be limited to a maximum size of sixteen (16) square feet and a maximum height of ten (10) feet each.
- B. **Wall, Canopy or Marquee Signs in Business, Industrial, and Institutional Zoning Districts.** Where freestanding signs are not used and where principal structures have a front yard setback in excess of that which is required under the applicable zoning district regulations, the maximum property signage percentage limitation or maximum square feet restriction may be increased one (1) percent for every five (5) feet of additional setback beyond the zoning district front yard setback requirement. This increase shall be limited to a twenty-five (25) percent maximum and shall be applied only to signs located in the year for which the calculation was made.
- C. **Multiple Occupancy Business and Industrial Buildings.** When a single principal building is devoted to four (4) or more businesses, or industrial uses, a comprehensive sign plan for the entire structure shall be submitted and shall be of sufficient scope and detail to permit a determination as to whether or not the plan is consistent with the following regulations. The plan shall be subject to the approval of the Council. No permit shall be issued for an individual use except upon a determination that it is consistent with the approved comprehensive sign plan.
1. The maximum individual sign sizes for multiple occupancy structures and individual uses which may display signs shall not exceed the maximum provisions for single or double occupancy structures in the same zoning district. The bonus provided in Section 1024-6.B of this Ordinance shall not apply in calculating maximum sign size.
  2. Multiple occupancy structures may display an area identification sign consistent with the applicable district provisions of Section 1024-5 of this

Ordinance. Individual freestanding signs identifying the tenants' business shall not be displayed.

3. Except as provided in Section 1024-6.C.4 of this Ordinance, individual tenants of multiple occupancy structures shall not display separate business signs unless the tenants' business has an exclusive exterior entrance. The number of signs shall be limited to one (1) per entrance, and each sign shall be limited to the maximum wall size sign permitted in the district. The signs shall be located only on exterior walls which are directly related to the use being identified.
4. In any multiple occupancy structure qualifying as a shopping center, directory signs shall be permitted for each common public entrance. Each directory sign area shall not exceed a total of fifty (50) square feet and shall be located within fifty (50) feet of the common public entrance being served. The size of individual business identification signing within the directory shall be established during the site plan review process. Attention shall be given to the possible number of tenant or occupancy bays which may be served by the common public entrance for which the directory sign is intended.

D. **Shopping Centers and Industrial Parks Containing More Than Twenty (20) Acres.** Where shopping center facilities or industrial parks cover more than twenty (20) acres of land, two (2) area identification signs may be displayed in accordance with the maximum sign size provisions per area identification sign of the applicable zoning district. Additional signs may be displayed subject to approval of the City Council.

E. **Highway Area Directional Signs.** Within the area immediately adjacent to U.S. 12, directional signs indicating business identification and access routing signs may be allowed by approval of the City Council. Such signs shall be in compliance with the maximum sign size provisions of the district.

F. **Schools, Athletic Complexes or Other Public or Semi-Public Institutions.**

1. For such facilities occupying an area of five (5) acres or more, an identification sign not larger than ninety-six (96) square feet may be permitted upon approval of a permit by the City Council.
2. Temporary signs, banners and displays for church, school, institutional or civic events are permitted but must be located on property owned or controlled by the church, school, institution, or civic organization and may be displayed only during a period commencing sixty (60) days prior to the scheduled event and ending three (3) days after closing date of said scheduled event.

G. **Projecting Signs.** Such signs, including those projecting into the public right-of-way, may be allowed by a permit approved by the Council in the B-1 Zoning District, provided that:

1. The sign conforms to the uniform character and design guidelines established for the area.
2. The owner assumes all liability for such signs.
3. The signs conform to the size and height limitations of the respective district.

**1024-7: INSPECTION:** All signs for which a permit is required shall be subject to inspection by the Building Official. The Building Official may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Ordinance.

**1024-8: PERMIT, APPLICATION, LICENSE, VARIANCE, AND CITY COUNCIL APPROVAL:**

A. **Permit Requirement.** Except as provided in Section 1024-4 of this Ordinance, it is unlawful for any person to erect, construct, alter, rebuild or relocate any sign or structure until a permit has first been issued by the City.

B. **Sign Application.** The following information for a sign license shall be supplied by an applicant if requested by the City:

1. Name, address and telephone number of person making application.
2. Name, address and telephone number of person owning sign.
3. A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
4. Plans, location and specifications and method of construction and attachment to the buildings or placement method in the ground.
5. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and City Code provisions.
6. Written consent of the owner or lessee of any site on which the sign is to be erected.



7. Any electrical permit required and issued for the sign.
  8. Such other information as the City shall require to show full compliance with this and all other laws and City Code provisions.
- C. **License Issued if Application is in Order.** The Building Official, upon the filing of an application for a license, shall examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it appears that the proposed structure is in compliance with all requirements of this Ordinance and all other laws and City Code provisions, the license shall be issued. If the work authorized under a license has not been completed within sixty (60) days after the date of issuance, the license shall be null and void.
- D. **City Council Approval.** When this Ordinance requires Council approval for a sign, the application shall be processed in accordance with the procedural and substantive requirements of the Zoning Ordinance for a conditional use permit.
- E. **Variances.** The City Council, acting as the Board of Adjustment and Appeals, may, upon application, grant a variance from the terms of this Ordinance. The request for a variance shall be processed in accordance with the procedural and substantive requirements of Section 1007 of this Ordinance.
- F. **Fees.** Fees for the review and processing of sign license applications and variance requests shall be imposed in accordance with the fee schedule established by City Council resolution.

**1024-9: ENFORCEMENT:** This Ordinance shall be administered and enforced by the Building Official. The Building Official may institute, in the name of the City, appropriate actions or proceedings against a violator.

**1024-10: VIOLATION A MISDEMEANOR:** Every person violates a section, subdivision, paragraph, or provision of this Ordinance when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

## CHAPTER 1025

### DAYCARE FACILITIES

#### SECTION:

- 1025-1: Purpose
- 1025-2: Procedure
- 1025-3: Special Requirements

**1025-1: PURPOSE:** The regulation of daycare facilities in this Ordinance is to establish standards and procedures by which daycare facilities can be conducted within the City without jeopardizing the health, safety, and general welfare of the daycare participants and/or the surrounding neighborhood. This Chapter establishes the City's minimum requirements for the establishment of a daycare facility not allowed as permitted uses.

**1025-2: PROCEDURE:** Daycare facilities, except as otherwise provided for, shall be allowed as a conditional use in accordance with the zoning districts established by Chapter 1050 of this Ordinance, subject to the regulations and requirements of Chapter 1005 of this Ordinance. In addition to the City regulation, all daycare facility operations shall comply with the minimum requirements of the applicable Minnesota Department of Human Services regulations.

**1023-3: SPECIAL REQUIREMENTS:** Daycare facilities shall meet the following requirements as applicable:

- A. **Lot Requirements And Setbacks:** The proposed site for a daycare facility shall have a minimum lot area as determined by the Minnesota Department of Human Services and the base zoning district in which it is located. The daycare facility must meet the minimum setback requirements of the respective zoning districts.
- B. **Sewer And Water:** All daycare facilities shall have access to Municipal sewer and water to protect the health and safety of all persons who occupy the facility.
- C. **Screening:** Where the daycare facility is in or abuts any commercial or industrial use or zoned property, the daycare facility shall provide screening along the shared boundary of the two (2) uses. All of the required fencing and screening shall comply with the fencing and screening requirements in Sections 1020-2 and 1020-5 of this Ordinance.

D. **Parking:**

1. There shall be adequate off-street parking which shall be located separately from any outdoor play area and shall be in compliance with Chapter 1019 of this Ordinance.
2. There shall be adequate short-term parking or drop off area provided within close proximity to the main entrance. Short-term or drop off parking shall accommodate three (3) car spaces and shall be designated as temporary in nature. The short-term parking or drop off area shall not conflict with off-street parking access and shall not conflict with pedestrian movement. The short-term parking or drop off area is in addition to off-street parking and loading spaces required by Chapter 1019 of this Ordinance.
3. Except as may be approved as part of a joint parking arrangement, as regulated by Section 1019-7 of this Ordinance, when a daycare facility is an accessory use within a structure containing another principal use, each use shall be calculated separately for determining the total off-street parking spaces required.

E. **Signage:** All signing and informational or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.

F. **Daycare Facility:** The building plans for the construction or alteration of a structure that is to be used as a daycare facility shall be submitted to the City for review by the City Building Official to ensure that the structure is in compliance with the State Building Code. The facility shall meet the following conditions:

1. **Architectural Appearance:** The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause incompatibility with neighboring properties or constitute a blighting influence within a reasonable distance of the lot.
2. **Land Use Compatibility:** Internal and external site land use compatibility and sufficient peripheral area protections shall be provided by the daycare facility.
3. **Play Space:** Play space shall be adequately enclosed where necessary to prevent children from leaving the premises unattended.
4. **Outdoor Areas:** Outdoor play areas shall not be provided within the required front yard setbacks.

G. **Declaration of Conditions:** The Planning Commission and City Council may impose such conditions on the granting of a daycare facility conditional use

permit as may be necessary to carry out the purpose and provisions of this Ordinance.

- H. **State Licenses:** Proof of approved applicable State licenses shall be provided to the Zoning Administrator prior to the Building Official granting a certificate of occupancy.
- I. **Non-Conforming Use:** Existing daycare facilities lawfully existing on the effective date of this Ordinance may continue as nonconforming uses. They shall, however, be required to obtain applicable State and City permits for their continued operation. Any existing daycare facility that is discontinued for a period of more than thirty (30) days, or is in violation of the Ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this Chapter.
- J. **Inspection:** The City hereby reserves the right upon issuing any daycare facility conditional use permit to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Chapter or any conditions additionally imposed.

## CHAPTER 1026

### ESSENTIAL SERVICES

#### SECTION:

- 1026-1: Purpose
- 1026-2: Administrative Permit Required
- 1026-3: Conditional Use Permit Required
- 1026-4: Performance Standards
- 1026-5: Exceptions

**1026-1: PURPOSE:** The purpose of this Chapter is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services shall also be installed in recognition of existing and projected demands for such services.

#### **1026-2: ADMINISTRATIVE PERMIT REQUIRED:**

- A. All telephone lines, pipelines and structures for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 35kV, when installed in any public right-of-way in any zoning district established by Chapter 1050 of this Ordinance, shall require a right-of-way permit subject to review and approval of the City Engineer.
- B. All telephone lines, pipelines and structures for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 35kV, which are intended to serve more than one (1) parcel and are proposed to be installed at locations other than in public right-of-way, shall require an administrative permit subject to approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:
  - 1. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
  - 2. The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for review and approval regarding the project's relationship to the Comprehensive Plan and/or ordinances and parts thereof.

3. The City Engineer shall report in writing to the Zoning Administrator its findings as to the compliance of the proposed project with the Comprehensive Plan and ordinances of the City.
4. In considering applications for the placement of essential services, as regulated in this Chapter, the City Engineer shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
5. Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue an administrative permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Adjustment and Appeals under the rules and procedures as set forth in Chapter 1007 of this Ordinance.

**1026-3: CONDITIONAL USE PERMIT REQUIRED:** All transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and substation lines in excess of 35kV and up to 100kV shall be a conditional use in all districts subject to the procedural requirements and standards stipulated in this Chapter and Chapter 1005 of this Ordinance.

**1026-4: PERFORMANCE STANDARDS:** Essential services shall be subject to the following:

- A. All distribution lines shall be underground.
- B. Outdoor storage of materials or equipment shall be prohibited.
- C. All poles and similar type structures shall be placed in the public right-of-way or utility easement unless approved as an interim use permit subject to Chapter 1006 of this Ordinance.
- D. All facilities shall be landscaped and screened to the extent practical and applicable pursuant to Chapter 1020 of this Ordinance.
- E. The size and number of accessory buildings are to be minimized to the extent possible and are to house only equipment directly related to the operation of the facility in question.
- F. The architectural appearance of all structures and buildings shall be in harmony with the primary uses within the vicinity of the site.

**1026-5: EXCEPTIONS:** This Chapter shall not apply to radio and wireless communication systems and facilities. Regulation of these uses and activities are governed by Chapter 1023 of this Ordinance.

## CHAPTER 1027

### LANDFILL / EXCAVATING / GRADING

#### SECTION:

- 1027-1: Procedure
- 1027-2: Special Requirements
- 1027-3: Performance Standards
- 1027-4: Exceptions

#### **1027-1: PROCEDURE:**

- A. **Grading Permit.** The placement or extraction of sand, gravel, black dirt, or other natural material from the land or the grading of land by a person in the amount of fifty (50) cubic yards or more shall require a grading permit.
- B. **Permit Exceptions.** Exceptions to the grading permit requirement shall be allowed in landfill excavation and grading activities:
  - 1. Conducted by a governmental jurisdiction.
  - 2. Associated with a private development which were approved as part of a subdivision or other development.
  - 3. Which qualify as mining operations and are subject to other applicable sections of the City Code.

#### **1027-2: SPECIAL REQUIREMENTS:**

- A. All applications for an administrative permit shall be accompanied by a detailed site plan drawn to scale and dimensioned displaying the information as specified in Section 1009-6 of this Ordinance and the following:
  - 1. The purpose of the excavation or grading.
  - 2. A description of the type and amount of material to be excavated or graded from the premises.
  - 3. The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
  - 4. An estimate of the time required to complete the excavation or grading.



5. A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred (300) feet.
  6. A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
  7. A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
  8. A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
  9. A written right-of-entry given to the City and/or its officers to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.
  10. If the site is more than one (1) acre in size, the applicant shall complete a Minnesota Pollution Control Agency National Pollutant Discharge Elimination System (NPDES) Phase II permit for all excavation.
- B. **Technical Reports.** The Zoning Administrator shall immediately upon receipt of such applications forward a copy thereof to the City Engineer and Building Official. Where watersheds, floodplains and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the City Council.
- C. **Issuance of Permit.** Upon receiving information and reports from the City staff and other applicable agencies, the City Council shall make its determination as to whether, and when, and under what conditions such permit for an excavation is to be issued to the applicant by the City.

### **1027-3: PERFORMANCE STANDARDS:**

- A. The City, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the fill/excavation/grading is located to:
1. Properly fence the project site.

2. Slope the banks, and otherwise properly guard to keep the fill or excavation in such condition as not to be dangerous from caving or sliding banks.
  3. Properly drain, fill in or level the project site so as to make the site safe, as determined by the City.
  4. Keep the fill/excavation/grading within the limits for which the particular permit is granted.
  5. Remove or transport fill/excavated/graded material upon the along such highways, streets or other public ways as the City shall order and direct.
  6. Retain and store top soil from the site in question and to utilize such materials in the restoration of the site.
- B. **Hours of Operation.** Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday.
- C. **Security:** The City may require either the applicant or the owner or user of the property on which the fill/excavation/grading is occurring to pose a security in such form and sum as the City Engineer shall determine, with sufficient surety provided to the City, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, and highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting such material, the amount of such costs and expense to be determined by the City Engineer; and conditioned further to comply with all requirements of this Ordinance, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.
- D. **Completion of Operation:**
1. All operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify in writing the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the City and upon a satisfactory showing of need, the City may grant an extension of time. If such extension is granted, it shall be for a definite period and the City shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the fill/excavation/grading operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as teamster's strike, unusually inclement weather, illness, or other such valid and reasonable excuse for non-completion. In the event request for an extension is denied, the permit

holder shall be allowed a reasonable time to comply with the other provisions of this Ordinance relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Engineer after inspecting the premises.

2. At the completion of fill/excavation/grading, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City Engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the City Engineer may determine with reference to storm water drainage runoff and storm water passage or flowage so that the excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The City Engineer shall inspect the project following completion to determine if the applicant has complied with the conditions imposed as part of the permit.

- G. **Failure to Comply:** The City may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the landfill is located, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and their superiors if a security exists.

**1027-4: EXCEPTIONS:** This Chapter is intended to cover the placement or removal of natural materials on lands including such activity when carried on as a business; but shall not apply to basement excavation, other excavation/grading which is already covered by the Building Code or other such regulations of the City.

## CHAPTER 1028

### ADULT USES

#### SECTION:

- 1028-1: Purpose
- 1028-2: Compliance Required

**1028-1: PURPOSE:** The purpose of this Chapter is to ensure consistency with and conformance to the provisions established by Chapter 115 of the City Code for all adult uses allowed within the respective zoning districts.

**1028-2: COMPLIANCE REQUIRED:** All adult uses shall be established in conformance with the provisions of Chapter 115 of the City Code for the opportunity to establish, as well as control, adult uses within the City of Montrose.

## CHAPTER 1029

### WIND ENERGY CONVERSION SYSTEMS (WECS)

#### SECTION:

- 1029-1: Purpose
- 1029-2: Procedure
- 1029-3: Special Requirements
- 1029-4: Performance Standards
- 1029-5: Exceptions

**1029-1: PURPOSE:** The purpose of this Chapter is to establish standards and procedures by which the installation and operation of wind energy conversion systems (WECS) shall be governed within the City.

**1029-2: PROCEDURE:** The erection of a wind energy conversion system shall require an interim use permit, subject to the requirements of this Chapter and Chapter 1006 of this Ordinance.

#### **1029-3: SPECIAL REQUIREMENTS:**

- A. Wind energy conversion systems governed by this Chapter shall be allowed within the agricultural, business, industrial, and institutional districts, or in any other zoning district on a parcel of at least two and one-half (2.5) acres in area.
- B. **Declaration Of Conditions:** The Planning Commission may recommend and the City Council may impose such conditions on the granting of a WECS interim use permit as may be necessary to carry out the purpose and provisions of this Chapter.
- C. **Site Plan Drawing:** All applications for a WECS interim use permit shall be accompanied by a detailed site plan drawn to scale and dimensioned, displaying the information as specified in Section 1009-6 of this Ordinance and the following:
  - 1. Location and height of all buildings, structures, aboveground utilities and trees on the lot, including both existing and proposed structures and guy wire anchors.
  - 2. Location and height of all adjacent buildings, structures, aboveground utilities and trees located within three hundred fifty feet (350') of the exterior boundaries of the property in question.

3. An elevation drawing of the premises accurately depicting the proposed WECS and its relationship to structures on the subject site and adjacent lots.

#### **1029-4: PERFORMANCE STANDARDS:**

- A. **Heights:** The permitted maximum height of a WECS shall be determined in one of two (2) ways. In determining the height of the WECS, the total height of the system shall be included. System height shall be measured from the base of the tower to the highest possible extension of the rotor.
  1. A ratio of one foot to one foot (1':1') between the distance of the closest property line to the base of the WECS to the height of the system.
  2. A maximum system height of one hundred seventy five feet (175'). The shortest height of the two (2) above mentioned methods shall be used in determining the maximum allowable height of a WECS system. The height of a WECS must also comply with FAA regulation part 77 "Objects Affecting Navigable Air Space" and/or MNDOT Rule 14, MCAR 1.3015 "Criteria for Determining Obstruction to Air Navigation".
- B. **Setbacks:** No part of a WECS (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS towers shall be setback from the closest property line one foot (1') for every one foot (1') of system height. WECS shall not be located within thirty feet (30') of an aboveground utility line.
- C. **Rotor Size:** All WECS rotors shall not have rotor diameters greater than twenty six feet (26').
- D. **Rotor Clearance:** Blade arcs created by the WECS shall have a minimum of thirty feet (30') of clearance over any structure or tree within a two hundred foot (200') radius.
- E. **Rotor Safety:** Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 miles per hour or greater).
- F. **Lightning Protection:** Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
- G. **Tower Access:** To prevent unauthorized climbing, WECS towers shall comply with one of the following provisions:

1. Tower climbing apparatus shall not be located within twelve feet (12') of the ground.
  2. A locked anti-climb device shall be installed on the tower.
  3. Towers capable of being climbed shall be enclosed by a locked, protective fence at least six feet (6') high.
- H. **Signs:** WECS shall have one (1) sign, not to exceed two (2) square feet posted at the base of the tower and said sign shall contain the following information.
1. Warning high voltage.
  2. Manufacturer's name.
  3. Emergency phone number.
  4. Emergency shutdown procedures.
- I. **Lighting:** WECS shall not have affixed or attached any lights, reflectors, flasher or any other illumination, except for illumination devices required by FAA regulations part 77 "Objects Affecting Navigable Air Space" and FAA Advisory circular 70/7460-1F, September 1978 "Obstruction Marking and Lighting".
- J. **Electromagnetic Interference:** WECS shall be designed and constructed so as not to cause radio and television interference.
- K. **Noise Emission:** Noises emanating from the operation of WECS shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NPC 1 and 2, as amended.
- L. **Utility Company Interconnection:** No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the City.
- M. **Code Compliance:**
1. Compliance With State Building Code: Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the State Building Code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

2. Compliance With National Electrical Code: WECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.
- N. **Manufacturing Warranty:** Applicant shall provide documentation or other evidence from the dealer or manufacturer that the WECS has been successfully operated in atmospheric conditions similar to the conditions within Montrose. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.
- O. **Inspection:** The City hereby reserves the right upon issuing any WECS interim use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.
- P. **Abandonment:** Any WECS or tower which is not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

**1029-5: EXCEPTIONS:** Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Chapter and shall conform to other applicable provisions of this Ordinance.



## CHAPTER 1030

### MOTOR VEHICLE FUEL FACILITIES

#### SECTION:

- 1030-1: Purpose
- 1030-2: Motor Vehicle Fuel Sales
- 1030-3: Truck Stops

**1030-1 PURPOSE:** The purpose of this Chapter is to establish specific design and operational performance standards for motor fuel facilities.

#### **1030-2: MOTOR VEHICLE FUEL SALES:**

- A. **District Application:** Motor vehicle fuel sales shall be allowed in a B-1, B-2, and I-1 District as a conditional use. The standards and requirements for motor fuel sales shall be in addition to those which are imposed for other uses and activities occurring on the property.
- B. **Motor Fuel Facilities:** Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
- C. **Area:** A minimum lot area of four thousand (4,000) square feet and minimum lot frontage of one hundred fifty feet (150'). The City Council may exempt previously developed or previously platted property from this requirement provided that the site is capable of adequately and safely handling all activities and required facilities.
- D. **Hours:** Hours of operation shall be limited within the respective zoning district as follows, unless extended by the City Council as part of the conditional use permit:
  - 1. B-1 District: Five o'clock (5:00) A.M. to eleven o'clock (11:00) P.M.
  - 2. B-2 District: No limit except as may be required by the City Council.
  - 3. I-1 District: No limit except as may be required by the City Council.

E. **Architectural Standards:**

1. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
2. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment in conformance with Section 1017-4 of this Ordinance.

F. **Canopy:** A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:

1. The edge of the canopy shall be twenty feet (20') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.
2. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck passing underneath.
3. The canopy fascia shall not exceed three feet (3') in vertical height.
4. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
5. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
  - a. The individual canopy sign does not exceed more than twenty percent (20%) of the canopy facade facing a public right-of-way.
  - b. The canopy fascia shall not be illuminated, except for permitted canopy signage.
6. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.

G. **Pump Islands:** Pump islands shall comply with the following performance standards:

1. Pump islands shall be elevated six inches (6") above the traveled surface of the site.

2. All pump islands shall be set at least thirty feet (30') back from any property line. Additionally, the setback between the pump islands curb face shall be at least twenty four feet (24').

**H. Dust Control And Drainage:**

1. The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer.
2. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:
  - a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
  - b. A minimum pool depth of four feet (4').
  - c. A minimum oil containment capacity of eight hundred (800) gallons.
3. All spills shall be cleaned up in a prompt manner. Spills of five (5) gallons or more shall be reported immediately to the Minnesota Pollution Control Agency (MPCA).

**I. Landscaping:** For uses established after the effective date of this Ordinance, the following requirements shall apply:

1. At least twenty five percent (25%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.
2. At the boundaries of the lot, the following landscape area shall be required:
  - a. From side and rear property lines, an area of not less than five feet (5') wide shall be landscaped in compliance with Section 1020-5 of this Ordinance.
  - b. From all road rights of way, an area of not less than fifteen feet (15') wide shall be landscaped in compliance with Section 1020-4 of this Ordinance.

- c. Where lots abut residentially zoned property, a buffer yard of not less than twenty feet (20') wide shall be landscaped and screened in compliance with Section 1020-5 of this Ordinance.
- d. The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.

J. **Exterior Lighting:** The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8 of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- 1. Canopy Lighting: Canopy lighting shall only be permitted under the canopy structure, and consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot-candles at ground level.
- 2. Perimeter Lighting: Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot-candles at ground level.
- 3. Illumination: Maximum site illumination shall not exceed four-tenths (0.4) foot-candle at ground level when measured at any boundary line with an adjoining residential property or any public property.
- 4. Except for permitted wall signage the building and/or canopy fascia shall not be illuminated.

K. **Circulation And Loading:** The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas must be exclusive of off-street parking stalls and drive aisles. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.

L. **Parking:**

- 1. Parking spaces shall be calculated solely based upon the use and the square footage of the principal building.
- 2. Parking spaces shall be screened from abutting residential properties in compliance with Chapter 1020 of this Ordinance.

- M. **Pedestrian Traffic:** An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk shall be a minimum of five feet (5') wide and clear of any obstacle or impediment.
- N. **Noise:** Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 1016-12 of this Ordinance.
- O. **Outside Storage, Sales And Service:** No outside storage or sales shall be allowed, except as follows:
1. Public phones may be located on-site as long as they do not interrupt on-site traffic circulation, and are not located in a yard abutting residentially zoned property.
  2. Propane sales limited to twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meets all State Uniform Building and Fire Codes.
  3. A compressed air service area may be located on-site as long as it does not interrupt on-site traffic circulation.
  4. Existing outside storage, sales and service of items existing as of the effective date of this Ordinance, other than those items listed in Section 1030-2.O of this Ordinance shall be removed within a period of five (5) years from that effective date.
- P. **Litter Control:** The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles must be provided at a convenient location on-site to facilitate litter control.
- Q. **Signs:** All other signing and informational or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
- R. **Additional Stipulations:** All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request finds that the general health, safety, and welfare can be served as well or better by modifying or expanding the conditions set forth herein.

### **1030-3: TRUCK STOPS:**

- A. **District Application:** Truck stop uses may be allowed within the I-1 and I-2 Districts subject to approval of a conditional use permit.

**B. Performance Standards:** A truck stop may be allowed provided that:

1. Adjacent to Residential Districts: Truck stops shall not be permitted on lots that abut residentially zoned property.
2. Area: A minimum lot area of five (5) acres and minimum lot frontage of three hundred feet (300'). The City Council may exempt previously developed or previously platted property from this requirement provided that the site is capable of adequately and safely handling all activities and required facilities.
3. Location: Truck stops shall be located on parcels abutting a principal arterial roadway.
4. Installation Standards: Truck stops shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
5. Sanitary Dump: A sanitary dump shall be required at all truck stops. The sanitary dump shall comply with all requirements of the Minnesota Pollution Control Agency (MPCA).
6. Architectural Standards:
  - a. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
  - b. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment in conformance with Section 1017-4 of this Ordinance.
7. Canopy: A protective canopy structure may be located over the pump island(s) as a permitted accessory structure. The canopy shall meet the following performance standards:
  - a. The edge of the canopy shall be seventy feet (70') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.

- b. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck from passing underneath.
  - c. The canopy fascia shall not exceed three feet (3') in vertical height.
  - d. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
  - e. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that:
    - (1) The individual canopy sign does not exceed more than twenty percent (20%) of the canopy facade facing a public right-of-way.
    - (2) The canopy fascia shall not be illuminated, except for permitted canopy signage.
  - f. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
8. Pump Islands: Pump islands shall be elevated six inches (6") above the traveled surface of the site. Pump islands must be set at least seventy feet (70') back from any property line. Setback between pump island curb face shall be sufficient for the servicing and maneuvering of semi-trucks with trailers.
9. Dust Control And Drainage: The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:
- a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
  - b. A minimum pool depth of four feet (4').
  - c. A minimum oil containment capacity of eight hundred (800) gallons.
  - d. Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). A measurable spill must be reported to the MPCA.

10. Landscaping:

- a. At least twenty five percent (25%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.
- b. At the boundaries of the lot, the following landscape area shall be required:
  - (1) From side and rear property lines, an area of not less than five feet (5') shall be landscaped in compliance with Section 1020-5 of this Ordinance.
  - (2) From all road rights of way, an area of not less than fifteen feet (15') shall be landscaped in compliance with Section 1020-4 of this Ordinance.
  - (3) The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.

11. Exterior Lighting: The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8 of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- a. Canopy lighting shall only be permitted under the canopy structure, and consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the bottom face of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot-candles at ground level.
- b. Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot-candles at ground level.
- c. Maximum site illumination shall not exceed one foot-candle at ground level when measured at any boundary line with an adjoining residentially zoned property or public property.
- d. Except for permitted wall signage, the building and/or canopy fascia shall not be illuminated.



12. Access: Vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with Chapter 1019 of this Ordinance.
13. Circulation: The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.
14. Parking:
  - a. Parking for motor fuel service shall be in addition to that required for other uses on the site.
  - b. Parking spaces shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.
  - c. Parking stalls for trucks and trailers shall be a minimum of twelve feet (12') wide and seventy feet (70') long, exclusive of drive aisles.
15. Pedestrian Traffic: An internal site pedestrian circulation system shall be defined and appropriate provisions made to protect such areas from encroachments by parked cars or moving vehicles. In front of the principal structure, the pedestrian sidewalk shall be a minimum of five feet (5') wide and clear of any obstacle or impediment.
16. Noise: Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 01-16-12 of this Ordinance.
17. Outside Storage, Sales And Service: No outside storage or sales shall be allowed, except as follows:
  - a. Public phones may be located on-site as long as they do not interrupt on-site traffic circulation, and may not be located in a yard abutting residentially zoned property.
  - b. Propane sales limited to twenty (20) pound capacity tanks may be located outside as long as the propane tanks are secured in a locker and meet all State Uniform Building and Fire Codes.

- c. A compressed air service area may be located on-site as long as it does not interrupt on-site traffic circulation.
  - d. Existing outside storage, sales and service of items existing on the effective date of this Ordinance, other than those items listed in this Section 1030-B.17 shall be removed within a period of five (5) years from the effective date of this Ordinance.
- 18. Litter Control: The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles must be provided at a convenient location on-site to facilitate litter control.
- 19. Signs: All signing and informational or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
- 20. Additional Stipulations: All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

**CHAPTERS 1031 – 1049**

**RESERVED**

## CHAPTER 1050

### GENERAL ZONING DISTRICT PROVISIONS

#### SECTION:

- 1050-1: Establishment of Districts
- 1050-2: Zoning District Boundaries
- 1050-3: Zoning Map
- 1050-4: Annexations

**1050-1: ESTABLISHMENT OF DISTRICTS:** In order to classify, regulate and restrict the location of trade and industry, and the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the City is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each district, and said districts shall be known as:

**A. Urban Reserve Districts:**

- 1. UR, Urban Reserve District.

**B. Residential Districts:**

- 1. R-1, Single Family Residential District.
- 2. R-2, Single Family Manufactured Home Park District.
- 3. R-3, Medium Density Residential District.
- 4. R-4, High Density Residential District.
- 5. R-B, Residential Business District.

**C. Business Districts:**

- 1. B-1, Central Business District.
- 2. B-2, Highway Business District.

**D. Industrial Districts:**

- 1. I-1, Light Industrial District.
- 2. I-2, Heavy Industrial District.

**E. Institutional Districts:**

- 1. INS, Institutional District

**F. Special Districts:**

1. PUD, Planned Unit Development District.

**G. Environmental Protection Districts:**

1. FP, Floodplain Overlay District.
2. S, Shoreland Overlay District.

**1050-2: ZONING DISTRICT BOUNDARIES:** Zoning district boundary lines established by this Ordinance generally follow lot lines, the center lines of railroad rights-of-way, street rights-of-way, watercourses or the corporate limit lines, all as they exist upon the effective date of this Ordinance.

- A. Appeals concerning the exact location of a zoning district boundary line shall be heard by the Council serving as the Board of Zoning Appeals pursuant to Chapter 1003 of this Ordinance.
- B. Whenever any street, alley or other public way is vacated by official action by the City, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
- C. All streets, alleys, public ways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property in the most restrictive classification immediately abutting upon such alleys, streets, public ways or railroad rights of way. Where the center line of a street, alley, public way or railroad rights of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.
- D. All areas within the corporate limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoins such water area. If such water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the halfway point and/or to the corporate limits.

**1050-3: ZONING MAP:** The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled Montrose Zoning Map. Said Map shall be on file with the Zoning Administrator, and hereinafter referred to as the "Zoning Map". Said map and all the notations, references; and other information shown thereon shall have the same force and effect as if fully set forth herein and

thereby made a part of this Ordinance by reference. It is the responsibility of the Zoning Administrator to maintain the Montrose Zoning Map, and amendments thereto shall be recorded on said Map. The Official Montrose Zoning Map shall be kept on file in the City Hall.

**1050-4: ANNEXATIONS:** All territory hereafter annexed to the City which is not shown on the Zoning Map shall automatically, upon annexation, be classified within the UR, Urban Reserve District and shall be subject to all regulations, notations, references and conditions as are applicable to said District until such time that a determination may be made as to the proper district classification for such territory and an amendment can be made to that effect.

**CHAPTER 1051**  
**UR, URBAN RESERVE DISTRICT**

**SECTION:**

- 1051-1: Purpose
- 1051-2: Permitted Uses
- 1051-3: Permitted Accessory Uses
- 1051-4: Conditional Uses
- 1051-5: Interim Uses
- 1051-6: Uses by Administrative Permit
- 1051-7: Lot Requirements and Setbacks
- 1051-8: Building Height

**1051-1: PURPOSE:** The purpose of the UR, Urban Reserve District is to preserve areas where urban public utilities are not presently available. These lands are to be retained in a natural state or in agricultural uses pending the proper timing for the economical provision of sewer and water, streets, parks, storm drainage and other public utilities and services so that orderly development can occur.

**1051-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following uses are permitted in a UR District:

- A. Farms, farmsteads, farming and agricultural related buildings and structures, but not including animal feedlots, as defined by the Minnesota Pollution Control Agency (MPCA).
- B. Hobby farms.
- C. Nurseries, greenhouses, and tree farms, excluding retail sales.
- D. Public parks, playgrounds, recreational uses, wildlife areas and game refuges.
- E. Residential care facilities serving six (6) or fewer persons.
- F. Single-family detached dwellings at a density of not more than one (1) dwelling unit per forty (40) acres of land.

**1051-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in a UR District:

- A. Accessory operation and storage of such vehicles, equipment and machinery are customary and incidental to permitted, conditional, interim, and administrative uses allowed in this district.
- B. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.
- C. Daycare facilities serving twelve (12) or fewer persons in a single-family detached dwelling.
- D. Fences as regulated by Chapter 1020 of this Ordinance.
- E. Home offices.
- F. Keeping of animals subject to Chapter 1022 of this Ordinance.
- G. Play and recreational facilities accessory to an existing permitted use.
- H. Private garages, off-street parking and off-street loading as regulated by Chapter 1017 of this Ordinance.
- I. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
- J. Roadside stands for sale of in season agricultural products planted and completely grown on the premises.
- K. Secondary or accessory use antennas and satellites as regulated by Chapter 1023 of this Ordinance.
- L. Signs as regulated by Chapter 1024 of this Ordinance.
- M. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.

**1051-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in a UR District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Bed and breakfast establishments, provided that:



1. A maximum of four (4) bed and breakfast units be established in the structure.
2. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.
3. The facility shall be owner or manager occupied.
4. The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot size of the district in which it is located.
5. The bed and breakfast units are located within the principal structure.
6. Not more than one (1) full time person, who is not a resident of the structure, shall be employed by the bed and breakfast facility.
7. Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
8. Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit. Parking areas shall be screened and landscaped pursuant to Section 1020-5 of this Ordinance.
9. Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally illuminated or lighted between ten o'clock (10:00) PM and six o'clock (6:00) AM.
10. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

B. Cemeteries or memorial gardens provided that:

1. The use is public or semipublic.
2. The use meets the minimum setback requirements for principal structures.

- C. Commercial riding stables, dog kennels, animal hospitals with overnight car and similar uses provided that the applicable provisions of the City Code relating to animals are determined to be satisfied.
- D. Commercial outdoor recreation provided that:
  - 1. The land upon which such use is to be located is marginal in terms of agricultural production.
  - 2. The use will not negatively impact neighboring farming operations or residential uses.
  - 3. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  - 4. Adequate, improved off-street parking is provided.
- E. Daycare facilities serving thirteen (13) or more persons in a single family detached dwelling, provided the use complies with the provisions of Chapter 1025 of this Ordinance.
- F. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.
- G. Governmental buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use in a residential zoning district, the property is screened and landscaped in compliance with Section 1020-4 of this Ordinance.

**1051-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in a UR District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Landfilling, excavation, and grading operations, including mining as regulated by Chapter 1027 of this Ordinance.
- B. Special home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1051-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in a UR District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Personal wireless service antennas located upon a public or quasi-public structure or existing tower as regulated by Chapter 1023 of this Ordinance.
- D. Single satellite dish TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1051-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in a UR District subject to the additional requirements, exceptions and modifications set forth in this Ordinance:

- 1. Lot Area: Forty (40) acres.
- 2. Lot Width: Two hundred fifty feet (250').
- 3. Lot Depth: Two hundred fifty feet (250').
- 4. Setbacks:
  - a. Front Yards: Thirty feet (30').
  - b. Rear Yards: Thirty feet (30').
  - c. Side Yards: Ten feet (10') on each side, or thirty feet (30') on the side yard abutting a public right-of-way.

**1051-8: BUILDING HEIGHT:** The following height requirements shall be observed in a UR District:

- A. All residences shall be limited to a maximum height of two and one-half (2-1/2) stories or forty-five (45) feet.

- B. Accessory structures shall be governed by Chapter 1018 of this Ordinance.

**CHAPTERS 1052 – 1054**

**RESERVED**

## CHAPTER 1055

### R-1, SINGLE FAMILY RESIDENTIAL DISTRICT

#### SECTION:

- 1055-1: Purpose
- 1055-2: Permitted Uses
- 1055-3: Permitted Accessory Uses
- 1055-4: Conditional Uses
- 1055-5: Interim Uses
- 1055-6: Uses by Administrative Permit
- 1055-7: Lot Requirements and Setbacks
- 1055-8: Lot Coverage and Height

**1055-1: PURPOSE:** The purpose of the R-1, Single Family Residential District is to allow for low density single family residential neighborhoods as guided by the Comprehensive Plan, as well as directly, related complementary uses. A full range of public services and facilities shall be available to R-1 District areas.

**1055-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an R-1 District:

- A. Public parks, playgrounds, recreational uses, and directly related buildings and structures.
- B. Residential care facilities serving six (6) or fewer persons in a single-family detached dwelling.
- C. Single-family detached dwellings.

**1055-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an R-1 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, interim, and administrative permit in this Section, subject to applicable regulation of this Ordinance.
- B. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.
- C. Daycare facilities serving twelve (12) or fewer persons in a single-family detached dwelling.

- D. Fences as regulated by Chapter 1020 of this Ordinance.
- E. Home offices.
- F. Keeping of animals subject to Chapter 1022 of this Ordinance.
- G. Play and recreational facilities, accessory to an existing permitted use.
- H. Private garages, off-street parking and off-street loading as regulated by Chapter 1019 of this Ordinance.
- I. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
- J. Secondary or accessory use antennas as regulated by Chapter 1023 of this Ordinance.
- K. Signs as regulated by Chapter 1024 of this Ordinance.
- L. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.

**1055-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-1 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Commercial recreation, outdoor provided that:
  - 1. The use will not negatively impact neighboring farming operations or residential uses.
  - 2. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  - 3. Adequate, improved off-street parking is provided.
- B. Daycare facilities serving thirteen (13) or more persons in a single family detached dwelling, provided that the use complies with the provisions of Chapter 1025 of this Ordinance.

- C. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1026 of this Ordinance are determined to be satisfied.
- D. Government buildings and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section 1020-4 of this Ordinance.
- E. Personal wireless service antennas not located on a public structure, or existing tower, provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.
- F. Planned unit development as regulated by Chapter 1010 of this Ordinance.

**1055-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an R-1 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Satellite TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- B. Special home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1055-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an R-1 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Model homes as regulated by Chapter 1017 of this Ordinance.
- D. Personal wireless service antennas located upon a public or quasi-public structure or existing tower as regulated by Chapter 1023 of this Ordinance.



- E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1055-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an R-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Minimum Lot Area: Ten thousand (10,000) square feet.
- B. Minimum Lot Width: Eighty feet (80').
- C. Minimum Lot Depth: One hundred twenty feet (120').
- D. Minimum Setbacks:
  - 1. Front: Twenty-five feet (25').
  - <sup>6</sup> 2. Side:
    - a. Interior: Ten feet (10').
    - b. Corner: Twenty-five feet (25').
  - 3. Rear: Twenty feet (20').

**1055-8: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-1 District:

- A. The total ground area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
- B. All residences shall be limited to a maximum height of two and one-half (2-1/2) stories or thirty-five feet (35').

**CHAPTERS 1056 - 1058**

**RESERVED**

## CHAPTER 1059

### R-2, SINGLE FAMILY MANUFACTURED HOME PARK DISTRICT

#### SECTION:

- 1059-1: Purpose
- 1059-2: Permitted Uses
- 1059-3: Permitted Accessory Uses
- 1059-4: Conditional Uses
- 1059-5: Interim Uses
- 1059-6: Uses by Administrative Permit
- 1059-7: Lot Requirements and Setbacks
- 1059-8: Lot Coverage and Height

**1059-1: PURPOSE:** The purpose of the R-2, Single Family Manufactured Home Park District is to provide a separate district for manufactured home parks, distinct from other residential uses in areas guided for low density residential land uses by the Comprehensive Plan.

**1059-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an R-2 District:

- A. Public parks, playgrounds, recreational uses, and directly related buildings and structures.
- B. Residential care facilities serving six (6) or fewer persons in a single-family detached dwelling.
- C. Single-family detached dwellings.

**1059-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an R-2 District:

- A. Single Family Uses.
  - 1. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, interim, and administrative permit in this Section, subject to applicable regulation of this Ordinance.
  - 2. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.

3. Daycare facilities serving twelve (12) or fewer persons in a single-family detached dwelling.
  4. Fences as regulated by Chapter 1020 of this Ordinance.
  5. Home offices.
  6. Keeping of animals subject to Chapter 1022 of this Ordinance.
  7. Play and recreational facilities accessory to an existing principal permitted use.
  8. Private garages and off-street parking and off-street loading as regulated by Chapter 1019 of this Ordinance.
  9. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
  10. Secondary or accessory use antennas as regulated by Chapter 1023 of this Ordinance.
  11. Signs as regulated by Chapter 1024 of this Ordinance.
  12. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.
- B. Manufactured home parks (as may be regulated by this section):
1. All permitted accessory uses allowed by Section 1059-3.A of this Ordinance, except:
    - a. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.

**1059-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-2 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Daycare facilities serving thirteen (13) or more persons in a single family detached dwelling, provided that the use complies with the provisions of Chapter 1025 of this Ordinance.
- B. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1026 of this Ordinance are determined to be satisfied.
- C. Government buildings and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section 1020-4 of this Ordinance.
- D. Manufactured home parks provided that:
  - 1. In addition to the information required by Chapter 1009 of this Ordinance, the following information shall be submitted for approval:
    - a. Plans for any and all structures (i.e., central community building, storm shelter).
    - b. Detailed description of maintenance procedures and grounds supervision for common areas.
    - c. If applicable, provide development phasing details.
    - d. 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.
    - e. Such other information as required or implied by these manufactured home park standards or requested by public officials.
  - 2. General provisions for all manufactured home parks:
    - a. Area: All land area shall be:
      - (1) Adequately drained.
      - (2) Landscaped to control dust.
      - (3) Clean and free from refuse, garbage, rubbish or debris.
    - b. Recreational Camping: No portion of a manufactured home park shall be used as a recreational camping area.

- c. Public Access: Public access to manufactured housing parks shall be as approved by the City.
- d. Fences: Fences are prohibited on individual manufactured home lots.
- e. Inspection Access: The area beneath a manufactured home shall be enclosed except that such enclosure shall have access for inspection.
- f. Community Building: A manufactured home park shall have a central community building with restroom facilities, heating in all areas, and adequate storm protection design and capacity to serve the manufactured home park. Such buildings shall be maintained in a safe, clean and sanitary condition.
- g. Emergency Storm Protections: Manufactured home parks established prior to the effective date of this Ordinance, shall comply with emergency storm protections as required by Minnesota statutes. A new manufactured home park established after the effective date of this Ordinance, shall have storm shelters in compliance with Minnesota statutes. Additionally, all emergency storm protection measures shall be subject to the approval of the City Council.
- h. Manufactured home lot setbacks:
  - (1) Front: Ten feet (10') from the curb of streets interior to the manufactured home park or thirty feet (30') from other public rights-of-way.
  - (2) Side: Ten feet (10').
  - (3) Rear: Ten feet (10').
  - (4) Permitted Encroachments:
    - (a) Attached steps, uncovered stoops, and landings may encroach up to five feet (5') into a side yard setback, provided that they do not exceed twenty (20) square feet in area or extend closer than ten feet (10') to a structure on an adjacent lot.
    - (b) An eave or overhang may encroach up to one foot (1') into a front, side and rear setback.

- i. Building Height Requirements: No structure shall exceed one (1) story or twenty five feet (25') whichever is least.
- j. Utilities:
  - (1) All manufactured home parks shall be connected to a public water and sanitary sewer system.
  - (2) All installations for disposal of surface stormwater must be approved by the City.
  - (3) All utility connections shall be as approved by the City.
  - (4) The source of fuel for cooking, heating, or other purposes at each manufactured home site shall be as approved by the City.
  - (5) All utilities shall be underground; there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.
  - (6) No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related manufactured home equipment.
  - (7) The method of garbage, waste, and trash disposal must be approved by the City.
  - (8) The manufactured home park owner shall pay any required sewer and water connection fees to the City.
  - (9) The manufactured home park owner shall pay inspection and testing fees for utility service to the City.
  - (10) All utility construction plans shall be approved by the Minnesota Department of Health.
- k. Storage: Exterior storage on individual manufactured home lots shall comply with the provisions of Chapter 1016 of this Ordinance, except not more than one recreational vehicle may be allowed on a lot.
- l. Accessory Buildings:

- (1) Limit: Accessory buildings including garages shall be limited to one (1) per manufactured home lot. Maximum allowable floor area shall not exceed six percent (6%) of the lot size in manufactured home parks where lot size is delineated by site plan or lot markers. Floor area shall not exceed eighty (80) square feet in manufactured home parks where lot size is not delineated.
- (2) Maximum Building Height: Fifteen feet (15').
- (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 comply with the following setback requirements:
  - (a) An accessory building shall only be located in side or rear yards.
  - (b) Accessory buildings shall not be located within any utility easements.
  - (c) Accessory buildings shall be located at least six feet (6') from any other building or structure on the same lot and at least ten feet (10') from a structure on an adjacent lot. On corner lots, accessory buildings shall be located at least twenty feet (20') from a side street surface. Accessory buildings in excess of twelve feet (12') in width shall only be placed on a lot sixty five feet (65') in width or greater.
- (4) Building Type And Construction: Any building addition shall either be manufactured or custom built of materials that are consistent or compatible to the design of the principal building. "Compatible" means that the exterior appearance of an accessory building is not at variance with the principal building from an aesthetic and architectural standpoint to cause:
  - (a) A difference to a degree to cause incongruity with the principal building.
  - (b) A deviation from the general character of the neighborhood.

### 3. Design Requirements for Manufactured Home Parks:



- a. Park Size: The minimum area required for a manufactured home park designation shall be five (5) acres.
- b. Lot Requirements: Individual manufactured home lot:
  - (1) Lot Area: Five thousand (5,000) square feet.
  - (2) Lot Width: Not less than fifty feet (50').
  - (3) Lot Depth: Not less than one hundred twenty feet (120').
  - (3) Frontage: Each manufactured home lot shall have frontage on an approved roadway and the corner of each manufactured home lot shall be marked and each lot shall be numbered.
  - (4) Maximum Impervious Surface: Fifty percent (50%).
- c. Parking:
  - (1) Each manufactured home site shall have off-street parking space for two (2) passenger vehicles.
  - (2) All parking spaces shall be hard surfaced according to specifications established by the City.
- d. Internal Roads And Streets:
  - (1) All streets shall be private streets and shall be developed with a roadbed of not less than thirty two feet (32') in width and shall meet City design specifications.
  - (2) The park shall have a street lighting plan approved by the City.
- e. Recreation: All manufactured home parks shall have at least six percent (6%) 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.
- f. Landscaping:

- (1) Each manufactured home lot shall be provided with one (1) tree. The size and type of trees shall meet the requirements of Section 1020-4.B of this Ordinance.
- (2) A landscape screen meeting the requirements of Section 1020-5 of this Ordinance shall be installed and maintained around each manufactured home park.
- (3) All areas shall be landscaped in accordance with a landscaping plan approved by the City Council.

g. Lighting:

- (1) Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment, and the like.
- (2) The manufactured home park grounds shall be lighted as approved by the City from sunset to sunrise.

4. Operational standards for manufactured home parks:

- a. Maintenance: The operator of any manufactured home park, or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the manufactured home park, its facilities and equipment, in a clean, orderly, operable, and sanitary condition. The attendant or caretaker shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject.
- b. Inspections Prior to Sale: Prior to the sale of a manufactured home within a manufactured home park, the operator of a manufactured home park or the duly authorized attendant and/or caretaker must inform the Building Official of the prospective sale.
- c. Permits: Prior to a manufactured home being moved onto a lot, the owner shall apply for and obtain a building permit for the (foundation) blocking to State code and a permit for connection to public sewer and water. The application for permits shall be accompanied by a site plan, drawn to scale, detailing the unit placement, accessory structures, and setbacks.
- d. Upgrading: Prior to locating a manufactured home housing unit constructed prior to 1 July 1972, on a lot within a manufactured home park within the City, said unit shall be upgraded to current life safety codes and subject to the approval of the Building Inspector.

5. **Street Maintenance:** All private internal streets in manufactured home parks shall be maintained by the park owner in a good state of repair, free from obstructions, encumbrances, depressions, potholes, and break ups. Snow shall be promptly plowed and removed from streets and adjacent mail boxes and fire hydrants, so that snow or snow piles do not constitute a safety hazard to motorists and pedestrians, or constitute an obstruction to emergency service vehicles. Icy streets and areas adjacent to mail boxes shall be promptly sanded. "Promptly" shall mean no later than twenty four (24) hours after the end of a snow fall or in the case of ice within twenty four (24) hours after it has formed.
- H. Personal wireless service antennas not located on a public or quasi-public structure or existing tower provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.

**1059-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an R-2 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Satellite TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- B. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1059-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an R-2 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Model homes as regulated by Chapter 1017 of this Ordinance.
- D. Personal wireless service antennas located upon a public or quasi-public structure or existing tower as regulated by Chapter 1023 of this Ordinance.
- E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1059-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an R-2 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Minimum Lot Area: Ten thousand (10,000) square feet.
- B. Minimum Lot Width: Seventy-five feet (75').
- C. Minimum Lot Depth: One hundred feet (100').
- D. Maximum Impervious Surface: Thirty-five percent (35%).
- E. Minimum Setbacks:
  - 1. Front: Twenty-five feet (25').
  - 2. Side: Ten feet (10').
  - 3. Rear: Twenty feet (20').

**1059-8: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-2 District:

- A. Except in the case of manufactured home park lots, the total ground area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
- B. All residences shall be limited to a maximum height of two and one-half (2-1/2) stories or thirty-five feet (35').

## CHAPTER 1060

### R-3, MEDIUM DENSITY RESIDENTIAL DISTRICT

#### SECTION:

1060-1:	Purpose
1060-2:	Permitted Uses
1060-3:	Permitted Accessory Uses
1060-4:	Conditional Uses
1060-5:	Interim Uses
1060-6:	Uses by Administrative Permit
1060-7:	Lot Requirements and Setbacks
1060-8:	Lot Coverage and Height
1060-9:	Common Areas
1060-10:	Design and Construction Standards

**1060-1: PURPOSE:** The purpose of the R-3, Medium-Density Residential District is to establish low to moderate density residential housing in multiple family structures ranging up to and including eight (8) units, as guided by the Comprehensive Plan and that satisfies the following planning objectives:

- A. Creation of a cohesive medium-density neighborhood that provides attractive living environments and contributes to the City's identity.
- B. Provide attractive and durable medium-density housing options as a means of addressing the City's life cycle housing needs.
- C. Preservation of natural land forms, open spaces, greenways for scenic enjoyment and recreational use through the regulation of medium-density residential land use.
- D. Allows for the subdivision of twinhome, quadraminium and townhome base lots to permit individual private ownership of a single dwelling within such a structure.

**1060-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-3 District:

- A. More than one (1) principal building on a base lot.
- B. Multiple family dwelling structures containing eight (8) or less dwelling units.
- C. Public parks, playgrounds, recreational uses and directly related buildings and structures.

**1060-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-3 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, interim, and administrative permit in this Section, subject to applicable regulation of this Ordinance.
- B. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.
- C. Daycare facilities serving twelve (12) or fewer persons in a single-family dwelling unit.
- D. Fences as regulated by Chapter 1020 of this Ordinance.
- E. Home offices.
- F. Keeping of animals subject to Chapter 1022 of this Ordinance.
- G. Play and recreational facilities, accessory to an existing permitted use.
- H. Private garages and off-street parking and off-street loading as regulated by Chapter 1019 of this Ordinance.
- I. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
- J. Secondary or accessory use antennas as regulated by Chapter 1023 of this Ordinance.
- K. Signs as regulated by Chapter 1024 of this Ordinance.
- L. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.

**1060-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-3 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Commercial recreation, outdoor provided that:
  - 1. The use will not negatively impact neighboring farming operations or residential uses.
  - 2. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  - 3. Adequate, improved off-street parking is provided.
- B. Daycare facilities serving thirteen (13) or more persons in a single family dwelling unit, provided that the use complies with the provisions of Chapter 1025 of this Ordinance.
- C. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1026 of this Ordinance are determined to be satisfied.
- D. Government buildings and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Chapter 1020-5 of this Ordinance.
- E. Manufactured home parks, provided that:
  - 1. The minimum area required for a manufactured home park designation shall be twenty (20) acres.
  - 2. The following minimum lot requirements within the manufactured home park are:
    - a. Minimum Lot Area: Ten thousand five hundred (10,500) square feet.
    - b. Minimum Lot Width: Eighty-five feet (85').
    - c. Maximum Impervious Surface: Thirty-five percent (35%).
  - 3. The following principal structure setbacks are satisfactorily met:
    - a. Front Yard: Thirty feet (30').
    - b. Rear Yard: Twenty-five feet (25') or thirty feet (30') on double frontage lots abutting a public right-of-way.

- c. Side Yard: Ten feet (10') on each side, or thirty feet (30') on the side yard abutting a public right-of-way.
- 4. Accessory buildings, uses and equipment comply with the applicable provisions of Chapter 1018 of this Ordinance.
- 5. The total ground floor area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
- 6. All residences are limited to a maximum height of one (1) story or twenty-five feet (25').
- 7. The public improvements within manufactured home parks are developed in accordance with the City's Subdivision Ordinance, which include:
  - a. Street and storm sewer improvements.
  - b. Sanitary sewer improvements.
  - c. Water improvements.
  - d. Public utilities (telephone, cable, electric and/or gas service).
- F. Personal wireless service antennas not located on a public structure, or existing tower, provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.
- G. Planned unit development as regulated by Chapter 1010 of this Ordinance.

**1060-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an R-3 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Satellite TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- B. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1060-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an R-3 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.



- B. Home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Model homes as regulated by Chapter 1017 of this Ordinance.
- D. Personal wireless service antennas located upon a public or quasi-public structure or existing tower as regulated by Chapter 1023 of this Ordinance.
- E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1060-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an R-3 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

A. Lot Area:

1. Two Unit Structures:

- a. Minimum Lot Area Per Dwelling Unit: Seven thousand five hundred (7,500) square feet.
- b. Minimum Base Lot Area: Fifteen thousand (15,000) square feet.
- c. Minimum Unit Lot Area: Sufficient area to include the living area, garages, decks, patios, or porches of the individual dwelling unit.

2. Structures With More Than Two (2) Units:

- a. Minimum Lot Area Per Dwelling Unit: Five thousand (5,000) square feet.
- b. Minimum Base Lot Area: Twenty thousand (20,000) square feet.
- c. Minimum Unit Lot Area: Sufficient area to include the living area, garages, decks, patios, or porches of the individual dwelling unit.

B. Lot Width:

- 1. Base Lot: One hundred feet (100').
- 2. Unit Lot: Sufficient area to include the living area, garages, decks, patios, or porches of the individual dwelling unit.

C. Setbacks:

1. Base Lot:
  - a. Front: Twenty-five feet (25').
  - b. Side: Ten feet (10') except twenty-five feet (25') for the side yard of a corner lot abutting a public right-of-way.
  - c. Rear: Twenty feet (20') except twenty-five feet (25') for double frontage lots.
2. Building setbacks for developments that include more than one (1) principal structure on a base lot shall conform to the following internal setbacks:
  - a. Setback between buildings within the same base lot shall maintain a minimum separation of twenty feet (20').
  - b. Buildings shall be set back a minimum of thirty feet (30') from the back of curb line of private drives, guest parking areas, and public rights-of-way.
  - c. Buildings shall be set back a minimum of thirty feet (30') from the designated wetland boundary.

**1060-8: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-3 District:

- A. The total ground area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
- B. All residences shall be limited to a maximum height of three (3) stories or forty-five feet (45').

**1060-9: COMMON AREAS:** The following minimum requirements shall be observed in the R-3 District governing common areas:

- A. Ownership: All common areas within an R-3 development including, but not limited to, open space, wetlands, greenways, drainage ponds, driveways, private drives, parking areas, play areas, etc., shall be owned in one of the following manners:
  1. Condominium ownership pursuant to Minnesota Statutes 515A.1-106.

2. Twinhome, quadraminium and townhome subdivision common areas shall be owned by the owners of each unit lot, with each owner of a unit having an equal and undivided interest in the common area.
- B. Homeowners' Association: A homeowners' association shall be established for all quadraminium, three- and four-plex multiple-family and townhome developments within the R-3 District, subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development.

**1060-10: DESIGN AND CONSTRUCTION STANDARDS:**

- A. Unit Size: The size of dwelling units shall comply with the minimums established in Section 1017-6 of this Ordinance.
- B. Unit Width: The minimum width of a dwelling unit within the R-3 District shall be twenty five feet (25').
- C. Unit Construction:
1. Subdivision Requests: Building elevations and floor plans shall be furnished with subdivision requests illustrating exterior building material and colors to demonstrate compliance with Chapter 1017 of this Ordinance. Building floor plans shall identify the interior storage space within each unit.
  2. Decks Or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.
  3. Minimum Overhang: In case of gable roof, a minimum eighteen inch (18") roof overhang or soffit shall be required for all residential structures.
  4. Exterior Building Finish: The exterior of townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure facing the public right-of-way to create an architecturally balanced appearance. A minimum of twenty five percent (25%) of the area of all building facades of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.

- D. Garages: Each dwelling unit shall include an attached garage that shall comply with the following minimum size standards:
1. For dwellings with basements: four hundred forty (440) square feet.
  2. For dwellings without basements: five hundred forty (540) square feet.
  3. Garages shall be a minimum of twenty feet (20') in width.
- E. Outside Storage: Outside storage shall be allowed only in designated areas which are screened in accordance with Section 1020-5 of this Ordinance and under the ownership of the property owners' association subject to other applicable provisions of this Ordinance.
- F. Utilities:
1. Underground Or Exterior Service: All utilities serving an R-3 subdivision, including telephone, electricity, gas and telecable shall be installed underground. Exterior utility meters and/or fixtures shall be located in interior side or rear yards when possible and shall be screened from view of adjacent properties and the public right of way.
  2. Public Utility Service: Separate public utility services shall be provided to each unit unless exempted by the City Engineer.
  3. Water Connection: Individual unit shut-off valves shall be provided.
  4. Sewer Connection: Where more than one (1) unit is served by a sanitary sewer service, all maintenance and cleaning shall be the responsibility of the property owners' association or owners.
- G. Streets: All streets shall be public and shall comply with the design standards and specifications as governed by the City's Subdivision Ordinance.
- H. Drives:
1. Dead-end private driveways shall serve a maximum of two (2) structures or six (6) units per side.
  2. Private drives shall be under the ownership and control of the property owners' association who shall be responsible for the maintenance, repair, and replacement of surfacing. Said association shall maintain a capital improvement program for the driveways under its ownership.
  3. Provisions for adequate turnaround shall be made at the terminus of all private drives.

4. Private drives shall include plans and areas for snow storage.
  5. Private drives shall be a minimum of twenty eight feet (28') in width (back of curb to back of curb).
- I. Guest Parking: At minimum, one-half ( $\frac{1}{2}$ ) of guest parking spaces per unit shall be provided in an off-street parking lot or private drive. The design of the off-street parking lot shall conform to requirements of Chapter 1019 of this Ordinance.
  - J. Landscaping/Screening, and Lighting: Detailed landscaping/screening and lighting plans shall be provided and implemented pursuant to Chapters 1016 and 1020 of this Ordinance.
  - K. Open Space/Recreational Use: In addition to the park dedication requirements stipulated by the City's Subdivision Ordinance, a minimum of ten percent (10%) of the gross development project area shall be in usable open space and recreational use for the project residents. Such areas shall be specifically designed for both the active and passive use by the project residents and may include swimming pools, trails, nature areas, tot lots, exercise equipment, saunas, etc. Said areas and facilities shall be private, except in those cases where the City agrees to assume responsibility for all or a portion of the recreational space. In those cases where private ownership is maintained, the land and facilities shall be subject to the requirement of common areas as detailed in Section 1060-8 of this Ordinance.
  - L. Irrigation: All pervious landscaped areas shall be irrigated subject to plan submission, review, and approval by the City Engineer.

**CHAPTERS 1061 – 1064**

**RESERVED**

## CHAPTER 1065

### R-4, HIGH DENSITY RESIDENTIAL DISTRICT

#### SECTION:

- 1065-1: Purpose
- 1065-2: Permitted Uses
- 1065-3: Permitted Accessory Uses
- 1065-4: Conditional Uses
- 1065-5: Interim Uses
- 1065-6: Uses by Administrative Permit
- 1065-7: Development Density
- 1065-8: Lot Requirements and Setbacks
- 1065-9: Lot Coverage and Height
- 1065-10: Common Areas
- 1065-11: Design and Construction Standards

**1065-1: PURPOSE:** The purpose of the R-4, High Density Residential District is to provide for high density housing in multiple family structures and directly related complementary uses as guided by the Comprehensive Plan.

**1065-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in the R-4 District:

- A. More than one (1) principal building on a base lot.
- B. Multiple family dwelling structures containing more than eight (8) dwelling units.
- C. Public parks, playfields, recreational uses and directly related buildings and structures.
- D. Residential care facilities serving sixteen (16) or fewer persons.

**1065-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in the R-4 District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, interim, and administrative permit in this Section, subject to applicable regulation of this Ordinance.
- B. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.

- C. Daycare facilities serving twelve (12) or fewer persons in a single-family dwelling unit.
- D. Fences as regulated by Chapter 1020 of this Ordinance.
- E. Home offices.
- F. Keeping of animals subject to Chapter 1022 of this Ordinance.
- G. Play and recreational facilities, accessory to an existing permitted use.
- H. Private garages and off-street parking and off-street loading as regulated by Chapter 1019 of this Ordinance.
- I. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
- J. Secondary or accessory use antennas as regulated by Chapter 1023 of this Ordinance.
- K. Signs as regulated by Chapter 1024 of this Ordinance.
- L. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.

**1065-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-4 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Commercial recreation, outdoor provided that:
  - 1. The use will not negatively impact neighboring farming operations or residential uses.
  - 2. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
  - 3. Adequate, improved off-street parking is provided.



- B. Daycare facilities serving thirteen (13) or more persons in a single family dwelling unit, provided that the use complies with the provisions of Chapter 1025 of this Ordinance.
- C. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1026 of this Ordinance are determined to be satisfied.
- D. Government buildings and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section 1020-5 of this Ordinance.
- E. Manufactured home parks, provided that:
  - 1. The minimum area required for a manufactured home park designation shall be twenty (20) acres.
  - 2. The following minimum lot requirements within the manufactured home park are:
    - a. Minimum Lot Area: Ten thousand five hundred (10,500) square feet.
    - b. Minimum Lot Width: Eighty-five feet (85').
    - c. Maximum Impervious Surface: Thirty-five percent (35%).
  - 3. The following principal structure setbacks are satisfactorily met:
    - a. Front Yard: Thirty feet (30').
    - b. Rear Yard: Twenty-five feet (25') or thirty feet (30') on double frontage lots abutting a public right-of-way.
    - c. Side Yard: Ten feet (10') on each side, or thirty feet (30') on the side yard abutting a public right-of-way.
  - 4. Accessory buildings, uses and equipment comply with the applicable provisions of Chapter 1018 of this Ordinance.
  - 5. The total ground floor area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
  - 6. All residences are limited to a maximum height of one (1) story or twenty-five feet (25').

7. The public improvements within manufactured home parks are developed in accordance with the City's Subdivision Ordinance, which include:
  - a. Street and storm sewer improvements.
  - b. Sanitary sewer improvements.
  - c. Water improvements.
  - d. Public utilities (telephone, cable, electric and/or gas service).
- F. Personal wireless service antennas not located on a public structure, or existing tower, provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.
- G. Planned unit development as regulated by Chapter 1010 of this Ordinance.

**1065-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an R-4 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Satellite TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- B. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1065-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an R-4 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Model homes as regulated by Chapter 1017 of this Ordinance.
- D. Personal wireless service antennas located upon a public or quasi-public structure or existing tower, as regulated by Chapter 1023 of this Ordinance.
- E. Temporary structures as regulated by Chapter 1017 of this Ordinance

**1065-7: DEVELOPMENT DENSITY:** The maximum development density shall be determined by the following lot area per unit standards:

- A. Multiple Family Dwellings: Two thousand five hundred (2,500) square feet per unit.
- B. Senior Housing: One thousand (1,000) square feet per unit.

**1065-8: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an R-4 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Lot Area: Fifteen thousand (15,000) square feet.
- B. Lot Width: Eight-five feet (85').
- C. Periphery Lot Setbacks:
  - 1. A minimum setback of thirty feet (30') shall be required at the periphery of the base lot development.
  - 2. Yards Bordering a Major Collector or Arterial Street: An additional twenty feet (20') of setback to the side yard or rear yard requirements noted above is required to support a landscaped buffer yard.
- D. Internal Setbacks: The following minimum internal setbacks shall be imposed on medium density developments that include more than one principal structure on a base lot:
  - 1 Setback between buildings within the same base lot shall maintain a minimum separation of twenty feet (20').
  - 2 Buildings shall be set back a minimum of thirty feet (30') from the back of curb line of private drives, guest parking areas, and public rights-of-way.
  - 3 Buildings shall be set back a minimum of twenty feet (20') from the designated wetland boundary.

**1065-9: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-4 District:

- A. The total ground area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).

- B. All residences shall be limited to a maximum height of two and one-half (2-1/2) stories or forty-five feet (45').

**1065-10: COMMON AREAS:** The following minimum requirements shall be observed in the R-4 District governing common areas:

- A. Ownership: All common areas within an R-4 development including, but not limited to, open space, wetlands, greenways, drainage ponds, driveways, private drives, parking areas, play areas, etc., shall be owned in one of the following manners:
  - 1. Condominium ownership pursuant to Minnesota Statutes 515A.1-106.
  - 2. Twinhome, quadraminium and townhome subdivision common areas shall be owned by the owners of each unit lot, with each owner of a unit having an equal and undivided interest in the common area.
- B. Homeowners' Association: A homeowners' association shall be established for all townhome developments within the R-4 District, subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development.

**1065-11: DESIGN AND CONSTRUCTION STANDARDS:**

- A. Design and construction standards for townhomes shall be as specified in Section 1060-10 of this Ordinance.
- B. The exterior of multiple family dwelling structures shall include a variation in building materials which are to be distributed throughout the building facades and coordinated into the architectural design of the structure to create an architecturally balanced appearance. In addition, multiple family dwelling structures shall comply with the following requirements:
  - 1. A minimum of twenty-five percent (25%) of the combined area of all building facades facing a public right-of-way of a structure shall have an exterior finish of brick, stucco and/or natural or artificial stone.
  - 2. For the purposes of this Section, the area of the building facade shall not include area devoted to windows, entrance doors, garage doors, or roof areas.

## CHAPTER 1066

### R-B, RESIDENTIAL BUSINESS DISTRICT

#### SECTION:

- 1066-1: Purpose
- 1066-2: Permitted Uses
- 1066-3: Permitted Accessory Uses
- 1066-4: Conditional Uses
- 1066-5: Interim Uses
- 1066-6: Uses by Administrative Permit
- 1066-7: Lot Requirements and Setbacks
- 1066-8: Lot Coverage and Height

**1066-1: PURPOSE:** The purpose of the R-B, Residential Business District is to provide for a transition in land use from residential to low intensity businesses and allow for the mixing of these uses. The establishment of this district is to be limited to those areas specifically guided for mixed use development by the Comprehensive Plan and only when a full range of public services and facilities are available.

**1066-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an R-B District:

- A. Historic sites and structures.
- B. Multiple family dwelling structures containing not more than six (6) dwelling units.
- C. Public parks, playgrounds, recreational uses and directly related buildings and structures.
- D. Residential care facilities serving sixteen (16) or fewer persons.
- E. Single family detached dwellings.
- F. Two family residential dwellings.

**1066-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an R-B District:

- A. Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, conditional, interim, and administrative permit in this Section, subject to applicable regulation of this Ordinance.

- B. Boarding or renting of rooms to not more than two (2) individuals per dwelling unit.
- C. Daycare facilities serving twelve (12) or fewer persons in a single-family dwelling unit.
- D. Fences as regulated by Chapter 1020 of this Ordinance.
- E. Home offices.
- F. Keeping of animals subject to Chapter 1022 of this Ordinance.
- G. Play and recreational facilities, accessory to an existing permitted use.
- H. Private garages, off-street parking and off-street loading as regulated by Chapter 1019 of this Ordinance.
- I. Recreational vehicles and equipment parking and storage as regulated by Chapter 1016 of this Ordinance.
- J. Secondary or accessory use antennas as regulated by Chapter 1023 of this Ordinance.
- K. Signs as regulated by Chapter 1024 of this Ordinance.
- L. Tool houses, sheds and other such structures for the storage of domestic supplies and equipment.

**1066-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an R-B District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Bed and breakfast establishments, provided that:
  - 1. A maximum of four (4) bed and breakfast units be established in the structure.
  - 2. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.

3. The facility shall be owner or manager occupied.
4. The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet and shall be located on a lot which meets the minimum lot size of the R-B District.
5. The bed and breakfast units are located within the principal structure.
6. Not more than one (1) full time person who is not a resident of the structure shall be employed by the bed and breakfast facility.
7. Dining and other facilities shall not be open to the general public but shall be used exclusively by the registered guests and residents.
8. Two (2) off-street parking spaces shall be provided for the home plus one (1) off-street parking space for each bed and breakfast unit. Parking areas shall be screened and landscaped pursuant to Section 1020-5 of this Ordinance.
9. Not more than one (1) identification sign not exceeding four (4) square feet in area may be attached to each wall which faces a street. The sign shall be reflective of the architectural features of the structure and may not be internally illuminated or lighted between ten o'clock (10:00) PM and six o'clock (6:00) AM.
10. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

B. Commercial recreation, outdoor provided that:

1. The use will not negatively impact neighboring farming operations or residential uses.
2. The potential traffic generated by such use can be adequately accommodated (both volume and weight) upon the City streets serving the property upon which the use is located.
3. Adequate, improved off-street parking is provided.

C. Daycare facilities serving thirteen (13) or more persons in a single family dwelling unit, provided that the use complies with the provisions of Chapter 1025 of this Ordinance.

D. Elderly (senior citizen) housing, provided that:

1. Not more than ten percent (10%) of the occupants may be persons sixty (60) years of age or under (spouse of a person over sixty (60) years of age or caretakers, etc.).
  2. Except for caretaker units, occupancy shall be limited to a man and wife, blood relatives, or a single man or single woman.
  3. To continue to qualify for the elderly housing classification, the owner or agency shall annually file with the City Clerk a certified copy of a monthly resume of occupants of such a multiple dwelling, listing the number of tenants by age and clearly identifying and setting forth the relationship of all occupants sixty (60) years of age or under to qualified tenants, or to the building.
  4. There is adequate off-street parking and loading space in compliance with Section 1019 of this Ordinance.
  5. Parking areas are screened and landscaped from view of surrounding and abutting residential districts in compliance with Chapter 1020 of this Ordinance.
  6. The site of the principal use and its related parking is served by an arterial or collector street as defined by the Comprehensive Plan.
  7. All signing and information or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
  8. Elevator service is provided to each floor level.
- E. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, provided that the applicable provisions of Chapter 1026 of this Ordinance are determined to be satisfied.
- F. Government buildings and public related utility buildings and structures necessary for the health, safety and general welfare of the City, provided that when abutting a residential use or a residential use district, the property is screened and landscaped in compliance with Section 1020-5 of this Ordinance.
- G. Manufactured home parks, provided that:
1. The minimum area required for a manufactured home park designation shall be twenty (20) acres.
  2. The following minimum lot requirements within the manufactured home park are:



- a. Minimum Lot Area: Ten thousand five hundred (10,500) square feet.
  - b. Minimum Lot Width: Eighty-five feet (85').
  - c. Maximum Impervious Surface: Thirty-five percent (35%).
- 3. The following principal structure setbacks are satisfactorily met:
  - a. Front Yard: Thirty feet (30').
  - b. Rear Yard: Twenty-five feet (25') or thirty feet (30') on double frontage lots abutting a public right-of-way.
  - c. Side Yard: Ten feet (10') on each side, or thirty feet (30') on the side yard abutting a public right-of-way.
- 4. Accessory buildings, uses and equipment comply with the applicable provisions of Chapter 1018 of this Ordinance.
- 5. The total ground floor area of all residential buildings shall not exceed a lot coverage of thirty percent (30%).
- 6. All residences are limited to a maximum height of one (1) story or twenty-five feet (25').
- 7. The public improvements within manufactured home parks are developed in accordance with the City's Subdivision Ordinance, which include:
  - a. Street and storm sewer improvements.
  - b. Sanitary sewer improvements.
  - c. Water improvements.
  - d. Public utilities (telephone, cable, electric and/or gas service).
- 8. All utility construction plans shall be approved by the Minnesota Department of Health.
- H. Medical offices and clinics, dental offices and clinics, professional offices and commercial (leased) offices, veterinary clinics (not including outside kennels) and funeral homes and mortuaries, provided that:
  - 1. Adequate off-street parking and loading space is provided in compliance with Chapter 1019 of this Ordinance.
  - 2. Vehicular entrances to parking or service areas shall create a minimum of conflict with through traffic movement.

3. When abutting a residential use, a buffer area with screening and landscaping in compliance with Section 1020-5 of this Ordinance shall be provided.
  4. All signs and information or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
- I. Mixing of residential and business uses within one (1) principal building, provided that:
1. The residential and business use shall not conflict in any manner.
  2. Residential and business uses shall not be located on the same floor and no residential use shall be located on the first floor.
  3. Residential and business uses shall be provided separate exterior entrances.
  4. Residential uses shall be provided designated off-street parking in conformance with that required of multiple family uses in Chapter 1019 of this Ordinance.
  5. Open and outdoor storage associated with the residential use shall be prohibited.
  6. Business uses shall be subject to the applicable provisions of this district.
  7. Residential uses shall be governed by all applicable provisions of the Montrose City Code.
- J. Nursing homes and similar group housing, but not including hospitals, sanitariums, or similar institutions, provided that:
1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 1020-5 of this Ordinance.
  2. Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and controlled and screened in compliance with Section 1020-5 of this Ordinance.
  3. The site shall be served by an arterial or collector street as defined by the Comprehensive Plan of sufficient capacity to accommodate traffic which will be generated.

4. All signing and information or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
  5. All State laws and statutes governing such use are strictly adhered to and all required operating permits are secured.
  6. Adequate off-street parking and loading space is provided in compliance with Chapter 1019 of this Ordinance.
- K. Personal wireless service antennas not located on a public structure, or existing tower, provided that the applicable provisions of Chapter 1023 of this Ordinance are determined to be satisfied.
- L. Planned unit development as regulated by Chapter 1010 of this Ordinance.
- M. Public or semi-public recreational buildings and community centers, public and private educational institutions, and religious institutions provided that:
1. Side yard shall be double that required for the district, but no greater than thirty (30) feet.
  2. Adequate screening from abutting residential uses and landscaping is provided in compliance with Chapter 1020 of this Ordinance.
  3. Adequate off-street parking and loading space is provided in compliance with Chapter 1019 of this Ordinance.
- N. Retail or service commercial activities as allowed in the B-1 District, provided that:
1. Merchandise is sold at retail.
  2. Adequate off-street loading is provided in compliance with Chapter 1019 of this Ordinance.
  3. Vehicular entrances to parking or service areas shall create a minimum of conflict with through traffic movement.
  4. When abutting a residential use, a buffer area with screening and landscaping in compliance with Section 1020-5 of this Ordinance shall be provided.
  5. All signs and information or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.

**1066-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an R-B District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Satellite TVROs greater than one meter (1 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- B. Special home occupations, as regulated by Chapter 1021 of this Ordinance.
- C. Wind energy conversion systems (WECS), as regulated by Chapter 1029 of this Ordinance.

**1066-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an R-B District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Model homes as regulated by Chapter 1017 of this Ordinance.
- C. Personal wireless service antennas located upon a public or quasi-public structure or existing tower, as regulated by Chapter 1023 of this Ordinance.
- D. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1066-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an R-B District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

**A. Minimum Lot Area:**

- 1. Single Family Dwellings: Ten thousand (10,000) square feet.
- 2. Two Family Dwellings: Twelve thousand (12,000) square feet.
- 3. Townhouses, Quadraminiums, and Manor Homes:
  - a. Minimum Lot Area. Twenty thousand (20,000) square feet.
  - b. Minimum Lot Area Per Unit. Five thousand (5,000) square feet.

4. Multiple Family Uses: Twenty thousand (20,000) square feet.
  5. Other Uses: Ten thousand (10,000) square feet.
- B. **Minimum Lot Width:** Seventy-five (75) feet.
- C. **Minimum Lot Depth:** One hundred (100) feet.
- D. **Minimum Setbacks:**
1. Front: Twenty-five feet (25').
  2. Side: Ten feet (10').
  3. Rear: Twenty feet (20').
- 1066-8: LOT COVERAGE AND HEIGHT:** The following lot coverage and height requirements shall be observed in an R-B District:
- A. The total ground area of all residential buildings shall not exceed a lot coverage of fifty percent (50%).
  - B. All residences shall be limited to a maximum height of three (3) stories or forty-five feet (45').

**CHAPTERS 1067-1069**

**RESERVED**

## CHAPTER 1070

### B-1, CENTRAL BUSINESS DISTRICT

#### SECTION

1070-1:	Purpose
1070-2:	Permitted Uses
1070-3:	Permitted Accessory Uses
1070-4:	Conditional Uses
1070-5:	Interim Uses
1070-6:	Uses by Administrative Permit
1070-7:	Lot Requirements and Setbacks
1070-8:	Building Height

**1070-1: PURPOSE:** The purpose of the B-1, Central Business District is to provide specifically for the regulations of high intensity commercial uses located within the downtown area defined by the Comprehensive Plan.

**1070-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in a B-1 District:

- A. Adult uses as regulated by Chapter 115 of the City Code.
- B. Governmental or public regulated utilities, buildings, or structures necessary for the health, safety, and general welfare of the City.
- C. Office business – clinic.
- D. Office business – general.
- E. Personal services, subject to any licensing requirements of the City, County, or State.
- F. Retail business without drive-through service facilities.
- G. Service business – on-site without drive-through service facilities.

**1070-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in a B-1 District:

- A. Accessory buildings and structures provided that such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

- B. Fences as regulated by Chapter 1020 of this Ordinance.
- C. Keeping of animals as regulated by Chapter 1022 of this Ordinance.
- D. Off-street parking and loading as regulated by Chapter 1019 of this Ordinance, but not including semi-trailer trucks, except in designated loading areas not to exceed four (4) hours.
- E. Secondary or accessory use antennas or satellites as regulated by Chapter 1023 of this Ordinance.
- F. Signs as regulated by Chapter 24 of this Ordinance.

**1070-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in a B-1 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Accessory drive-through facilities provided that:
  - 1. Not less than one hundred twenty feet (120') of segregated automobile stacking shall be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.
  - 2. The stacking lane and its access shall be designed to control traffic in a manner to protect the buildings and will not interfere with on-site traffic circulation or access to the required parking space.
  - 3. No part of the public street or boulevard may be used for stacking of automobiles.
  - 4. The stacking lane, order board telecom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.
  - 5. The drive-through window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.



6. A lighting and photometric plan will be required that illustrates the drive-through service lane lighting and shall comply with Section 1016-8 of this Ordinance.
- B. Essential services involving transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- C. Motor fuel stations provided that:
1. **Motor Fuel Facilities.** Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
  2. **Architectural Standards.**
    - a. As a part of the conditional use permit application, a color illustration of all building elevations shall be submitted.
    - b. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
    - c. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment pursuant to Section 1017-4 of this Ordinance.
    - d. Exterior wall treatments like brick, stone (natural or artificial), decorative concrete block and stucco shall be used.
  3. **Canopy.** A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:
    - a. The edge of the canopy shall be thirty feet (30') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.
    - b. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck passing underneath.

- c. The canopy fascia shall not exceed three feet (3') in vertical height.
  - d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source of fixture may extend below the ceiling of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot candles below the canopy at ground level.
  - e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
  - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that the individual canopy sign does not exceed more than twenty percent (20%) of the canopy façade facing a public right-of-way.
  - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
4. Pump Islands. Pump islands shall comply with the following performance standards:
- a. Pump islands shall be elevated six inches (6") above the traveled surface of the site.
  - b. All pump islands shall be set at least thirty feet (30') back from any property line. Additionally, the setback between the pump islands curb face shall be at least twenty-four feet (24').
5. Dust Control and Drainage. The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone, or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:
- a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
  - b. A minimum pool depth of four feet (4').
  - c. A minimum oil containment capacity of eight hundred (800) gallons.
  - d. Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.

6. Landscaping.

- a. At least thirty-five percent (35%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.
- b. At the boundaries of the lot, the following landscape area shall be required:
  - 1) From side and rear property lines, an area of not less than ten feet (10') side shall be landscaped in compliance with Section 1020-4 of this Ordinance.
  - 2) From all road rights-of-way, an area of not less than fifteen feet (15') wide shall be landscaped in compliance with Section 1020-4 of this Ordinance.
  - 3) Where lots abut residentially zoned property, a buffer yard of not less than twenty feet (20') wide shall be landscaped and screened in accordance with Section 1020-4 of this Ordinance.
  - 4) The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.

7. Exterior Lighting. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8 of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- a. Canopy Lighting. Canopy lighting under the canopy structure shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the ceiling of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot candles at ground level.
- b. Perimeter Lighting. Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot candles at ground level.

- c. Illumination. Maximum site illumination shall not exceed four-tenths (0.4) foot candle at ground level when measured at any boundary line with an adjoining residential property or any public property.
  - d. Access. Vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with Section 1019 of this Ordinance.
- 8. Circulation and Loading. The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas shall be exclusive of off-street parking stalls and drive aisles. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.
- 9. Parking.
  - a. Parking spaces shall be calculated solely based upon the use(s) and the square footage of the principal building(s).
  - b. Parking spaces shall be screened from abutting residential properties in accordance with Section 1020-5 of this Ordinance.
- 10. Noise. Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 1016-12 of this Ordinance.
- 11. Outside Storage, Sales and Service. No outside storage or sales shall be allowed, except as follows:
  - a. Public phones may be located on site as long as they do not interrupt on-site traffic circulation, and are not located in a yard abutting residentially zoned property.
  - b. Propane sales of twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meets all State Uniform Building and Fire Codes.
  - c. A compressed air service area may be located on site as long as it does not interrupt on-site traffic circulation.
  - d. Accessory outdoor services, sales, or rental as regulated by Section 1070-6.B of this Ordinance.

12. Litter Control. The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.
  13. Additional Stipulations. All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.
- D. Personal wireless service antennas not located on an existing structure or tower, as regulated by Chapter 1023 of this Ordinance.
- E. Pet shops which may include pet grooming, pet supplies, and/or pet accessories, provided that:
1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties or tenants in the case of multiple occupancy buildings.
  2. Animal wastes are disposed at least once each day via an existing sanitary sewer system or enclosed in a container of sufficient construction at least once a day to minimize odors.
  3. The floors and walls of pet grooming areas are made of nonporous materials or sealed concrete to make them nonporous.
  4. All applicable requirements of this code regarding the keeping and care of animals are satisfactorily met.
  5. No commercial boarding or kenneling of animals shall be allowed.
  6. The breeding of cats and dogs is prohibited unless expressly allowed by the conditional use permit.
  7. All applicable provisions of Minnesota statutes sections 346.35 through 346.58 regarding the commercial keeping and care of animals are satisfactorily met.
  8. All animals to be sold are acquired from a licensed animal broker.
- F. Planned unit development as regulated by Chapter 1010 of this Ordinance.
- G. Private lodges and clubs provided that:
1. Adequate screening from abutting and adjoining residential uses and landscaping is provided.

2. Adequate off-street parking and access is provided and that such parking is adequately screened and landscaped from adjoining and residential uses.
  3. Adequate off-street loading and service entrances are provided and regulated where applicable by Chapter 1019 of this Ordinance.
- H. Private specialty schools such as music, dance or business schools provided that:
1. Provisions are made to buffer and screen any adjoining residential uses.
  2. The site is served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
- I. Residential apartments accessory to permitted or conditional uses in the district provided that:
1. The apartment is located in the same building as the principal use.
  2. The residential and non-residential uses do not conflict in any manner.
- J. Restaurants with accessory outdoor dining facilities provided that:
1. The applicant submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
  2. Access to the dining area be provided only via the principal building if the dining area is full service restaurant, including table waiting service.
  3. The size of the dining area is restricted to thirty (30) percent of the total customer floor area within the principal structure.
  4. The dining area is screened from view from adjacent residential uses in accordance with Section 1020-5 of this Ordinance.
  5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 1016-8 of this Ordinance.
  6. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor dining area by providing the following:
    - a. Outdoor dining area shall be segregated from through pedestrian circulation by means of fencing, bollards, ropes, plantings, or other

methods, and shall be subject to review and approval by the City Council.

- b. Minimum clear passage zone for pedestrians at the perimeter of the restaurant shall be at least five (5) feet without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, street lights, parking meters, or the like.
    - c. Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven (7) feet above sidewalk.
  - 7. The dining area is surfaced with concrete, bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.
  - 8. A minimum width of thirty-six (36) inches shall be provided within aisles of the outdoor dining area.
  - 9. Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture shall be approved as part of the administrative permit application.
  - 10. Additional off-street parking shall be required pursuant to the requirements set forth in Chapter 1019 of this Ordinance based on the additional seating area provided by the outdoor dining area.
  - 11. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and shall be designed to prevent spillage and blowing litter.
- K. Veterinary clinics provided that:
- 1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.
  - 2. Animal carcasses are properly disposed of in a manner not utilizing on site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
  - 3. An animal kennel is permitted as a use accessory to the veterinary clinic provided that:

- a. The number of animals boarded shall not exceed twenty (20).
- b. An indoor exercise area shall be provided to accommodate the periodic exercising of animals boarded at the kennel. No outdoor exercising of animals shall be permitted.
- c. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty degrees and seventy five (75) degrees Fahrenheit.
- d. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
- e. Indoor animal kennel floors and walls shall be made of nonporous materials or sealed concrete to make it nonporous.
- f. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
- g. The appropriate license is obtained from the City Clerk and the conditions of Chapter 1022 of this Ordinance are met.
- h. All state health department and Minnesota pollution control agency requirements for such facilities are met.

**1070-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in a B-1 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Wind energy conversion systems (WECS) as regulated by Chapter 1029 of this Ordinance.

**1070-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in a B-1 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:



- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Open or outdoor sales, rental or display as an accessory use in association with an allowed principal use provided that:
  - 1. The area so occupied shall not exceed ten percent (10%) of the principal building.
  - 2. No storage or display of merchandise shall be permitted in required rear, side or front yards and shall be limited to the area of the customer entrances.
  - 3. The outdoor sales, rental or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by Chapter 1019 of this Ordinance, except as may be exempted for cause by the Zoning Administrator.
- C. Personal wireless service antennas located upon an existing structure or tower or temporary mobile tower as regulated by Chapter 1030 of this Ordinance.
- D. Temporary, outdoor promotional and sales events and sales provided that:
  - 1. The event shall not exceed the period specified in the administrative permit. In no case shall the event exceed thirty (30) consecutive calendar days per event.
  - 2. There shall be no more than two (2) events per calendar year per property.
  - 3. Signage related to the event shall be in compliance with the temporary sign standards of Chapter 1024 of this Ordinance and shall be allowed for the duration of the event. Special signage for purposes of traffic direction and control may be authorized by the zoning administrator; the erection and removal of such signage shall be the responsibility of the applicant.
- E. Temporary structures as regulated by Chapter 17 of this Ordinance.

**1070-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in a B-1 district subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Lot Area: None.

B. Lot Width: Thirty feet (30').

C. Setbacks:

1. Front Yard: None.
2. Rear Yard: None, except when abutting a residential district, then twenty-five feet (25').
3. Side Yard: None, except when abutting a residential district, then twenty-five feet (25').

**1070-8: BUILDING HEIGHT:** All buildings shall be limited to a maximum height of three (3) stories or thirty-five feet (35').

## SECTION 1071

### B-2, HIGHWAY BUSINESS DISTRICT

#### SECTION:

1071-1:	Purpose
1071-2:	Permitted Uses
1071-3:	Permitted Accessory Uses
1071-4:	Conditional Uses
1071-5:	Interim Uses
1071-6:	Uses by Administrative Permit
1071-7:	Lot Requirements and Setbacks
1071-8:	Building Height
1071-9:	Impervious Surface Coverage

**1071-1: PURPOSE:** The purpose of the B-2, Highway Business District is to provide for and limit the establishment of motor vehicle oriented or dependent high intensity commercial and service activities.

**1071-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in a B-2 District:

- A. Adult uses as regulated by Chapter 115 of the City Code.
- B. Governmental and public regulated utilities, buildings, and structures necessary for the health, safety and general welfare of the City.
- C. Greenhouses and landscape nurseries.
- D. Hospitality businesses.
- E. Liquor sales – on and off sale.
- F. Office businesses – clinical.
- G. Office businesses – general.
- H. Recreational businesses contained entirely within the principal building.
- I. Restaurant without drive-through facilities, without outdoor dining.
- J. Retail businesses without drive-through service facilities.

- K. Service businesses – off site.
- L. Service businesses – on site without drive-through service facilities.
- M. Specialty schools such as music, dance, gymnastics, or business/trade schools.
- N. Theaters.

**1071-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in a B-2 District:

- A. Accessory buildings and structures provided that such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.
- B. Fences as regulated by Chapter 1020 of this Ordinance.
- C. Keeping of animals as regulated by Chapter 1022 of this Ordinance.
- D. Off-street parking and loading as regulated by Chapter 1019 of this Ordinance, but not including semi-trailer trucks, except in designated loading areas not to exceed four (4) hours.
- E. Secondary or accessory use antennas or satellites as regulated by Chapter 1023 of this Ordinance.
- F. Signs as regulated by Chapter 24 of this Ordinance.

**1071-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in a B-2 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Accessory drive-through facilities provided that:
  - 1. Not less than one hundred twenty feet (120') of segregated automobile stacking must be provided for the single service lane. Where multiple service lanes are provided, the minimum automobile stacking may be reduced to sixty feet (60') per lane.

2. The stacking lane and its access shall be designed to control traffic in a manner to protect the buildings and will not interfere with on-site traffic circulation or access to the required parking space.
3. No part of the public street or boulevard may be used for stacking of automobiles.
4. The stacking lane, order board telecom, and window placement shall be designed and located in such a manner as to minimize glare to adjacent premises, particularly residential premises, and to maximize maneuverability of vehicles on the site.
5. The drive-through window and its stacking lanes shall be screened from view of adjoining residential zoning districts and public street rights-of-way.
6. A lighting and photometric plan will be required that illustrates the drive-through service lane lighting and shall comply with Section 1016-8 of this Ordinance.

B. Automobile repair – minor, provided that:

1. Landscaping and screening not less than five feet (5') in width shall be provided at the boundaries abutting a residential zoning district in compliance with Section 1020-5 of this Ordinance.
2. Parking or automobile storage space shall be screened from view of abutting residential districts in compliance with Section 1020-5 of this Ordinance.
3. Regardless of whether the dispensing, sale or offering for sale of motor fuels and/or oil is incidental to the conduct of the use or business, the standards and requirements imposed by this Ordinance for motor fuel stations shall apply. These standards and requirements are, however, in addition to other requirements that are imposed for other uses of the property.
4. Provisions are made to control and reduce noise.

C. Commercial car washes (drive-through, mechanical and self-service) provided that:

1. The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or areas as to cause impairment in property values or constitute a blighting influence.

2. Magazining or stacking space is constructed to accommodate that number of vehicles which can be washed during a maximum thirty (30) minute period and shall be subject to the approval of the City Engineer.
3. At the boundaries of a residential district, a strip of not less than five feet (5') shall be landscaped and screened in compliance with Section 1020-4 of this Ordinance.
4. Parking or car magazine storage space shall be screened from view of abutting residential districts in compliance with Section 1020-5 of this Ordinance.
5. The entire area other than occupied by the building or plantings shall be surfaced with material which will control dust and drainage which is subject to the approval of the City Engineer.
6. The entire area shall have a drainage system which is subject to the approval of the City.
7. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1016-8 of this Ordinance.
8. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movement and shall be subject to the approval of the City Engineer.
9. Provisions are made to control and reduce noise.

D. Commercial daycare facilities provided that:

1. All requirements of the Minnesota Department of Health and Human Services, as may be amended, are satisfactorily met and the structure and operation is licensed accordingly.
2. Screening is provided along all shared property lines. Such required fencing and screening shall be in compliance with the applicable provisions of Section 1020-5 of this Ordinance.
3. Adequate off-street parking is provided in a location separated from any outdoor play area(s).
4. Adequate off-street loading spaces in compliance with Chapter 1019 of this Ordinance.

E. Contractor shops and offices provided that:

1. All outside storage is prohibited. The storage of contractor equipment and materials must be completely inside.
2. When abutting a residential land use, a buffer area with screening and landscaping in compliance with Section 1020-5 of this Ordinance.

F. Hospitals provided that:

1. Side yards are double the minimum requirements established for this district and are screened in compliance with Section 1020-5 of this Ordinance.
2. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
3. All State Statutes and regulations governing such use are strictly adhered to and all required operating permits are secured.
4. Adequate off-street loading space is provided in compliance with Chapter 1019 of this Ordinance.

G. Motor fuel stations provided that:

1. Motor Fuel Facilities. Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
2. Architectural Standards.
  - a. As a part of the conditional use permit application, a color illustration of all building elevations shall be submitted.
  - b. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
  - c. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment pursuant to Section 1017-4 of this Ordinance.

- d. Exterior wall treatments like brick, stone (natural or artificial), decorative concrete block and stucco shall be used.
3. Canopy. A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:
- a. The edge of the canopy shall be thirty feet (30') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.
  - b. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck passing underneath.
  - c. The canopy fascia shall not exceed three feet (3') in vertical height.
  - d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source of fixture may extend below the ceiling of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot candles below the canopy at ground level.
  - e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
  - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that the individual canopy sign does not exceed more than twenty percent (20%) of the canopy façade facing a public right-of-way.
  - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
4. Pump Islands. Pump islands shall comply with the following performance standards:
- a. Pump islands shall be elevated six inches (6") above the traveled surface of the site.
  - b. All pump islands shall be set at least thirty feet (30') back from any property line. Additionally, the setback between the pump islands curb face shall be at least twenty-four feet (24').
5. Dust Control and Drainage. The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone, or paving brick. Plans for surfacing and drainage shall be



subject to approval of the City Engineer. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:

- a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
- b. A minimum pool depth of four feet (4').
- c. A minimum oil containment capacity of eight hundred (800) gallons.
- d. Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.

6. Landscaping.

- a. At least thirty-five percent (35%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.
- b. At the boundaries of the lot, the following landscape area shall be required:
  - 1) From side and rear property lines, an area of not less than ten feet (10') side shall be landscaped in compliance with Section 1020-4 of this Ordinance.
  - 2) From all road rights-of-way, an area of not less than fifteen feet (15') wide shall be landscaped in compliance with Section 1020-4 of this Ordinance.
  - 3) Where lots abut residentially zoned property, a buffer yard of not less than twenty feet (20') wide shall be landscaped and screened in accordance with Section 1020-4 of this Ordinance.
  - 4) The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.

7. Exterior Lighting. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8

of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- a. Canopy Lighting. Canopy lighting under the canopy structure shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the ceiling of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot candles at ground level.
  - b. Perimeter Lighting. Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot candles at ground level.
  - c. Illumination. Maximum site illumination shall not exceed four-tenths (0.4) foot candle at ground level when measured at any boundary line with an adjoining residential property or any public property.
  - d. Access. Vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with Chapter 1019 of this Ordinance.
8. Circulation and Loading. The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas shall be exclusive of off-street parking stalls and drive aisles. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.
  9. Parking.
    - a. Parking spaces shall be calculated solely based upon the use(s) and the square footage of the principal building(s).
    - b. Parking spaces shall be screened from abutting residential properties in accordance with Section 1020-5 of this Ordinance.
  10. Noise. Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 1016-12 of this Ordinance.
  11. Outside Storage, Sales and Service. No outside storage or sales shall be allowed, except as follows:

- a. Public phones may be located on site as long as they do not interrupt on-site traffic circulation, and are not located in a yard abutting residentially zoned property.
  - b. Propane sales of twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meets all State Uniform Building and Fire Codes.
  - c. A compressed air service area may be located on site as long as it does not interrupt on-site traffic circulation.
  - d. Accessory outdoor services, sales, or rental as regulated by Section 1071-6.B of this Ordinance.
- 12. Litter Control. The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.
  - 13. Additional Stipulations. All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

H. Outdoor recreation, accessory provided that:

- 1. The facilities are an accessory use to a principal use allowed within the B-2 District.
- 2. The facilities meet the principal building setbacks.
- 3. The facilities shall maintain a fifty foot (50') setback from residential districts.
- 4. The facilities shall be screened from adjoining properties or public rights-of-way.
- 5. The City may set limits on the hours of operation to avoid nuisance issues.

I. Outdoor sales lots (not outdoor storage) provided that:

- 1. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with Section 1020-5 of this Ordinance.
- 2. Outside services and sales are associated with a principal building of at least one thousand (1,000) square feet of floor area.

3. The entire sales lot and off-street parking area is paved.
  4. For motor vehicle sales activities, a minimum of three hundred eighty (380) square feet of sales area per vehicle is provided.
  5. A perimeter curb is provided around the sales/parking lot.
  6. All lighting shall be hooded and so directed that the light source is not visible from the public right-of-way or from an abutting residence and shall be in compliance with Section 1016-8 of this Ordinance.
  7. Materials for sale shall be displayed in an orderly manner and shall not constitute junk as defined by this Ordinance.
- J. Personal wireless service antennas not located on an existing structure or tower, as regulated by Chapter 1023 of this Ordinance.
- K. Planned unit development as regulated by Chapter 1010 of this Ordinance.
- L. Private lodges and clubs provided that:
1. Adequate screening from abutting and adjoining residential uses and landscaping is provided.
  2. Adequate off-street parking and access is provided and that such parking is adequately screened and landscaped from adjoining and residential uses.
  3. Adequate off-street loading and service entrances are provided and regulated where applicable by Chapter 1019 of this Ordinance.
- M. Restaurants with accessory outdoor dining facilities provided that:
1. The applicant submit a site plan and other pertinent information demonstrating the location and type of all tables, refuse receptacles, and wait stations.
  2. Access to the dining area be provided only via the principal building if the dining area is full service restaurant, including table waiting service.
  3. The size of the dining area is restricted to thirty percent (30%) of the total customer floor area within the principal structure.
  4. The dining area is screened from view from adjacent residential uses in accordance with Section 1020-5 of this Ordinance.

5. All lighting be hooded and directed away from adjacent residential uses in accordance with Section 1016-8 of this Ordinance.
  6. The applicant demonstrates that pedestrian circulation is not disrupted as a result of the outdoor dining area by providing the following:
    - a. Outdoor dining area shall be segregated from through pedestrian circulation by means of temporary fencing, bollards, ropes, plantings, or other methods, and shall be subject to review and approval by the City Council.
    - b. Minimum clear passage zone for pedestrians at the perimeter of the restaurant shall be at least five feet (5') without interference from parked motor vehicles, bollards, trees, tree gates, curbs, stairways, trash receptacles, street lights, parking meters, or the like.
    - c. Overstory canopy of trees, umbrellas or other structures extending into the pedestrian clear passage zone or pedestrian aisle shall have a minimum clearance of seven feet (7') above sidewalk.
  7. The dining area is surfaced with concrete, bituminous or decorative pavers or may consist of a deck with wood or other flooring material that provides a clean, attractive, and functional surface.
  8. A minimum width of thirty-six inches (36") shall be provided within aisles of the outdoor dining area.
  9. Storage of furniture shall not be permitted outdoors between November 1 and March 31. Outdoor furniture that is immovable or permanently fixed or attached to the sidewalk shall not be subject to the storage prohibition of this section. However, any immovable or permanently fixed or attached furniture must be approved as part of the administrative permit application.
  10. Additional off-street parking shall be required pursuant to the requirements set forth in Chapter 1019 of this Ordinance based on the additional seating area provided by the outdoor dining area.
  11. Refuse containers are provided for self-service outdoor dining areas. Such containers shall be placed in a manner which does not disrupt pedestrian circulation, and shall be designed to prevent spillage and blowing litter.
- N. Veterinary clinics (with kennels) provided that:
1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.

2. Animal carcasses are properly disposed of in a manner not utilizing on site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
3. An animal kennel is permitted as a use accessory to the veterinary clinic provided that:
  - a. The number of animals boarded shall not exceed twenty (20).
  - b. An indoor exercise area shall be provided to accommodate the periodic exercising of animals boarded at the kennel. No outdoor exercising of animals shall be permitted.
  - c. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty degrees and seventy five (75) degrees Fahrenheit.
  - d. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
  - e. Indoor animal kennel floors and walls shall be made of nonporous materials or sealed concrete to make it nonporous.
  - f. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
4. The appropriate license is obtained from the City Clerk and the conditions of the City Code relating to the keeping of animals are satisfactorily met.
5. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.

**1071-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in a B-2 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Wind energy conversion systems (WECS) as regulated by Chapter 1029 of this Ordinance.

**1071-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in a B-2 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Open or outdoor sales, rental or display as an accessory use in association with an allowed principal use provided that:
  - 1. The area so occupied shall not exceed ten percent (10%) of the principal building.
  - 2. No storage or display of merchandise shall be permitted in required rear, side or front yards and shall be limited to the area of the customer entrances.
  - 3. The outdoor sales, rental or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by Chapter 1019 of this Ordinance, except as may be exempted for cause by the Zoning Administrator.
- C. Other uses of the same general character as those listed as a permitted use in this district.
- D. Personal wireless service antennas located upon an existing structure or tower or temporary mobile tower as regulated by Chapter 1030 of this Ordinance.
- E. Temporary, outdoor promotional events and sales provided that:
  - 1. The event shall not exceed the period specified in the administrative permit. In no case shall the event exceed thirty (30) consecutive calendar days per event.
  - 2. There shall be no more than two (2) promotional events per calendar year per property.
  - 3. Signage related to the event shall be in compliance with the temporary sign standards of Chapter 1024 of this Ordinance and shall be allowed for the duration of the event. Special signage for purposes of traffic direction and control may be authorized by the zoning administrator; the erection and removal of such signage shall be the responsibility of the applicant.

F. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1071-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in a B-2 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Lot Area: Twenty thousand (20,000) square feet.
- B. Lot Width: Eighty feet (80').
- C. Setbacks:
  - 1. Front Yard: Thirty feet (30').
  - 2. Rear Yard: Twenty feet (20') or thirty feet (30') if abutting a residential zoned property.
  - 3. Side Yard: Ten feet (10') on any one side, or twenty feet (20') on the side yard abutting a street or residential zoned property.

**1071-8: BUILDING HEIGHT:** All buildings shall be limited to three (3) stories or thirty-five feet (35') in height.

**1071-9: IMPERVIOUS SURFACE COVERAGE:** In no event shall off-street parking space, structures of any type, buildings, or other features cover more than seventy-five percent (75%) of the lot area resulting in less than twenty-five percent (25%) pervious landscaped area.



**CHAPTERS 1072 - 1079**

**RESERVED**

## CHAPTER 1080

### I-1, LIGHT INDUSTRIAL DISTRICT

#### SECTION:

- 1080-1: Purpose
- 1080-2: Permitted Uses
- 1080-3: Permitted Accessory Uses
- 1080-4: Conditional Uses
- 1080-5: Interim Uses
- 1080-6: Uses by Administrative Permit
- 1080-7: Lot Requirements and Setbacks
- 1080-8: Building Height
- 1080-9: Impervious Surface Coverage

**1080-1: PURPOSE:** The purpose of the I-1, Light Industrial District is to provide for less intensive types of industrial uses which, because of their proximity to residential areas or other sensitive uses, are less likely to impose objectionable influences, such as noise, vibrations, dust, heat, smoke, odor, etc.

**1080-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following uses are permitted uses in an I-1 District:

- A. Adult uses as regulated by Chapter 115 of the City Code.
- B. Automobile repair – major.
- C. Bottling establishments to include beverages such as soft drinks, milk, etc., but not including hazardous or toxic materials.
- D. Building material sales.
- E. Carpet and rug cleaning.
- F. Feed and seed sales.
- G. Greenhouses, nurseries.
- H. Laundry, dry cleaning or dying plant.
- I. Machine shops and metal products manufacturing when not equipped with heavy (exceeding fifty (50) ton pressure) punch presses, plastic injection molding presses (with clamp force exceeding one hundred fifty (150) tons), outside dry

plastic silos, mass production welding, robot gas cutting torches, outside air filters and cooling towers or any equipment which may create noise, vibration, smoke, odors, heat, or glare, etc., disturbing to adjacent property occupants.

- J. Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, by-products, or wastes, or creates other objectionable impact on the environment, including the generation of large volumes of traffic. Examples of such uses are:
  - a. Fabrication or assembly of small products such as optical, electronic, pharmaceutical, medical supplies, and equipment.
  - b. Printing and publishing.
- K. Mass transmit terminals.
- L. Professional offices.
- M. Radio and television stations.
- N. Recreational business contained entirely within the principal building.
- O. Shops and offices for contractors including plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, electrical, carpentry, welding, landscaping, excavating, and general contracting, including contractor storage of equipment and building materials if enclosed within a building, but not storage yards.
- P. Warehousing and distribution facilities but not including truck terminals or mini self-storage facilities.
- Q. Wholesale businesses and offices.

**1080-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an I-1 District:

- A. Fences as regulated by Chapter 1020 of this Ordinance.
- B. Keeping of animals as regulated by Chapter 1022 of this Ordinance.
- C. Off-street parking and loading as regulated by Chapter 1019 of this Ordinance, but not including semi-trailer trucks, except in designated loading areas not to exceed four (4) hours.
- D. Secondary or accessory use antennas or satellites as regulated by Chapter 1023 of this Ordinance.

E. Signs as regulated by Chapter 1024 of this Ordinance.

**1080-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an I-1 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

A. Accessory, indoor retail, rental, or service activity other than that allowed as a permitted use or conditional use within this Ordinance, provided that:

1. Such use is accessory and related to the permitted industrial use allowed within an I-1 District.
2. Such use does not constitute more than thirty percent (30%) of the lot area and not more than thirty percent (30%) of the gross floor area of the principal building.

B. Essential services involving transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.

C. Mini self-storage facilities provided that:

1. At least twenty-five (25) percent of the site is open green space which is sodded and intensely landscaped in accordance with a plan approved by the City Council.
2. No buildings shall be located closer than twenty-five (25) feet to each other to allow for parking, loading, driveway and fire lanes.
3. No single building shall be greater than one hundred fifty (150) feet in length.
4. Adequate space is provided for snow storage.
5. All structures are to be within two hundred (200) feet of a fire hydrant.
6. All storage buildings are to be equipped with an approved fire suppression system which will be subject to review and approval of the City Building Official and the Fire Department.
7. Every two thousand (2,000) square feet of the storage structure is to be separated by a fire wall and a complete and comprehensive fire alarm

system with smoke detectors shall be initiated in each structure subject to the review and approval of the Fire Department.

8. All driveways and parking areas are to be hard (blacktop or concrete) surfaced and adequate turning radius for fire truck maneuverability is to be maintained throughout the site. Designated snow storage space is to be provided to insure adequate and safe access during winter months.
9. If an “on-premises” caretaker dwelling unit is provided on site, construction of said dwelling unit shall conform to all design standard regulations for multiple family dwelling units of the Minnesota State Building Code.
10. Any structures having exposure to an adjacent residential use or public right-of-way, park, or similar public use areas shall be of brick, natural stone, wood, or stucco facing material.
11. No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self storage, mini warehousing facility.

D. Motor fuel stations provided that:

1. Motor Fuel Facilities. Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
2. Architectural Standards.
  - a. As a part of the conditional use permit application, a color illustration of all building elevations shall be submitted.
  - b. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
  - c. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment pursuant to Section 1017-4 of this Ordinance.
  - d. Exterior wall treatments like brick, stone (natural or artificial), decorative concrete block and stucco shall be used.

3. Canopy. A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:
  - a. The edge of the canopy shall be thirty feet (30') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.
  - b. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck passing underneath.
  - c. The canopy fascia shall not exceed three feet (3') in vertical height.
  - d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source of fixture may extend below the ceiling of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot candles below the canopy at ground level.
  - e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
  - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that the individual canopy sign does not exceed more than twenty percent (20%) of the canopy façade facing a public right-of-way.
  - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
4. Pump Islands. Pump islands shall comply with the following performance standards:
  - a. Pump islands shall be elevated six inches (6") above the traveled surface of the site.
  - b. All pump islands shall be set at least thirty feet (30') back from any property line. Additionally, the setback between the pump islands curb face shall be at least twenty-four feet (24').
5. Dust Control and Drainage. The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone, or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:

- a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
  - b. A minimum pool depth of four feet (4').
  - c. A minimum oil containment capacity of eight hundred (800) gallons.
  - d. Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.
6. Landscaping.
- a. At least thirty-five percent (35%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.
  - b. At the boundaries of the lot, the following landscape area shall be required:
    - 1) From side and rear property lines, an area of not less than ten feet (10') side shall be landscaped in compliance with Section 1020-4 of this Ordinance.
    - 2) From all road rights-of-way, an area of not less than fifteen feet (15') wide shall be landscaped in compliance with Section 1020-4 of this Ordinance.
    - 3) Where lots abut residentially zoned property, a buffer yard of not less than twenty feet (20') wide shall be landscaped and screened in accordance with Section 1020-4 of this Ordinance.
    - 4) The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.
7. Exterior Lighting. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8 of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- a. Canopy Lighting. Canopy lighting under the canopy structure shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the ceiling of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot candles at ground level.
  - b. Perimeter Lighting. Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot candles at ground level.
  - c. Illumination. Maximum site illumination shall not exceed four-tenths (0.4) foot candle at ground level when measured at any boundary line with an adjoining residential property or any public property.
  - d. Access. Vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with Chapter 1019 of this Ordinance.
8. Circulation and Loading. The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas shall be exclusive of off-street parking stalls and drive aisles. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.
9. Parking.
- a. Parking spaces shall be calculated solely based upon the use(s) and the square footage of the principal building(s).
  - b. Parking spaces shall be screened from abutting residential properties in accordance with Section 1020-5 of this Ordinance.
10. Noise. Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 1016-12 of this Ordinance.
11. Outside Storage, Sales and Service. No outside storage or sales shall be allowed, except as follows:
- a. Public phones may be located on site as long as they do not interrupt on-site traffic circulation, and are not located in a yard abutting residentially zoned property.



- b. Propane sales of twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meets all State Uniform Building and Fire Codes.
    - c. A compressed air service area may be located on site as long as it does not interrupt on-site traffic circulation.
    - d. Accessory outdoor services, sales, or rental as regulated by Section 1080-6.B of this Ordinance.
  - 12. Litter Control. The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.
  - 13. Additional Stipulations. All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.
- E. Open and outdoor storage (not outdoor sales lots) as an accessory use provided that:
- 1. The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per Section 1020-5 of this Ordinance.
  - 2. The storage area is fenced in a manner approved by the City.
  - 3. Storage area is blacktopped or concrete surfaced unless specifically approved by the City Council.
  - 4. All lighting shall be in compliance with Section 1016-8 of this Ordinance or other lighting standards in place at the time of project approval.
  - 5. The storage area does not take up parking space as required for conformity to this Ordinance.
  - 6. The property shall not abut property zoned for residential or business use.
  - 7. The storage area is not located in a front yard.
  - 8. The storage area shall not abut a school or a public park.
  - 9. Storage shall not include material considered hazardous under Federal or State Environmental Law.

- F. Open or outdoor service, sale and rental as a principal use, provided that:
1. Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with Section 1020-5 of this Ordinance.
  2. The use does not take up parking space as required for conformity to this Ordinance.
  3. Storage area is blacktopped or concrete surfaced unless specifically approved by the City Council.
  4. All lighting shall be in compliance with Section 1016-8 of this Ordinance or other lighting standards in place at the time of project approval.
- G. Personal wireless service antennas not located on an existing structure or tower as regulated by Chapter 1023 of this Ordinance.
- H. Planned unit development as regulated by Section 1010 of this Ordinance.
- I. Veterinary clinics (with kennels) provided that:
1. All areas in which animals are confined are located indoors and are properly soundproofed from adjacent properties.
  2. Animal carcasses are properly disposed of in a manner not utilizing on site garbage facilities or incineration and the carcasses are properly refrigerated during periods prior to disposal.
  3. An animal kennel is permitted as a use accessory to the veterinary clinic provided that:
    - a. The number of animals boarded shall not exceed twenty (20).
    - b. An indoor exercise area shall be provided to accommodate the periodic exercising of animals boarded at the kennel. No outdoor exercising of animals shall be permitted.
    - c. A ventilation system shall be designed so that no odors or organisms will spread between wards or to the outside air and will be capable of completely exchanging internal air at a rate of at least twice per hour. Air temperature must be maintained between sixty degrees and seventy five (75) degrees Fahrenheit.

- d. A room separate from the kennel area shall be provided of sufficient size to adequately separate animals that are sick or injured from healthy animals.
  - e. Indoor animal kennel floors and walls shall be made of nonporous materials or sealed concrete to make it nonporous.
  - f. Animal wastes shall be flushed down an existing sanitary sewer system or enclosed in a container of sufficient construction to eliminate odors and organisms and shall be properly disposed of at least once a day.
- 4. The appropriate license is obtained from the City Clerk and the conditions of the City Code relating to the keeping of animals are satisfactorily met.
  - 5. All State Health Department and Minnesota Pollution Control Agency requirements for such facilities are met.

<sup>7</sup> J. Resale or wholesale trade conducted by auction provided that:

- 1. All sales shall be held indoors.
- 2. There shall be no outdoor storage of materials and/or merchandise.
- 3. A second hand goods dealer's license be secured from the City.
- 4. Hours of business operation shall be limited to 8:00 AM to 9:00 PM.
- 5. Noise, including public address systems, shall be controlled as regulated by Section 1016-12 of this Ordinance.
- 6. Parking and loading shall be in compliance with Chapter 1019 of this Ordinance.
- 7. All lighting shall be in compliance with Section 1016-8 of this Ordinance.
- 8. The site's drainage system shall be subject to review and approval by the City Engineer.
- 9. There shall be no food or perishable items available for auction at the site unless adequate refrigeration is on site and food handling license is obtained and the equipment is approved by the State Health Inspector.

**1080-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an I-1 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Wind energy conversion systems (WECS) as regulated by Chapter 1029 of this Ordinance.

**1080-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an I-1 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Open or outdoor sales, rental or display as an accessory use in association with an allowed principal use provided that:
  - 1. The area so occupied shall not exceed thirty percent (30%) of the principal building.
  - 2. No storage or display of merchandise shall be permitted in required rear, side or front yards and shall be limited to the area of the customer entrances.
  - 3. The outdoor sales, rental or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by Chapter 1019 of this Ordinance, except as may be exempted for cause by the Zoning Administrator.
- C. Other uses of the same general character as those listed as a permitted use in this district.
- D. Personal wireless service antennas located upon an existing structure or tower or temporary mobile tower as regulated by Chapter 1023 of this Ordinance.
- E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1080-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an I-1 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Minimum Lot Area: Twenty thousand (20,000) square feet.
- B. Minimum Lot Width: One hundred feet (100').
- C. Minimum Setbacks:
  - 1. Front Yard: Twenty-five feet (25').
  - 2. Side Yard: Fifteen feet (15') or twenty-five feet (25') on the side yard abutting a public right-of-way or fifty feet (50') if abutting a residential district.
  - 3. Rear Yard: Twenty-five feet (25') or fifty feet (50') if abutting a residential district.

**1080-8: BUILDING HEIGHT:** All buildings shall be limited to four (4) stories or forty-five feet (45') in height.

**1080-9: IMPERVIOUS SURFACE COVERAGE:** In no event shall off-street parking space, structures of any type, or other features cover more than eighty percent (80%) of the lot area resulting in less than twenty percent (20%) pervious landscaped area.

## CHAPTER 1081

### I-2, GENERAL INDUSTRIAL DISTRICT

#### SECTION:

- 1081-1: Purpose
- 1081-2: Permitted Uses
- 1081-3: Permitted Accessory Uses
- 1081-4: Conditional Uses
- 1081-5: Interim Uses
- 1081-6: Uses by Administrative Permit
- 1081-7: Lot Requirements and Setbacks
- 1081-8: Building Height
- 1081-9: Impervious Surface Coverage

**1081-1: PURPOSE:** The purpose of the I-2, General Industrial District is to provide for the establishment of industrial uses of a more intense nature development in areas guided for industrial land use by the Comprehensive Plan.

**1081-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an I-2 District:

- A. Automobile repair – major.
- B. Bottling establishments to include beverages such as soft drinks, milk, etc., but not including hazardous or toxic materials.
- C. Building material sales.
- D. Feed and seed sales.
- E. Greenhouses, nurseries.
- F. Laundry, dry cleaning or dying plant.
- G. Machine shops and metal products manufacturing when not equipped with heavy (exceeding fifty (50) ton pressure) punch presses, plastic injection molding presses (with clamp force exceeding one hundred fifty (150) tons), outside dry plastic silos, mass production welding, robot gas cutting torches, outside air filters and cooling towers or any equipment which may create noise, vibration, smoke, odors, heat, or glare, etc., disturbing to adjacent property occupants.

- H. Manufacturing or assembly of a wide variety of products that produces no exterior noise, glare, fumes, obnoxious products, by-products, or wastes, or creates other objectionable impact on the environment, including the generation of large volumes of traffic. Examples of such uses are:
  - a. Fabrication or assembly of small products such as optical, electronic, pharmaceutical, medical supplies, and equipment.
  - b. Printing and publishing.
- I. Mass transmit terminals.
- J. Professional offices.
- K. Radio and television stations.
- L. Shops and offices for contractors including plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, electrical, carpentry, welding, landscaping, excavating, and general contracting, including contractor storage of equipment and building materials if enclosed within a building, but not storage yards.
- M. Truck terminals.
- N. Warehousing and distribution facilities but not including mini self-storage facilities.
- O. Wholesale businesses and offices.

**1081-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an I-2 District:

- A. Fences as regulated by Chapter 1020 of this Ordinance.
- B. Off-street parking and loading as regulated by Chapter 1019 of this Ordinance, including semi-trailer trucks.
- C. Secondary or accessory use antennas and satellite TVROs, as regulated by Chapter 1023 of this Ordinance.
- D. Signs as regulated by Chapter 1024 of this Ordinance.

**1081-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an I-2 District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Accessory, indoor retail, rental, or service activity other than that allowed as a permitted use or conditional use within this Ordinance, provided that:
  - 1. Such use is accessory and related to the permitted industrial use allowed within an I-2 District.
  - 2. Such use does not constitute more than thirty percent (30%) of the lot area and not more than thirty percent (30%) of the gross floor area of the principal building.
- B. Commercial and public radio and television transmitting antennas and public utility microwave antennas, as regulated by Chapter 1023 of this Ordinance.
- C. Concrete product plants, building materials production and similar uses provided that:
  - 1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
  - 2. A drainage system subject to the approval of the City Engineer shall be installed.
  - 3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 1020-5 of this Ordinance.
  - 4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
  - 5. Provisions shall be made to control and minimize noise, air and water pollution.
  - 6. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.



- D. Crude oil, gasoline or other liquid storage tanks as an accessory use (not including bulk propane at motor fuel stations for providing service to the general public) provided that:
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
  2. A drainage system subject to the approval of the City Engineer shall be installed.
  3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 1020-5 of this Ordinance.
  4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
  5. All crude oil, gasoline or other liquid storage tanks shall be located in the rear yard not less than twenty-five (25) feet from any property boundary lines and setback one hundred fifty (150) feet from any adjoining residential zoning district. No tanks shall be permitted in the front yard or side yard abutting public rights-of-way.
  6. Storage tanks shall be surrounded by twenty-five (25) feet of open area. Storage of any kind is prohibited in said open area, except equipment incidental to the storage tank. Approved parking must be set back ten (10) feet from any storage tank.
  7. Storage tanks shall be set back from existing structures, as outlined in the Fire Code, based on tank size.
  8. Storage tanks shall not interfere with site circulation, including but not limited to, parking, driveway, curb cuts and loading area.
  9. A wire weave/chain link security fence shall be required around all storage tanks. The location of said fence shall be as per the Uniform Fire Code.
  10. Storage sites shall be accessible by service and emergency vehicles.
  11. All filling valves of the storage tanks shall be enclosed and have locking devices.
  12. A warning sign shall be required for every tank and shall be placed in a conspicuous location, directly on the tank indicating a supplier's name, address, phone number, that highly flammable and dangerous material is

stored therein, and that no smoking requirements shall be observed or a sufficient warning to that effect. Said signage may not exceed four (4) square feet nor may it be used for advertising purposes.

13. Provisions are made to control and minimize noise, air and water pollution.
  14. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.
- E. Essential services involving transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- F. Manufacture of materials, including but not limited to, rubber, corrosive acids, petroleum and chemical products, which pose potential health and safety risks and which when produced give off potentially noxious odors provided that:
1. All applicable Minnesota Pollution Control Agency requirements are satisfactorily met.
  2. A drainage system subject to the approval of the City Engineer shall be installed.
  3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 1020-5 of this Ordinance.
  4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.
  5. Provisions are made to control and minimize noise, air and water pollution.
  6. Exterior liquid storage tanks shall comply with the standards of Section 1016-13 of this Ordinance.
  7. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.

G. Motor fuel stations provided that:

1. Motor Fuel Facilities. Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access fuel pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on the site. Fuel pumps shall be installed on pump islands.
2. Architectural Standards.
  - a. As a part of the conditional use permit application, a color illustration of all building elevations shall be submitted.
  - b. The architectural appearance, scale, and functional plan of the building(s) and canopy shall be complementary and compatible with each other and the existing buildings in the neighborhood setting.
  - c. All sides of the principal and accessory structures are to have essentially the same or a coordinated harmonious finish treatment pursuant to Section 1017-4 of this Ordinance.
  - d. Exterior wall treatments like brick, stone (natural or artificial), decorative concrete block and stucco shall be used.
3. Canopy. A protective canopy structure may be located over the pump island(s), as an accessory structure. The canopy shall meet the following performance standards:
  - a. The edge of the canopy shall be thirty feet (30') or more from the front and/or side lot line, provided that adequate visibility both on-site and off-site is maintained.
  - b. The canopy shall not exceed eighteen feet (18') in height and shall provide fourteen feet (14') of clearance to accommodate a semi-trailer truck passing underneath.
  - c. The canopy fascia shall not exceed three feet (3') in vertical height.
  - d. Canopy lighting shall consist of canister spotlights recessed into the canopy. No portion of the light source of fixture may extend below the ceiling of the canopy. Total canopy illumination may not exceed one hundred fifteen (115) foot candles below the canopy at ground level.

- e. The architectural design, colors, and character of the canopy shall be consistent with the principal building on the site.
  - f. Signage may be allowed on a detached canopy in lieu of wall signage on the principal structure, provided that the individual canopy sign does not exceed more than twenty percent (20%) of the canopy façade facing a public right-of-way.
  - g. Canopy posts/sign posts shall not obstruct traffic or the safe operation of the gas pumps.
4. Pump Islands. Pump islands shall comply with the following performance standards:
- a. Pump islands shall be elevated six inches (6") above the traveled surface of the site.
  - b. All pump islands shall be set at least thirty feet (30') back from any property line. Additionally, the setback between the pump islands curb face shall be at least twenty-four feet (24').
5. Dust Control and Drainage. The entire site other than taken up by a building, structure, or plantings shall be surfaced with asphalt, concrete, cobblestone, or paving brick. Plans for surfacing and drainage shall be subject to approval of the City Engineer. Drainage from all fueling areas shall be directed to an oil/grit separator. Minimum design standards for the oil/grit separator shall include the following:
- a. A minimum of four hundred (400) cubic feet of permanent pool storage capacity per acre of drainage area.
  - b. A minimum pool depth of four feet (4').
  - c. A minimum oil containment capacity of eight hundred (800) gallons.
  - d. Minimum maintenance/inspection of two (2) times per year and/or after measurable spill events. A measurable spill shall be defined by the Minnesota Pollution Control Agency (MPCA). Any measurable spill event must be reported to the MPCA.
6. Landscaping.
- a. At least thirty-five percent (35%) of the lot, parcel or tract of land used exclusively for the gas sales facility shall remain as a grass plot, including trees, shrubbery, plantings or fencing and shall be

landscaped. Required minimum green area should be emphasized in the front and side yards abutting streets or residential property.

b. At the boundaries of the lot, the following landscape area shall be required:

- 1) From side and rear property lines, an area of not less than ten feet (10') side shall be landscaped in compliance with Section 1020-4 of this Ordinance.
- 2) From all road rights-of-way, an area of not less than fifteen feet (15') wide shall be landscaped in compliance with Section 1020-4 of this Ordinance.
- 3) Where lots abut residentially zoned property, a buffer yard of not less than twenty feet (20') wide shall be landscaped and screened in accordance with Section 1020-4 of this Ordinance.
- 4) The property owner shall be responsible for maintenance of all landscaping, including within the boulevard.

7. Exterior Lighting. The lighting shall be accomplished in such a way as to have no direct source of light visible from adjacent land in residential use or from the public right-of-way and shall be in compliance with Section 1016-8 of this Ordinance. A comprehensive lighting plan shall be submitted as part of the conditional use permit application, and shall be subject to the following performance standards:

- a. Canopy Lighting. Canopy lighting under the canopy structure shall consist of canister spotlights recessed into the canopy. No portion of the light source or fixture may extend below the ceiling of the canopy. Total canopy illumination below the canopy may not exceed one hundred fifteen (115) foot candles at ground level.
- b. Perimeter Lighting. Lighting at the periphery of the site and building shall be directed downward, and individual lights shall not exceed fifteen (15) foot candles at ground level.
- c. Illumination. Maximum site illumination shall not exceed four-tenths (0.4) foot candle at ground level when measured at any boundary line with an adjoining residential property or any public property.

- d. Access. Vehicular access points shall create a minimum of conflict with through traffic movement and shall comply with Chapter 1019 of this Ordinance.
- 8. Circulation and Loading. The site design shall accommodate adequate turning radius and vertical clearance for a semi-trailer truck. Designated loading areas shall be exclusive of off-street parking stalls and drive aisles. A site plan shall be provided to illustrate adequate turning radius, using appropriate engineering templates.
- 9. Parking.
  - a. Parking spaces shall be calculated solely based upon the use(s) and the square footage of the principal building(s).
  - b. Parking spaces shall be screened from abutting residential properties in accordance with Section 1020-5 of this Ordinance.
- 10. Noise. Public address system shall not be audible at any property line. Play of music or advertisement from the public address system is prohibited. Noise control shall be required as regulated in Section 1016-12 of this Ordinance.
- 11. Outside Storage, Sales and Service. No outside storage or sales shall be allowed, except as follows:
  - a. Public phones may be located on site as long as they do not interrupt on-site traffic circulation, and are not located in a yard abutting residentially zoned property.
  - b. Propane sales of twenty (20) pound capacity tanks may be located outside provided the propane tanks are secured in a locker and meets all State Uniform Building and Fire Codes.
  - c. A compressed air service area may be located on site as long as it does not interrupt on-site traffic circulation.
  - d. Accessory outdoor services, sales, or rental as regulated by Section 1081-6.E of this Ordinance.
- 12. Litter Control. The operation shall be responsible for litter control on the subject property, which is to occur on a daily basis. Trash receptacles shall be provided at a convenient location on site to facilitate litter control.

13. Additional Stipulations. All conditions pertaining to a specific site are subject to change when the City Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.
- H. Open and outdoor storage (not outdoor sales lots) as an accessory use provided that:
1. The storage area is landscaped and screened from view of neighboring uses, residential zoning districts, and public rights-of-way per Section 1020-5 of this Ordinance.
  2. Storage area is fenced in a manner approved by the City.
  3. Storage area is blacktopped or concrete surfaced unless specifically approved by the City Council.
  4. All lighting shall be in compliance with Section 1016-8 of this Ordinance or other lighting standards in place at the time of project approval.
  5. The storage area does not take up parking space as required for conformity to this Ordinance.
  6. The property shall not abut property zoned for residential or business use.
  7. The storage area is not located in a front yard.
  8. The storage area shall not abut a school or a public park.
  9. Storage shall not include material considered hazardous under Federal or State Environmental Law.
- I. Planned unit development as regulated by Chapter 1010 of this Ordinance.
- J. Refuse/garbage collection provided that:
1. No refuse or garbage shall be stored or in any way disposed of on the site.
  2. The storage of refuse or garbage in the front yard shall be prohibited.
  3. Vehicle parking and storage areas are screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Chapter 1019 of this Ordinance.

4. Vehicle parking/storage areas shall be hard surfaced with a bituminous material with curb and gutter to control dust and shall be screened from view of neighboring uses and public rights-of-way.
  5. The site shall be maintained free of litter and any other undesirable materials and will be cleaned of loose debris on a daily basis.
  6. One (1) off-street parking space shall be provided for each commercial vehicle operated by the business. Parking requirements will otherwise be as mandated by the provisions of Chapter 1019 of this Ordinance.
  7. All in bound and out bound trucks and equipment, excluding employees personal vehicles, shall be restricted to designated routes established by the City, except for times when providing collection service to customers within the City limits.
  8. The hours of operation shall be limited as necessary to minimize the effects of nuisance factors such as traffic, noise, and glare upon any existing neighboring residential uses, or residential zoning districts.
  9. Provisions are made to control and minimize noise, air and water pollution.
  10. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.
- K. Satellite TVROs greater than two meters (2 m) in diameter as regulated by Chapter 1023 of this Ordinance.
- L. Truck stops provided that:
1. Vehicular access points shall be located along arterial streets and shall be limited and designed and constructed to create a minimum of conflict with through traffic movement.
  2. A drainage system subject to the approval of the City Engineer shall be installed.
  3. Storage areas are landscaped, fenced and screened from view of neighboring uses, abutting residential zoning districts and public rights-of-way in compliance with Section 1020-4 of this Ordinance.
  4. Vehicular access points shall create a minimum of conflict with through traffic movement and shall be subject to approval of the City Engineer.



5. Provisions are made to control and minimize noise, air and water pollution.
6. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare or public betterment can be served as well or better by modifying the conditions.

**1081-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an I-2 District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Wind energy conversion systems (WECS) as regulated by Chapter 1029 of this Ordinance.

**1081-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an I-2 District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 33kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Outside, above-ground storage facilities for fuels used for heating purposes, or for motor fuel dispensing purposes related to the approved principal use, but not for sale. Such facilities shall be limited to liquefied petroleum and propane gas used for standby heating and to equipment used for dispensing such gaseous fields to vehicles and containers which are used in conjunction with the allowed principal use. The location and design of such facilities for new developments shall be included with the site plan submitted for review and approved as required by this Ordinance. The location and design of such facilities for existing developments in all cases shall be subject to the approval of the Zoning Administrator and the following criteria:
  1. The design, construction, and location of the equipment shall comply with State and City codes including appropriate National Fire Protection Association specifications, Minnesota Uniform Fire Code requirements, and manufacturer's specifications.
  2. An accurate site plan for the development based upon a certified survey, shall be submitted showing to scale the location of the storage equipment, including any fencing and landscaping relating to the safety and screening of the equipment.

3. Solid wall enclosures should not be used to assure that fire hose streams can be directed onto the storage equipment with minimal obstruction.
  4. Equipment must be located so as not to obstruct approved parking spaces, driving aisles, fire lanes, utility easements, or required building ingress or egress points.
  5. No signage shall be permitted, other than required safety information, product identification, product hazards, and operation instructions. For the purpose of this Chapter, "signage" included words, graphics, logos, and symbols.
- C. Other uses of the same general character as those listed as a permitted use in this District.
- D. Personal wireless service antennas including temporary mobile towers, as regulated by Chapter 1023 of this Ordinance.
- E. Sales, rental or display (indoor and outdoor) as an accessory use in association with an allowed principal use provided that:
1. The area so occupied shall not exceed ten percent (10%) of the principal building.
  2. No storage or display of merchandise shall be permitted in required rear, side or front yards and shall be limited to the area of the customer entrances.
  3. The outdoor sales, rental or display area shall be included in the calculations for parking spaces required for the use and shall not occupy space required for parking as stipulated by Chapter 1019 of this Ordinance, except as may be exempted for cause by the Zoning Administrator.
- F. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1081-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an I-2 District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

- A. Minimum Lot Area: Forty thousand (40,000) square feet.
- B. Minimum Lot Width: One hundred feet (100').

C. Minimum Setbacks:

1. Front: Forty feet (40').
2. Side: Twenty feet (20') or forty feet (40') on the side yard abutting a public right-of-way or fifty feet (50') if abutting a residential district.
3. Rear: Twenty-five feet (25') or fifty feet (50') if abutting a residential district.

**1081-8: BUILDING HEIGHT:** All buildings shall be limited to four (4) stories or forty-five feet (45') in height.

**1081-9: IMPERVIOUS SURFACE COVERAGE:** In no event shall off-street parking space, structures of any type, buildings, or other features cover more than eighty percent (80%) of the lot area resulting in less than twenty percent (20%) pervious landscaped area.

## CHAPTER 1082

### INS, INSTITUTIONAL DISTRICT

#### SECTION

1082-1:	Purpose
1082-2:	Permitted Uses
1082-3:	Permitted Accessory Uses
1082-4:	Conditional Uses
1082-5:	Interim Uses
1082-6:	Uses by Administrative Permit
1082-7:	Lot Requirements and Setbacks
1082-8:	Building Height
1082-9:	Impervious Surface Coverage

**1082-1: PURPOSE:** The INS District is intended to provide a specific zoning district for facilities devoted to serving the public. It is unique in that the primary objective of uses within this district is the provision of services, frequently on a non-profit basis, rather than the sale of goods or services. It is intended that uses within such a district will be compatible with adjoining development, and they normally will be located on an arterial street or thoroughfare.

**1082-2: PERMITTED USES:** Subject to applicable provisions of this Ordinance, the following are permitted uses in an INS District:

- A. Governmental or public regulated utilities, buildings or structures necessary for the health, safety, and general welfare of the City.
- B. Pre-school, elementary, junior or senior high schools having a regular course of study accredited by the State of Minnesota.
- C. Publicly owned civic or cultural buildings, such as libraries, city offices, auditoriums, public administration buildings and historical developments.
- D. Religious institutions, such as churches, chapels, temples and synagogues.

**1082-3: PERMITTED ACCESSORY USES:** Subject to applicable provisions of this Ordinance, the following are permitted accessory uses in an INS District:

- A. Accessory buildings and structures provided that such use shall not exceed thirty percent (30%) of the gross floor space of the principal use.

- B. Fences as regulated by Chapter 1020 of this Ordinance.
- C. Keeping of animals as regulated by Chapter 1022 of this Ordinance.
- D. Off-street parking and loading as regulated by Chapter 1019 of this Ordinance, but not including semi-trailer trucks, except in designated loading areas not to exceed four (4) hours.
- E. Parks, playgrounds, and athletic fields.
- F. Secondary or accessory use antennas or satellites as regulated by Chapter 1023 of this Ordinance.
- G. Signs as regulated by Chapter 24 of this Ordinance.

**1082-4: CONDITIONAL USES:** Subject to applicable provisions of this Ordinance, the following are conditional uses in an INS District and require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance. Besides the specific standards and criteria which may be cited below for respective conditional uses, each request for a conditional use permit shall be evaluated based upon the standards and criteria set forth in Sections 1005-3 and 1005-4 of this Ordinance.

- A. Automobile parking lots as a principal use provided that the use and design is in conformance with Chapter 1019 of this Ordinance.
- B. Cemeteries or memorial gardens provided that:
  - 1. The site is landscaped in accordance with Section 1020-4 of this Ordinance.
  - 2. The use is available to the “public.”
  - 3. The land area of the property containing such use or activity meets the minimum established for the district.
  - 4. The use meets the minimum setback requirements for principal structures.
- C. Colleges, seminaries and other institutions of higher education provided that:
  - 1. Adequate parking is provided in conformance with Chapter 1019 of this Ordinance.

2. Provisions are made to buffer and screen any surrounding residential uses.
  3. The site is served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
- D. Commercial and public radio and television transmitting antennas, and public utility microwave antennas, as regulated by Section 1023 of this Ordinance.
- E. Community centers provided that:
1. Adequate screening from abutting and adjoining residential uses and landscaping is provided.
  2. Adequate off-street parking and access is provided and that such parking is adequately screened and landscaped from adjoining and abutting residential uses.
  3. Adequate off-street loading and service entrances are provided and regulated where applicable by Chapter 1019 of this Ordinance.
- F. Hospitals and residential care facilities including extended care facilities for mentally disabled, rest homes and care for the aged, ill and infirmed provided that:
1. Interior side yards are screened.
  2. Only the rear yard shall be used for play or recreational areas. Said area shall be fenced and controlled and screened in compliance with Section 1020-4 of this Ordinance.
  3. The site shall be served by an arterial or collector street of sufficient capacity to accommodate traffic which will be generated.
  4. All signing and informational or visual communication devices shall be in compliance with Chapter 1024 of this Ordinance.
  5. All State laws and statutes governing such use are strictly adhered to and all required operating permits are secured.
  6. Adequate off-street parking is provided in compliance with Chapter 1019 of this Ordinance.
  7. Off-street loading space in compliance with Chapter 1019 of this Ordinance.

- G. Living quarters which are provided as an accessory use to a principal or conditional use in this section provided that:
1. The use shall not be used as commercial rental property.
  2. A maximum of one (1) such dwelling shall be allowed.
  3. There shall be a demonstrated and documented need for such a facility.
- H. Personal wireless service antennas not located on an existing structure or tower, as regulated by Chapter 1023 of this Ordinance.
- I. Planned unit development as regulated by Chapter 1010 of this Ordinance.
- J. Public or semi-public recreational facilities provided that:
1. The site is landscaped.
  2. The use is available to the “public.”
  3. The land area of the property containing such use or activity meets the minimum established for the district.
  4. The use meets the minimum setback requirements for principal structures.
  5. The site accesses on a minor arterial.
- K. Lot areas less than twenty thousand (20,000) square feet provided that:
1. The use is permitted in the INS District.
  2. It is determined that the use is compatible with existing and anticipated uses which surround the site.
- <sup>2</sup> L. Commercial daycare facilities provided that:
1. All requirements of the Minnesota Department of Health and Human Services, as may be amended, are satisfactorily met and the structure and operation is licensed accordingly.
  2. Screening is provided along all shared property lines. Such required fencing and screening shall be in compliance with the applicable provisions of Section 1020-5 of this Ordinance.

3. Adequate off-street parking is provided in a location separated from any outdoor play area(s).
4. Adequate off-street loading spaces in compliance with Chapter 1019 of this Ordinance.

**1082-5: INTERIM USES:** Subject to applicable provisions of this Ordinance, the following are interim uses in an INS District and require an interim use permit based upon procedures set forth in and regulated by Chapter 1006 of this Ordinance:

- A. Wind energy conversion systems (WECS) as regulated by Chapter 1029 of this Ordinance.

**1082-6: USES BY ADMINISTRATIVE PERMIT:** Subject to applicable provisions of this Ordinance, the following uses are allowed by administrative permit in an INS District based upon procedures set forth in and regulated by Chapter 1008 of this Ordinance:

- A. Essential services, except transmission pipelines and transmission or substation lines in excess of 35kV and up to 100kV, as regulated by Chapter 1026 of this Ordinance.
- B. Other uses of the same general character as those listed as a permitted use in this district.
- C. Personal wireless service antennas located upon an existing structure or tower or temporary mobile tower, as regulated by Chapter 1030 of this Ordinance.
- D. Temporary, outdoor promotional and sales events and sales provided that:
  1. The event shall not exceed the period specified in the administrative permit. In no case shall the event exceed thirty (30) consecutive calendar days per event.
  2. There shall be no more than two (2) events per calendar year per property.
  3. Signage related to the event shall be in compliance with the temporary sign standards of Chapter 1024 of this Ordinance and shall be allowed for the duration of the event. Special signage for purposes of traffic direction and control may be authorized by the zoning administrator; the erection and removal of such signage shall be the responsibility of the applicant.



E. Temporary structures as regulated by Chapter 1017 of this Ordinance.

**1082-7: LOT REQUIREMENTS AND SETBACKS:** The following minimum requirements shall be observed in an INS District subject to additional requirements, exceptions and modifications set forth in this Ordinance:

A. Lot Area: Twenty thousand (20,000) square feet.

B. Setbacks:

1. Front Yard: Forty feet (40').
2. Rear Yard: Fifty feet (50').
3. Side Yard: Twenty feet (20').

**1082-8: BUILDING HEIGHT:** All buildings shall be limited to a maximum height of four (4) stories or forty-five feet (45').

**1082-9: IMPERVIOUS SURFACE COVERAGE:** In no event shall off-street parking space, structures of any type, buildings or other features cover more than sixty-five percent (65%) of the lot area resulting in less than thirty-five percent (35%) pervious landscaped area.

**CHAPTERS 1083 - 1089**

**RESERVED**

## CHAPTER 1090

### PUD, PLANNED UNIT DEVELOPMENT DISTRICT

#### SECTION:

- 1090-1: Purpose
- 1090-2: Application
- 1090-3: Procedure

**1090-1: PURPOSE:** The purpose of the PUD, Planned Unit Development District is to provide for the integration and coordination of land parcels as well as the combination of varying types of residential, commercial and industrial uses.

**1090-2: APPLICATION:** All permitted, permitted accessory, or conditional uses contained in Section 1051 through Section 1082 of this Ordinance shall be treated as potentially permitted uses within a PUD District.

**1090-3: PROCEDURE:** Whether requested as a rezoning or initially established by City action alone, a PUD, Planned Unit Development District shall be established and governed subject to the amendment and procedure requirements as outlined in Section 1064 of this Ordinance, plus the procedures, conditions and standards imposed by Chapter 1010 of this Ordinance.

**CHAPTERS 1091 - 1094**

**RESERVED**

## CHAPTER 1095

### FP, FLOODPLAIN OVERLAY DISTRICT

#### SECTION:

- 1095-1: Statutory Authorization, Findings of Fact, and Purpose
- 1095-2: Warning and Disclaimer of Liability
- 1095-3: District Application
- 1095-4: General Provisions
- 1095-5: Establishment of Zoning Districts
- 1095-6: FW, Floodway District
- 1095-7: FF, Flood Fringe District
- 1095-8: GFD, General Floodplain District
- 1095-9: Subdivisions
- 1095-10: Public Utilities, Railroads, Roads, and Bridges
- 1095-11: Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles
- 1095-12: Administration
- 1095-13: Amendments and Variances
- 1095-14: Flood Insurance Notice and Record Keeping
- 1095-15: Conditional Uses
- 1095-16: Amendments

#### **1095-1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSE:**

The legislature of the State has, in Minnesota Statutes Chapters 104 and 462, as may be amended, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City does ordain as follows:

#### **A. Findings Of Fact:**

1. Periodic Inundation: The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures on flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. Methods Used To Analyze Flood Hazards: This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

- B. **Statement Of Purpose:** It is the purpose of this District to promote the public health, safety, and general welfare and to minimize those losses described in subsection A of this Section by provisions contained herein.

**1095-2: WARNING AND DISCLAIMER OF LIABILITY:** This Ordinance does not imply that areas outside the FP Floodplain Overlay District boundaries or land uses allowed within this District will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City or any officer or employee thereof for any flood damages which result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**1095-3: DISTRICT APPLICATION:** The FP, Floodplain Overlay District shall be applied to and superimposed upon all districts as existing or amended by the text and map of this Ordinance. The FP, Floodplain Overlay District regulations shall not be construed to allow any use or structure otherwise not allowed in the underlying zoning district where the property is located. The regulations and requirements imposed by the FP Floodplain Overlay District shall be in addition to those established by all other districts of this Ordinance. The FP Floodplain Overlay District shall be established based upon the specific information contained in the Flood Insurance Rate Map and the Flood Insurance Study for the City as adopted in Section 1095-4.B of this Ordinance. All aforementioned official road maps and documents are hereby adopted by reference and declared to be an integral part of this Ordinance.

**1095-4: GENERAL PROVISIONS:**

- A. **Lands To Which The Chapter Applies:** This District shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map and the Flood Insurance Rate Map attached thereto as being located within the boundaries of the areas designated as Zone AE or Zone A.

B. **Establishment Of Official Zoning Map:**

1. **Adoption:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study and Flood Insurance Rate Map for the City. The Official Zoning Map shall be on file in the office of the City Clerk and the Zoning Administrator.
2. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot (1') above the

elevation of the 100-year base regional flood elevation plus any increases in flood elevation caused by encroachments on the Floodplain that result from designation of floodway.

3. Regional Flood Elevation For Lakes: The base regional flood level for lakes shall be as defined on the current Flood Insurance Rate Map or on the (insert date), letter from the Federal Emergency Management Agency to the City. These elevations are as follows:

- C. **Rules for Interpretation Of District Boundaries:** The boundaries of the Floodplain Overlay District shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the District as shown on the Official Zoning Map, as for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the City Engineer shall make the necessary interpretation. The persons contesting the location of the District boundary shall be given a reasonable opportunity to present their case and to submit their own technical evidence if they so desire.

#### **1095-5: ESTABLISHMENT OF ZONING DISTRICTS:**

- A. Floodway Subdistricts: The area within the FP Floodplain Overlay District is further divided into three (3) districts:
  1. FW, Floodway District: The FW District includes the bed of a lake or wetland or the channel of a river or stream and those portions of the adjoining Floodplain which are intended to store or carry and discharge, respectively, the regional flood. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 1095-4.B of this Ordinance.
  2. FF, Flood Fringe District: Includes the area outside of the floodway, but subject to inundation by the 100-year regional floods. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in Section 1095-4.B of this Ordinance.
  3. GFD, General Floodplain District: The General Floodplain District shall include those areas designated as unnumbered "A" zones on the Flood Insurance Rate Map adopted in Section 1095-4.B of this Ordinance.

**1095-6: FW, FLOODWAY DISTRICT:**

**A. Permitted Uses:**

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial-commercial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails including pedestrian bridges.
4. Residential lawns, gardens, parking areas, and play areas.
5. Public utilities, sanitary sewer, public water, storm sewer, and street improvements.

**B. Standards For Floodway Permitted Uses:**

1. The use shall have a low flood damage potential.
2. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

**C. Permitted Accessory Uses: None.**

**D. Conditional Uses:**

1. Structures accessory to the uses listed in subsection A of this Section, and the uses listed in subsection D2 through D8 of this Section.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharves, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill.



7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 1095-11 of this Ordinance.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

E. **Standards For Floodway Conditional Uses:** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use which, acting alone or in combination with existing or anticipated future uses, adversely affect the capacity of the floodway, or increase flood heights, with the exception of floodway boundary amendments. Consideration of the effects of a proposed use shall be based upon the reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. All conditional use applications shall be accompanied by a floodway impact statement drafted by a registered engineer. The City Engineer shall be responsible for submitting the proposal and application to the Department of Natural Resources and any other governmental unit having jurisdiction over the area for review and comment.

1. Fill, dredge spoil and all other similar materials deposited or stored in the Floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with subsection E2 of this Section, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the County Recorder.

F. **Accessory Structures:**

1. Accessory structures shall not be designed for human habitation.

2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
  - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
  - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures shall meet the following additional standards, as appropriate:
  - a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
  - b. Any mechanical and utility equipment in a structure shall be elevated to or above the regulatory flood protection elevation or properly floodproofed.

**G. Storage of Material and Equipment:**

1. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life, is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or readily movable from the area within the time available after flood warning.

**H. Garbage and Solid Waste Disposal:** No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas. There shall be no further encroachment upon the floodway at existing sites.

**I. Structural Works:**

1. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the applicable provisions of Minnesota statutes and review of the Minnesota Department of Natural Resources and the Army Corps of Engineers community-wide structural works for flood control intended to remove areas from the regulatory Floodplain shall not be allowed in the floodway.
2. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**1095-7: FF, FLOOD FRINGE DISTRICT:**

**A. Permitted Uses:**

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial loading areas, parking areas, and airport landing strips.
3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails, including pedestrian bridges.
4. Residential lawns, gardens, parking areas, and play areas.
5. Public utilities, sanitary sewer, public water, storm sewer, and street improvements.

**B. Conditional Uses:** The following are conditional uses in the Floodplain districts provided they are allowed in the base zoning districts (requires a conditional use permit and shall be subject to the standards, criteria and procedures specified in subsection C of this Section and Chapter 1005 of this Ordinance).

1. Floodway Conditional Uses: Floodway conditional uses are subject to the same conditions of Section 1005-4 of this Ordinance.
2. Residential Uses: Principal and accessory residential structures shall be constructed on fill with the lowest floor (including basement) at or above the regulatory flood protection elevation. The finished fill elevation shall be no more than one foot (1') below the regulatory flood protection elevation

for the particular area and shall extend at such elevation at least fifteen feet (15') beyond the limits of any structure or building erected thereon. For detached residential accessory structures of no more than five hundred (500) square feet of gross floor area and representing minimal investment the fill shall extend at such elevation at least five feet (5') beyond the limits of said structure erected thereon.

3. Nonresidential Structures: Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their lowest floor (including basement) is at or above the regulatory flood protection elevation, but may where Floodplain fill may result in an increase in the regional flood elevation, change in the natural course of the Floodplain drainage or result in potential flooding of neighboring properties be floodproofed in accordance with the State Building Code. Structures that are not elevated to above the regulatory flood protection elevation shall be floodproofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures floodproofed to FP-3 or FP-4 classification shall not be permitted.

C. Standards For Flood Fringe Uses:

1. Damage Potential: The use shall have a low flood damage potential.
2. Flood Flows: The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.
3. Residential Uses: Residences that do not have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation shall not be permitted unless granted a variance by the Board of Adjustment and Appeals. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the residence.
4. Business Uses: Commercial structures generally must be constructed on fill with no first floor or basement floor below the flood protection elevation. Accessory land uses, such as yards, railroad tracks, and parking lots may be at lower elevations. However, a permit for such facilities to be used by the general public shall not be granted, in the absence of a flood warning system, if the area is inundated to a depth greater than two feet (2') or subject to flood velocities greater than four feet (4') per second upon the occurrence of the regional flood.
5. Manufacturing And Industrial Uses: Manufacturing and industrial buildings, structures and appurtenant works shall be projected to the flood protection elevation. Measures shall be taken to minimize interference with normal

plant operations especially for streams having protracted flood durations. Certain necessary land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection C4 of this Section. In considering permit applications, the City Engineer shall give due consideration to needs of an industry whose business requires that it be located in Floodplain areas.

6. Waste Treatment And Waste Disposal:

- a. No new construction, addition, or modification to existing waste treatment facilities shall be permitted within the flood fringe unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.
- b. There shall be no disposal of garbage or solid waste materials within flood fringe areas except upon issuance of a conditional use permit at sites approved by the Minnesota Pollution Control Agency and subject to the requirements of Chapter 1005 of this Ordinance.

7. Flood Control Works: Establishment of flood control works shall be subject to the applicable provisions of Minnesota statutes and review of the Minnesota Department of Natural Resources and the Army Corps of Engineers and shall require a conditional use permit pursuant to Chapter 1005 of this Ordinance.

- a. The minimum height and design of any dikes, levees, floodwalls, or similar structural works shall be based upon the flood profile of the regional flood defined between the structures subject to the following:
  - 1) For urban areas, the minimum height and design of structure works shall be at least three feet (3') above the elevation of the regional flood or at the elevation of the standard protect flood, whichever is greater.
  - 2) Modifications and additions to existing structural works shall assure that the work will provide a means of decreasing the flood damage potential in the area. Any existing structural work which potentially threatens public health or safety shall be modified or reconstructed in order to meet the standards contained herein within a period of one (1) year of the effective date of this Ordinance.

- b. Flood protection elevations and floodway limits which reflect proposed measures for flood control shall not be effective until such measures are constructed and operative unless the proposed measures will increase flood heights, in which event, the regulatory flood protection elevations and Floodplain limits shall reflect the anticipated increases.
  - c. Detailed plans shall be submitted to the City Engineer for any new developments placed on the Floodplain landward from the dikes and levees. The plans shall provide for ponding areas or other measures to protect against flooding from internal drainage.
- 8. Fill For Construction: Fill shall be adequately compacted and the slopes shall be protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards shall be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- 9. Structural Floodproofing Standards: Alternative elevation methods other than the use of fill may be utilized to elevate a commercial and industrial structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawlspaces or tuck under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:
  - a. the enclosed area is above grade on at least one (1) side of the structure;
  - b. is designed to internally flood and is constructed with flood resistant materials;
  - c. is used solely for parking of vehicles, building access or storage. The above noted alternative elevation methods are subject to the following additional standards:
    - 1) Design And Certification: The structure's design and as-built condition shall be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air-

conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2) Specific Standards For Above Grade, Enclosed Areas: Above grade, fully enclosed areas such as crawlspaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

- a) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- b) That the enclosed area will be constructed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- c) Basements: "Basements", as defined in Section 1002-2 of this Ordinance, shall be subject to the following:
  - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
  - (2) Nonresidential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with subsection C9d of this Section.
- d. Nonresidential Structures: All areas of nonresidential structures, including basements to be placed below the regulatory flood protection elevation, shall be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code and this shall require making the structure watertight with the

walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.

10. Erosion Control: When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan shall be submitted unless the respective Floodplain area falls within a designated Shoreland Overlay District and shoreland regulations will be applied. In the absence of a State approved Shoreland Ordinance, the plan shall clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineering or other qualified individual acceptable to the governing body. The plan may incorporate alternative procedures for removal of the material from the Floodplain if adequate flood warning time exists.
11. Storage Of Materials And Equipment:
  - a. The storage or processing of materials that are, in the time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.
  - c. The provisions of subsection C5 of this Section shall also apply.

#### **1095-8: GFD, GENERAL FLOODPLAIN DISTRICT:**

- A. **Permitted Uses:** The uses listed as permitted uses in Section 1095-7.A of this Ordinance are permitted uses in the General Floodplain District.
- B. **Conditional Uses:** All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section 1005-4 of this Ordinance. Section 1095-6 of this Ordinance shall apply if the proposed use is in the Floodway District and Section 1095-7 of this Ordinance shall apply if the proposed use is in the Flood Fringe District.



**1095-9: SUBDIVISIONS:**

- A. Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the Floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. Removal Of Special Flood Hazard Area Designation: FEMA has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments.

**1095-10: PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES:**

- A. **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the Floodplain shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the FP Floodway District shall comply with Section 1095-6.E of this Ordinance. All railroad tracks, roads, bridges, and major transportation facilities must be constructed at or above the regulatory flood protection elevation where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or minor railroads may be constructed at an elevation two feet (2') below the regulatory flood protection elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. **On-Site Sewage Treatment And Water Supply Systems:** Where public utilities are not provided: 1) on-site water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or

contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current Statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Ordinance.

**1095-11: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES:**

- A. **Restrictions:** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Chapter 1059 of this Ordinance.
- B. **Elevation And Anchoring:**
  - 1. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the AE, A99, AH and AO flood zones on the City's current FIRM Map, as may be amended, will be treated as a new structure and may be placed only if elevated in compliance with Section 1095-7.C.9 of this Ordinance.
  - 2. All manufactured homes shall be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.
- C. **Travel Trailers:** Travel trailers and travel vehicles that do not meet the exemption criteria specified in subsection C1 of this Section shall be subject to the provisions of this Ordinance and as specifically spelled out in subsections C3 and C4 of this Section.
  - 1. Exemptions: Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in subsection C2 of this Section, and further they meet the following criteria:
    - a. Have current licenses required for highway use.
    - b. Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

2. Areas Exempted for Placement of Travel/Recreational Vehicles:
  - a. Individual lots or parcels of record.
  - b. Existing commercial recreational vehicle parks or campgrounds.
  - c. Existing condominium type associations.
3. Development: Travel trailers and travel vehicles exempted in subsection C1 of this Section, lose this exemption when development occurs on the parcel exceeding one thousand dollars (\$1,000.00) for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the use of land restrictions specified in Sections 1095-6 and 1095-7 of this Ordinance.
4. New Parks: New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
  - a. Any new or replacement travel trailer or travel vehicle will be allowed in the FF, Flood Fringe District or GFD, General Floodplain Districts, provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 1095-7.C.3 of this Ordinance. No fill placed in the floodway to meet the requirements of this Ordinance shall increase flood stages of the 100-year or regional flood.
  - b. All new or replacement travel trailers or travel vehicles not meeting the criteria of subsection C4a of this Section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Section 1095-15 of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 1095-7.C.6 of this Ordinance.

## **1095-12: ADMINISTRATION:**

- A. **Permit Requirements:** A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the Floodplain.
- B. **Application and Fee:** A use permit shall be applied for from the Zoning Administrator. Said application shall be made in duplicate and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel. An application fee and cash escrow. The application fee amount will be in accordance with City resolution and shall be required for each use permit.
- C. **Determination:** Within ten (10) days after the application for a use permit, the City Engineer shall determine whether the change, modification, or alteration conforms to the requirements of all applicable City and State regulations and ordinances. This time limit for determination of acceptability shall be automatically extended should referral to, or permit from, another governmental jurisdiction be required. The applicant shall be advised in writing of the City Engineer's determination and findings and if acceptable, a use permit shall be granted.
- D. **Security:**
1. Upon approval of a use permit, the City shall be provided with financial security prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the use permit and the codes and ordinances of the City.
  2. The financial security shall be in the amount of the City Engineer's and/or City Building Official's estimated costs of labor and materials for the proposed improvements or development.
  3. The City shall hold the security until completion of the proposed improvements or development at which time a certificate of occupancy indicating compliance with the use permit and codes and ordinances of the City may be issued by the City Building Official and said security released. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance

with the provisions of this Ordinance. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

- E. **Compliance:** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the FW, Floodway; FF, Flood Fringe; and GFD, General Floodplain Districts, all uses not listed as permitted uses or conditional uses in Sections 1095-6 and 1095-7 of this Ordinance, shall be prohibited. In addition:
1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Chapter and specifically Chapter 1059 of this Ordinance.
  2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Chapter and specifically, Chapter 1015 of this Ordinance.
  3. As-built elevations for elevated or floodproofed structures shall be certified by ground surveys and floodproofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in subsection H of this Section.
- F. **Certificate Of Zoning Compliance For New, Altered, Or Nonconforming Use:** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.
- G. **Construction And Use To Be As Provided On Applications, Plans, Permits, Variances And Certificates Of Zoning Compliance:** Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Chapter 1003 of this Ordinance.
- H. **Certification:** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with

the provisions of this Ordinance. Floodproofing measures shall be certified by a registered professional engineer or registered architect.

- I. **Record Of First Floor Elevation:** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the Floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures and/or alteration additions to structures are floodproofed.

#### **1095-13: AMENDMENTS AND VARIANCES:**

- A. In addition to the procedures and requirements for amendments and variances as established in Chapter 1007 of this Ordinance, the commissioner of Natural Resources shall be given at minimum ten (10) days notice of any public hearing, and a review and written report must be obtained from the Minnesota Department of Natural Resources and any other governmental body or commission having jurisdiction for such changes, additions or modifications affecting an FP, Floodplain Overlay District. The Commissioner of Natural Resources shall be advised in writing of all decisions made regarding variances and amendments.
- B. No variance or amendment shall have the effect of allowing a prohibited use within an FP District, permit a lesser degree of flood protection than the established flood protection elevation, and/or permit standards lower than those required under applicable State law.

**1095-14: FLOOD INSURANCE NOTICE AND RECORD KEEPING:** The Zoning Administrator shall notify the applicant for a variance that: a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and b) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biannual report submitted to the administrator of the National Flood Insurance Program.

**1095-15: CONDITIONAL USES:** Conditional uses require a conditional use permit based upon procedures set forth in, and regulated by, Chapter 1005 of this Ordinance. In addition, the City Engineer shall determine whether the proposed conditional use location is within a floodway or flood fringe area by computing the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional

stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries. Upon such determination, the applicable conditions, provisions and restrictions shall be imposed. The Commissioner of Natural Resources shall be given at minimum ten (10) days' notice of the required public hearing and shall be advised in writing of decisions made concerning any conditional use.

A. **Procedures And Standards For Evaluating Proposed Conditional Uses:** Upon receipt of an application for a conditional use permit for a use within the FP Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary for the determination of the regulatory flood protection elevation and whether the proposed use is in the FW, Floodway or the FF, Flood Fringe District:

1. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
2. Plan (surface view) showing the nature, locations, dimensions, and elevation of the lot, contours of the ground, fill; storage of materials; floodproofing measures; the arrangement of all proposed and existing structures on the site; locations and elevations of streets; existing and proposed utilities, septic tanks or water wells; existing land uses and vegetation upstream and downstream; soil type, and the relationship of the above to the location of the channel.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.

B. **Supplementary Considerations:** In acting upon the conditional use application, the governing body shall consider all relevant factors specified in Sections 1005-3 and 1005-4 of this Ordinance in addition to:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
3. The water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purposes of this Ordinance.

C. **Conditions Attached To Conditional Use Permits:** Upon consideration of the factors listed above and the purposes of this Ordinance, the governing body may attach such conditions to the granting of conditional use permits, as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Modification of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Floodproofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.



**1095-16: AMENDMENTS:**

- A. The Floodplain designation on the Official Zoning Map shall not be removed from Floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the Floodplain. Special exceptions to this rule may be permitted by the commissioner of Natural Resources if he or she determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map shall meet the FEMA technical conditions and criteria and must receive prior FEMA approval before adoption. The commissioner of Natural Resources shall be given ten (10) days' written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the amendment or technical study under consideration.

## CHAPTER 1096 S, SHORELAND OVERLAY DISTRICT

### SECTION:

- 1096-1: Statutory Authorization and Policy
- 1096-2: General Provisions
- 1096-3: Administration
- 1096-4: Shoreland Classifications and Overlay District Uses
- 1096-5: Zoning and Water Supply/Sanitary Provisions
- 1096-6: Non-Conformities
- 1096-7: Planned Unit Developments

### 1096-1: STATUTORY AUTHORIZATION AND POLICY:

- A. **Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103.F, and the planning and zoning enabling legislation in Minnesota Statutes.
- B. **Policy.** The uncontrolled use of shorelands of the City of Montrose, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Montrose.

### 1096-2: GENERAL PROVISIONS AND DEFINITIONS:

- A. **Jurisdiction.** The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in Section 1096-4 of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 – 6120.3900, no lake, pond, or flowage less than ten (10) acres in size shall be regulated by this Ordinance. A body of water created by a private use where there was no previous shoreland may, at the discretion of the City, be exempt from this Ordinance.
- B. **Compliance.** The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of

land shall be in full compliance with the terms of this Ordinance and other application regulations.

- C. **Enforcement.** The City of Montrose is responsible for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 1096-3.A of this Ordinance.
- D. **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- E. **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- F. **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

### **1096-3: ADMINISTRATION:**

#### **A. Permits Required.**

- 1. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), and those grading and filling activities not exempted by Section 1096-5.C of this Ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use.
- 2. A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by the City, shall be replaced with City utilities in accordance with the provisions of this Ordinance.

B. **Certificate of Zoning Compliance.** The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this Ordinance. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in this Ordinance.

C. **Variances.**

1. Variances may only be granted in accordance with Chapter 1007 of this Ordinance. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
2. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 1096-3.D of this Ordinance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
3. For existing developments, the application for variance shall clearly demonstrate compliance with City sewer and water service requirements.

D. **Notification to the Department of Natural Resources.**

1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls shall be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats shall include copies of the subdivision/plat.
2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the Commissioner or Commissioner's designated representative and postmarked within ten (10) days of final action.

**1096-4: SHORELAND CLASSIFICATION SYSTEM:**

A. **Public Waters.** The public waters of Montrose have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wright County, Minnesota.

B. **Official Map.** The shoreland area for the water bodies listed below shall be shown on the Montrose Zoning Map.

C. **Lakes.** (All classified as “natural environment”)

	Protected Waters Inventory I.D. Number
Mud Lake	86-85P
Unnamed	86-105P
Malardi Lake	86-112P
Fountain Lake	86-86P

D. **Rivers and Streams.**

1. Rivers: None.
2. Streams: Unnamed Tributary to North Fork Crow River

E. **Overlay District Uses.** The shorelands of the City of Montrose are hereby designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters of the City.

1. **Permitted Uses.** All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District is indicated on the official zoning map of the City.
2. **Conditional Uses.**
  - a. All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official zoning map of the City and as required by this Ordinance.
  - b. Boathouses.
3. **Substandard Uses.** Any uses of shorelands in existence prior to the date of enactment of this Ordinance which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this Ordinance are substandard uses. Substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

4. Prohibited Uses. Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official zoning map of the City.

#### **1096-5: ZONING AND WATER SUPPLY/SANITARY PROVISIONS:**

##### **A. Lot Area, Setback, and Width Standards.**

##### **1. Natural Environment Lakes.**

- a. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this Ordinance for natural environment lakes are as follows:

	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

##### **b. Additional Provisions.**

- 1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 1096-5 can only be allowed if designed and approved as residential planned unit developments under Section 1096-7 of this Ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards shall be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 1096-5 can only be used if publicly owned sewer system service is available to the property.
- 2) Subdivisions of duplexes, triplexes, and quads on natural environment lakes shall also meet the following standards:
  - a) Each building shall be set back at least two hundred (200) feet from the ordinary high water level.
  - b) Each building shall connect to publicly owned sewer and water systems.

- c) Watercraft docking facilities for each lot shall be centralized in one location and serve all dwelling units in the building.
  - d) No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- 3) One (1) guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 1096-5.A, provided the following standards are met:
  - a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage shall be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.
  - b) A guest cottage shall not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height.
  - c) A guest cottage shall be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- 4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and shall meet or exceed the following standards:
  - a) They shall meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - b) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<b>Controlled Access Lot Frontage Requirements</b>	
<b>Ratio of Lake Size to Shore Length (acres/mile)</b>	<b>Required Increase in Frontage (Percent)</b>
Less than 100	25
100 – 200	20
201 – 300	15
301 – 400	10
Greater than 400	5

- 5) They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- 6) Covenants of other equally effective legal instruments shall be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They shall also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities including swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and shall require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They shall also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

## 2. River Tributaries.

- a. Lot Width. The lot width (in feet) standards for single, duplex, triplex, and quad residential lots created after the date of enactment of this Ordinance for river tributaries are as follows:



Lot Width

Single	75 feet
Duplex	115 feet
Triplex	150 feet
Quad	190 feet

- b. Setbacks. Minimum setbacks for structures, except water-oriented accessory structures, for river tributaries are as follows:

Setback from Ordinary High Water Level	50 feet
Setback from Top of Bluff	30 feet

**B. Placement, Design, and Height of Structures.**

1. Placement of Structures on Lots. When more than one (1) setback applies to a site, structures and facilities shall be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

- a. Structure Setbacks.\*

	<u>Setback From</u>	<u>Setback</u>
1)	Ordinary High Water Level*	150 feet
2)	Top of bluff	30 feet
3)	Unplatted cemetery	50 feet
4)	Right-of-way line of federal, state, Or county highway	50 feet
5)	Right-of-way line of town road, public street, or other roads or streets not classified	20 feet

\* Applicable to Natural Environment Lakes.

\*\* One water-oriented accessory structure designed in accordance with Section 1096-5.B.2 of this Ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

- b. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- c. Uses Without Water-Oriented Needs. Uses without water-oriented needs shall be located on lots or parcels without public waters

frontage, or if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures.

- a. High Water Elevations. Structures shall be placed in accordance with any floodplain regulations to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed shall be determined as follows:
  - 1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher.
  - 2) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind drive waves and debris.
- b. Water-Oriented Accessory Structures. Each lot may have one (1) water-oriented accessory structure not meeting the normal structure in Section 1096-5.B of this Ordinance if this water-oriented accessory structure complies with the following provisions:
  - 1) The structure or facility shall not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks shall not exceed eight (8) feet above grade at any point.
  - 2) The setback of the structure or facility from the ordinary high water level shall be at least ten (10) feet.
  - 3) The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
  - 4) The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area.

- 5) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
  - 6) As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall meet the following design requirements:
- 1) Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
  - 2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
  - 3) Canopies or roofs are not allowed on stairways, lifts, or landings.
  - 4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  - 5) Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
  - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and

performance standards of Sections 1096-5.B.2.b.1 through 1096-5.B.2.b.5, above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
  - e. Steep Slopes. The Zoning Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
3. Height of Structures. All structures in residential districts, except churches and non-residential agricultural structures, shall not exceed twenty-five (25) feet in height.

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

- 1. Vegetation Alterations.
  - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 1096-5.D of this Ordinance are exempt from the vegetation alteration standards that follow.
  - b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 1096-5.F is allowed subject to the following standards:
    - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

- 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
  - a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
  - b) Along rivers, existing shading of water surfaces is preserved.
  - c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling.

- a. Grading and filling and excavations necessary for the construction of structures, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section shall be incorporated into the issuance of permits for construction of structures, and driveways.
- b. Public roads and parking areas are regulated by Section 1096-5.D of this Ordinance.
- c. Notwithstanding Sections 1096-5.C.2.a and 1096-5.C.2.b above, a grading and filling permit will be required for:
  - 1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones.
  - 2) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- 1) Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
  - a) Sediment and pollutant trapping and retention.
  - b) Storage of surface runoff to prevent or reduce flood damage.
  - c) Fish and wildlife habitat.
  - d) Recreational use.
  - e) Shoreline or bank stabilization.
  - f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\* This evaluation shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

- 2) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- 3) Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
- 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water features shall be used.
- 5) Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- 6) Fill or excavated material shall not be placed in a manner that creates an unstable slope.

- 7) Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of thirty (30) percent or greater.
  - 8) Fill or excavated material shall not be placed in bluff impact zones.
  - 9) Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under Minnesota Statutes, Section 105.42.
  - 10) Alterations of topography shall only be allowed if they are necessary to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
  - 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
  - 12) All grading and erosion control shall comply with the requirements of the MPCA NPDES – Phase II requirements.
- e. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

**D. Placement and Design of Roads, Driveways, and Parking Areas.**

1. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when other

reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.

3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 1096-5.C.2 of this Ordinance shall be met.

## **E. Stormwater Management.**

### **1. General Standards.**

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

### **2. Specific Standards.**

- a. Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area.
- b. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters shall provide filtering or settling of suspended solids and skimming of surface debris before discharge.



**F. Special Provisions for Commercial, Industrial, Public/Semi-Public, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

**1. Standards for Commercial, Industrial, Public and Semi-Public Uses.**

- a. Surface water-oriented commercial uses and industrial, public, or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:
  - 1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - 2) Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
  - 3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
    - a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the Wright County Sheriff.
    - b) Signs may be placed, when necessary, within the shore impact zones if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

- c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
  - b. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
2. Agricultural Use Standards.
- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
  - b. Animal feedlots shall meet the following standards.
    - 1) New feedlots shall not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public water basins.
    - 2) Modifications or expansions to existing feedlots that are located within three hundred (300) feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
3. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

4. Extractive Use Standards.

- a. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.
- b. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Section 93.44 to 93.51, are satisfied.

G. **Conditional Uses.** Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

- 1. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site shall be made to ensure:
  - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
  - b. The visibility of structures and other facilities as viewed from public waters is limited.
  - c. The site is adequate for water supply and on-site sewage treatment.
  - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- 2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional

use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- a. Increased setbacks from the ordinary high water level.
- b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
- c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

H. **Water Supply and Sewage Treatment.** Publicly-owned sewer and water systems shall be used in accordance with City specifications.

**1096-6: NON-CONFORMITIES:** All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to Chapter 1015 of this Ordinance for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use, except that the following standards will also apply in shoreland areas:

A. **Deck Additions.** Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

1. The structure existed on the date the structure setbacks were established.
2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
3. The deck encroachment toward the ordinary high water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive.
4. The deck is constructed primarily of wood, and is not roofed or screened.

B. **Non-Conforming Sewage Treatment and Water Systems.** A sewage treatment system not meeting the requirements of Section 1096-5.H of this Ordinance shall be terminated, at a minimum, at any time a permit or variance of any type is required for any improvement on or use of, the property. At such time, connection to publicly owned sewer and water systems shall be required.

- C. **Required Lot Combination.** If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the minimum lot area requirements of this chapter, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the minimum lot area requirements of this chapter to the extent possible.

**1096-7: PLANNED UNIT DEVELOPMENTS:** Flexible application of the allowable land uses, minimum lot area and setback requirements and developments of this Ordinance may be used within a Shoreland Overlay District, provided the applicable provisions of this Ordinance are satisfactorily met:

- A. **Conditional Use Permit Required.** Planned unit developments within Shoreland Overlay Districts shall require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance.
- B. **Open Space Requirements.** Planned unit developments shall contain open space meeting all of the following criteria:
1. At least fifty (50) percent of the total project area shall be preserved as open space.
  2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
  3. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
  4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
  5. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
  6. Open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
  7. The appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed

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

8. The shore impact zone, based on normal structure setbacks shall be included as open space. For residential planned unit developments, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments shall be preserved in its natural or existing state. For commercial planned unit developments, at least fifty (50) percent of the shore impact zone shall be preserved in its natural state.

**C. Site “Suitable Area” Evaluation.**

1. Procedures and Standards. Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 1097-7.D.
2. Shoreland Tier Dimensions. The project parcel shall be divided into tiers by locating one (1) or more lines approximately parallel to a line that identifies the ordinary high water level at three hundred twenty (320) foot intervals, proceeding landward.
3. Suitable Area. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

**D. Residential and Commercial Planned Unit Development Density Evaluation.**

The procedures for determining the “base” density of a planned unit development (PUD) and density increase multipliers are as follows. Allowable densities may be transferred from any pier to any other tier further from the water body, but must not be transferred to any other tier closer.

1. Residential PUD “Base” Density Evaluation. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential PUDs are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 1096-7.E.

2. Commercial PUD “Base” Density Evaluation.

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

<b>Commercial Planned Unit Development Floor Area Ratios* (Natural Environment Lakes)</b>	
<b>Average Unit Floor Area (Square Feet)*</b>	<b>Floor Area Ratio</b>
200	.010
300	.012
400	.014
500	.016
600	.019
700	.021
800	.023
900	.025
1,000	.027
1,100	.029
1,200	.032
1,300	.034
1,400	.036
1,500	.038

\* For average unit floor area less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- d. Divide the total floor area by tier computed in Section 1096-7.D.2.c above by the average inside living area size determined in Section 1096-7.D.2.a above. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial PUD are then compared with the tier, density and

suitability analyses herein and the design criteria in Section 1096-7.E.

3. Density Increase Multipliers.

- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 1096-5 are met or exceeded and the design criteria in Section 1096-7.E are satisfied. The allowable density increases in Section 1096-7.D.3.b below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the local unit of government and the setback is at least twenty-five (25) percent greater than the minimum setback.
- b. Allowable Density Unit or Dwelling Site Density Increases for Residential or Commercial PUDs:

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

E. Maintenance and Design Criteria.

1. Maintenance and Administration Requirements. Before final approval of a PUD, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
2. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to insure long term preservation and maintenance of open space. The instruments shall include all of the following protections:
  - a. Commercial uses prohibited (for residential PUDs).
  - b. Vegetation and topographic alterations other than routine maintenance prohibited.



- c. Construction of additional buildings or storage of vehicles and other materials prohibited.
  - d. Uncontrolled beaching of watercraft prohibited.
- 3. Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments shall use an owners association with the following features:
  - a. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.
  - b. Each member shall pay a pro rate share of the association's expenses, and unpaid assessments can become liens on units or sites.
  - c. Assessments shall be adjustable to accommodate changing conditions.
  - d. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 4. Erosion Control and Stormwater Management. Erosion control and stormwater management plans shall be developed and the PUD shall:
  - a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
  - b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed twenty-five (25) percent of the tier area, except that for commercial PUDs thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 1096-5.C.

- c. Shall meet the requirements of MPCA NPDES Phase II requirements.
- 5. Centralization and Design of Facilities. Centralization and design of facilities and structures shall be done according to the following standards:
  - a. Planned unit developments shall be connected to publicly owned water supply and sewer systems.
  - b. Dwelling units or sites shall be clustered into one (1) or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Section 1096-7.D.3 of this Ordinance for developments and density increases.
  - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other areas.
  - d. Structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided.
  - e. Accessory structures and facilities, except water oriented accessory structures, shall meet the require principal structure setback and shall be centralized.

- f. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 1096-5.B of this Ordinance and are centralized.
  - 6. Minimum Dwelling Units. All residential planned unit developments shall contain at least five (5) dwelling units or sites.
- F. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:
- 1. Proposed conversions shall be initially evaluated using the same procedures for residential PUDs involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified.
  - 2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.
  - 3. Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:
    - a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones.
    - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
    - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
  - 4. Existing dwelling unit or dwelling site densities that exceed standards in Section 1096-7.D may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.