

**CITY OF PERHAM, MINNESOTA****Ordinance No. 286****LAND USE (ZONING)*****SCOPE, DEFINITIONS, AND ESTABLISHMENT OF DISTRICTS*****SECTION 1. SCOPE.**

**1. Provisions are Minimum Requirements.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, and general welfare. When the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Chapter shall be controlling. When any statute, other ordinance, or regulation imposes greater restrictions than those of this Chapter, the provisions of such statute, other ordinance, or regulation shall be controlling.

**2. Provisions Are Cumulative.** The provisions of this Chapter shall be interpreted to be cumulative of, and to impose limitations in addition to all other codes, laws, ordinances, and regulations in existence or which may be passed governing any subject matter of this Chapter. Several provisions of this Chapter also shall be interpreted to be cumulative of each other. To the greatest extent possible, the provisions of this Chapter shall be construed to be consistent with, and not conflict with, the provisions of such other codes, laws, ordinances, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

**3. Provisions Are Not a Consent, License, or Permit.** The provisions of this Chapter shall not be interpreted to be or to grant a consent, license, or permit to use any property or to establish, locate, construct, or maintain any structure or use, or to carry on any trade, industry, occupation, or activity.

**4. Unlawful Uses and Structures Are Not Validated.** This Chapter shall not be interpreted to validate or make lawful any unlawful use or structure existing upon the effective date of the Chapter. Any such unlawful use or structure shall remain unlawful to the extent that said use or structure is in conflict with provisions of this Chapter.

**SECTION 2. DEFINITIONS.**

The following definitions shall apply unless the context clearly indicates or requires a different meaning:

**Accessory Structure.** A structure detached from, but located on the same lot as the principal structure or principal use, the use of which is incidental and accessory to that of the principal structure or principal use.

**Accessory Use.** A use incidental to and on the same lot as a principal use.

**Adjacent or Contiguous.** Means adjoining, bordering, touching, or contiguous. If two (2) lots are separated by a public street, they shall not be deemed to be adjacent.

**Agriculture.** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

**Airport.** An area of land designated and set aside for the landing and take-off of aircraft, including all necessary facilities for the maintenance and upkeep of aircraft.

**Alley.** Any public right-of-way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage on a street. For the purpose of this Chapter, alleys shall not be considered streets.

**Apartment.** A dwelling unit within a house or building containing two (2) or more units. Each apartment is intended to be occupied by a single housekeeping unit. (See definition of Dwelling Unit.)

**Apartment House/Building.** A building containing three (3) or more apartments. (See definition of Dwelling, Multi-Family.)

**Automobile Repair Garage.** Any building or premises primarily used for the repair or mechanical maintenance of motor vehicles or trailers.

**Automobile Service Station.** Any building or premises primarily used for dispensing of gasoline or diesel fuel. The accessory sale of lubricating oil, grease, tires, batteries, automobile accessories, or any other items related to the operation of motor vehicles shall be allowed. Accessory services shall be limited to include the washing of vehicles, sale, and installation of tires, oil changing, lubrication services, or minor repair work and mechanical maintenance.

**Bed and Breakfast Residence.** An owner-occupied, single family residence that provides lodging and meals to registered guests.

**Bed and Breakfast, Accessory Use.** An activity which is permitted in the same underlying residential district and which is incidental and secondary to the bed and breakfast residence.

**Bedroom.** Any room used principally for sleeping purposes and does not contain separate kitchen and sanitary facilities.

**Board of Adjustments and Appeals.** The Perham City Council sitting as a governing board exercising the authority to grant variances from the numeric requirements of the Perham Zoning Code, and to hear and decide appeals from an administrative decision or enforcement order of the Zoning Administrator.

**Boulevard.** The portion of the street right-of-way between the curb line or edge of street and the property line.

**Buffer Area.** A landscaped area intended to separate and/or partially obstruct the view of adjacent land uses or properties.

**Building.** A structure built upon the surface of the earth and used, or intended to be used, for any use or occupancy. A fence shall not be considered a building for setback purposes. Also referred to as a structure.

**Building Height.** A distance to be measured from the mean ground level to the uppermost point on all roof types.

**Building Line.** A line parallel to or concentric with the street right-of-way line, or any other property line, at the foundation level of a building and representing the distance which the building is set back from the street right-of-way line or other property line.

**Bulk Materials.** Uncontained solid matter such as powder, grain, stone, sand, etc.

**Campground.** An area or tract of land used or occupied by campers using tents or other portable shelters or vehicles designed specifically as their temporary housekeeping accommodations.

**Canopy or Awning.** Any projecting structure, moveable or stationary, that is attached to and supported by a building. Does not include canopies covering fuel dispensing islands at automobile service stations.

**Carwash.** A building that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Also referred to as an automobile wash.

**Cemetery.** Land used for the burial of the dead, including crematories and mausoleums when operated in conjunction within the boundaries of such cemetery.

**Child Care (Commercial).** A business in a building or portion of a building, which is not a private residence, where care, protection, and supervision are provided for a fee on a regular basis for children of any age.

**Child Care (Home).** A private residence where care, protection, and supervision are provided for a fee for children of any age, and the persons providing care reside at the residence.

**Church or Place of Religious Worship.** A place that people regularly attend to participate in or hold religious services, meetings, and other related activities.

**Clinic.** A place used for the diagnosis and treatment of sick, ailing, infirm, injured persons, and those persons who are in need of medical attention. Overnight care facilities are not provided at the clinic.

**Club or Lodge.** Land, buildings, or premises owned or operated by a corporation, association, or group of individuals for a social, educational, recreational, charitable, political, or patriotic purpose and such land, buildings, or premises are not available for unrestricted public access and use.

**Commercial Use.** Premises where an occupation, employment, or enterprise is carried on for profit by the owner, lessee, or licensee.

**Commercial Vehicle.** Any vehicle used in connection with a commercial use.

**Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. May also be referred to as a convention center or civic center.

**Conditional Use.** A use generally not permitted throughout a zoning district, but may be permitted in a district subject to approval by the City Council and is subject to conditions approved by the Council.

**Condominium Unit.** Two or more dwelling or commercial units, each of which may be under separate ownership but with common areas and facilities.

**Congregate Housing.** A residential facility for eight (8) or more elderly persons (age 55 or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling. May also be referred to as an assisted living facility. (Amended Ord. #360 6/25/2014)

**Convenience Store.** A retail establishment, having a maximum gross floor area of seven thousand five hundred (7,500) square feet, offering for sale prepackaged food products, household items, and other goods commonly associated with this type of store. May also be combined with an automobile service station.

**Cul-de-Sac.** A street, one end of which is closed and consists of a circular turn around.

**Deck, Attached.** A structure within six (6) feet of the main building that may or may not have railings or access to the ground, but does not contain walls or a roof. May also be referred to as a balcony.

**Deck, Unattached.** A structure six (6) feet or more from the main building that may or may not have railings or access to the ground, but does not contain walls or a roof.

**Development.** All structures and other human modifications of the natural landscape.

**Dormitory.** A building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or similar use. Dormitories do not contain separate dwelling units.

**Drinking Establishments.** Any premises where alcoholic beverages are sold at retail for consumption on the premises. Snack foods may be available, but not as a complete meal. Also referred to as a bar and/or saloon.

**Drive-In Facility.** Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle, also referred to as a drive-thru.

**Driveway.** A private way used by vehicles to gain access to an individual lot or parcel of land. For One and Two Family dwellings, the driveway shall be defined as the length and width of a driving surface that is used to gain access to a private garage.

**Dwelling.** A building or portion thereof designed or used exclusively for residential occupancy, including One Family, two-family and multiple-family dwelling units, and apartment buildings, but not including units used for occupancy in hotels or motels. May also be called a residence or residential building.

**Dwelling, Multi-Family.** A residential building used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units, but not including group housing, row houses, townhouses, or dormitories.

**Dwelling, One Family, Attached (Group, Row, or Townhouse).** One of two or more residential dwellings joined to other dwellings by a common wall without openings and with individual entrances to each dwelling from the exterior. Each dwelling unit shall have principal access onto the ground floor and shall be occupied by not more than one family.

**Dwelling, One Family, Detached.** A residential building containing not more than one (1) dwelling unit and entirely surrounded by open space and yards located on the same lot.

**Dwelling, Two-Family.** A residential building containing not more than two (2) dwelling units, but not including group, row, or townhouses. May also be referred to as a duplex.

**Dwelling Unit.** One (1) or more rooms physically arranged so as to create an independent housekeeping unit for occupancy by one (1) family. A dwelling unit contains separate toilet, cooking, and sleeping accommodations. Dwelling units may be rented or owner-occupied. May also be called a residence or rooming house dwelling unit.

**Easement.** The right of a person, government agency, or public utility to use public or another private property for a specific purpose.

**Essential Service Utility Structure and Facility.** Includes, but is not limited to, a structure or facility used for the location, maintenance, and/or service of communication lines, natural gas, petroleum pipelines, television cable, or electrical transmission lines.

**Family.** An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than five (5) unrelated persons, living together as a single housekeeping unit within a dwelling unit, as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.

**Fence.** Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Floor Area.** The sum of the gross horizontal area of all floors of a building as measured from the exterior faces of the exterior walls.

**Floor Area, Livable or Usable.** For the purpose of calculating the number of off street parking spaces required, the term “floor area” shall be calculated based on the total floor area of all floors of the building, structure, or use, minus ten (10) percent. **(Ord. #341 11/12/2012)**

**Funeral Home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for:

- (a) Embalming and the performance of other services used in the preparation of the dead for burial.
- (b) The performance of autopsies and other surgical procedures on the dead.
- (c) The storage of caskets, funeral urns, and other related funeral supplies.
- (d) The storage of funeral vehicles.

A funeral home shall not include facilities for cremation, unless allowed by a conditional use permit.

**Garage, Private.** An accessory use situated on the same lot of the principal use, and designed for the private storage of motor vehicles owned by the occupant of a principal use. No facilities for mechanical service or repair of a commercial or public nature are provided in the private garage. Such garage may be attached to the principal building or detached from the principal building. When a private garage is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

**Garage, Public.** A building designed and used for the storage of automobile vehicles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles. Parking ramps shall be included within this definition.

**Grade, Ground.** The average elevation of the finished ground levels measured at the center of all exterior walls of a building.

**Home Occupation.** A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one (1) or more persons, all of whom reside within the dwelling unit, and no persons are employed at the dwelling unit other than the residents living therein.

The home occupation shall be clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential zoning district.

**Hospital.** An institution providing health services for human in-patients and medical or surgical care for the sick or injured. Includes related facilities such as laboratories, outpatient departments, training facilities, central service facilities, staff offices, and overnight accommodations for patients.

**Hotel.** A facility offering transient lodging accommodations on a daily or weekly rate to the general public and may provide additional services such as restaurants, meeting rooms, and recreational facilities. May also be referred to as a motel.

**Impervious Surface.** Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, roads, streets, driveways, and parking lots constructed of concrete, asphalt, pavers or compacted aggregate.

**Interim Uses.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit. **(Ord. #368 12/18/2014)**

**Junkyard.** Land or buildings at which waste material, refuse material, inoperative motor vehicles, inoperative machinery, and inoperative appliances, are collected, stored, salvaged, or sold.

**Kennel.** An establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business or commercial use.

**Kennel, Private.** Any accessory use arranged for the care and sheltering of household pets belonging to the owner of the property on which the kennel is located.

**Laundry, Self-Service.** A business that provides home type washing and drying machines to be used by customers on the premises.

**Lot.** Land occupied or intended to be occupied by a principal use and its accessory uses together with such open space and yards as is required by this Chapter, and having at least the minimum area, frontage, and width as required by this Chapter.

**Lot, Conforming.** A lot that conforms to the minimum width, area, and frontage requirements of this Chapter.

**Lot, Corner.** A lot abutting, and at the intersection, of two (2) or more streets. A corner lot shall be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

**Lot, Nonconforming.** A lot or parcel of land that has less than the required minimum area, width, and frontage as required by this Chapter. Also referred to as a substandard lot.

**Lot, Through.** A lot having front and rear lot lines abutting a public street.

**Lot Area.** The total horizontal area within the lot lines of a lot exclusive of any portion of the right-of-way of any public roadway.

**Lot Coverage.** The area of the lot covered by impervious surface.

**Lot Frontage.** The length of any property line of a lot that abuts a public street. All sides of a lot adjacent to public streets shall be considered frontage.

**Lot of Record.** A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

**Lot Line.** The property line bounding a lot except where any portion of a lot extends into the public right-of-way, the line of such public right-of-way shall be the lot line.

(a) Front Lot Line. That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street.

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

(c) Side Lot Line. Any boundary of a lot which is not a front lot line or a rear lot line.

**Lot Width.** The maximum horizontal distance between the side lot lines of a lot measured parallel to the front lot line and at the rear of the required front yard setback.

**Manufactured Housing.** Applies to either:

- (a) A factory-built One Family structure built and transported in sections to a permanent site and not intended for additional transportation once it has been placed on a permanent site.
- (b) A transportable, factory-built home, designed to be used as a year around residential dwelling. Such structure has wheels or axles permanently attached to its frame. Such structures built prior to June 15, 1976, are referred to as mobile homes.

**Mobile Home.** A transportable, factory built home built prior to June 15, 1976, and designed to be used as a year around residential dwelling. Such structure has wheels or axles permanently attached to its frame.

**Nonconforming Building.** Any building that does not meet zoning district regulations for building size, building height, lot coverage, or setback.

**Nonconforming Use.** A use of land that does not comply with the use regulations of this Chapter.

**Nursing Home.** A state licensed public or privately owned facility defined as a nursing home by state statutes.

**Office.** A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**Open Space, Common.** Open space within or related to a development designed and intended for the common use or enjoyment of the occupants of the development. Parking or driveways shall not be considered open space.

**Outside Storage.** The keeping in an unroofed and unenclosed area of any goods, bulk material, other materials, merchandise, or products for more than twenty-four (24) hours. Also referred to as unenclosed storage.

**Park.** Any public or private land available to the public for recreational, educational, cultural, or aesthetic use.

**Parking Space or Stall.** An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one (1) automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

**Parking, Joint.** The development and use of a parking space or parking lot by two (2) or more separate developments.

**Parking Lot.** An unenclosed off street area used for the temporary parking of four (4) or more motor vehicles.

**Patio.** An attached or unattached structure at ground level that does not contain walls or a roof, and is not used for parking purposes.

**Performance Guarantee.** A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

**Performance Standards.** A set of minimum and maximum design and performance requirements applied to permitted and conditional uses.

**Planned Unit Development (Planned Development).** A development set up pursuant to Section 37 of this Chapter. A Planned Unit Development also includes “Cluster Developments”.

**Principal or Main Building.** A building in which the principal use of the lot is located or conducted.

**Principal Use.** The permitted or conditional use of property. Also may be defined as the main and predominate use of land or structures as distinguished from a secondary or accessory use.

**Ramp.** A structure attached to a principal or accessory building which is constructed at a slope that meets the Minnesota State Code requirements for the purposes of providing access to a building.

**Recycling Center.** A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

**Recycling Collection Point.** An incidental use that serves as a neighborhood drop-off point for temporary storage of recycling center materials. No processing of items is permissible.

**Restaurant.** A business establishment that sells unpackaged food to the customer in a ready-to-consume state, in individual servings, and where the customer consumes these foods in the building, picks up food from the building to consume elsewhere, or the food is delivered to the customer by employees of the restaurant. This definition includes, but is not limited to: fast food restaurants, sit down restaurants, pick-up or carry-out restaurants, delivery restaurants, drive-in restaurants, drive-thru restaurants, cafés, tea rooms, delis, and any combination thereof. May also be referred to as an eating establishment.

**Right-of-Way.** Land dedicated or publicly owned for use as a street or for other public purposes.

**School.** A public or private facility that provides classrooms for elementary, secondary, and post-secondary academic instruction, including preschools, kindergartens, elementary, junior high schools, high schools, colleges, technical schools, and universities.

**Screen.** The utilization of a fence, wall, vegetation, or other approved device or means, in order to conceal from view.

**Self-Service Storage Facility.** A commercial building or group of buildings that contain individual compartmentalized and controlled access stalls or lockers for the storage of customers’ goods or wares. May also be referred to as Mini-Storage.

**Setback.** The required minimum horizontal distance between a building line and the related front, side, or rear property lines.

**Shopping Center.** A single business or group of commercial establishments whereby the total square footage of the building exceeds 35,000 square feet.

**Sign.** Any name, identification, description, display, illustration, structure, emblem, or device which is affixed to, painted, or represented upon a building, bench, or other outdoor structure, vehicle, or piece of land, which is intended to direct attention to an object, product, place, activity, person, organization, or business. The structure supporting or intended to support a sign shall be considered part of the sign.

**Site Plan.** A document or group of documents containing sketches, text, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, parking lots, the provision of improvements, and the interrelationship of these elements.

**State Licensed Residential Facility.** A dwelling operated under state license to provide supervision, food, lodging, or other services to a dependent population living and cooking together in a single cooperative housekeeping unit. Includes state licensed day care facility, a group day care facility, and a group home.

**Street.** A public thoroughfare used, or intended to be used, for travel by motor vehicles. Streets are further classified by the function they perform as follows: local, collectors, and arterials. For the purpose of this Chapter, public alleys shall not be considered streets.

**Temporary Workforce Housing.** Housing units that are modular in nature used to house temporary workers participating in an organized workforce program employed by a single employer.

**Townhouse.** One of a group of One Family attached dwellings all fronting on a public right-of-way or private driveway, and occupying either individual lots or a common lot when developed in a Planned Unit Developments.

**Trash Enclosure.** An accessory use of a property where trash and/or recyclable material containers, or any other type of waste or refuse container is stored.

**Variance.** The adjustment by the City Council of the literal provisions of this Chapter in cases where the literal provisions would cause undue hardship because of physical circumstances unique to an individual property. Variances shall be limited to height, bulk, density, and yard requirements.

**Water Retention Device or Area.** Water retention device or area means any constructed control device, ponding area or storm water pond, or a natural depression or wetland installed or planned for under a state approved surface water management plan which provides for the temporary storage of storm water runoff, with the purpose of replicating pre-development hydrologic conditions and retaining sediment and/or nutrients.

**Yard.** An open space on the same zoning lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Chapter (see Section 26).

(a) **Front Yard.** A yard extending across the front of the lot between the side lot lines and lying between the front lot line and the nearest line of the building.

(b) **Rear Yard.** An open space unoccupied, except for accessory buildings on the same lot with a building between the rear lines of the building and the rear lot line, for the full width of the lot.

(c) **Side Yard.** An open, unoccupied space on the same lot with a building between the building and the side lot line and extending from the front yard to the rear yard.

**Zoning Administrator.** The staff or persons to whom the City Manager has assigned the administrative responsibilities under this Chapter.

**Zoning Lot.** One or more lots which are used for a single principal use or planned unit development.

**Zoning Map, Official.** The map or maps incorporated into this Chapter.

**SECTION 3. ZONING DISTRICTS AND MAP.****1. Establishment of Zoning Districts.**

To carry out the purpose of this Chapter, the City is hereby divided into the following districts:

|     |                                      |
|-----|--------------------------------------|
| O   | Open Space District                  |
| P   | Park Space District                  |
| R-1 | One Family Dwelling District         |
| R-2 | One and Two Family Dwelling District |
| R-4 | One to Four Family Dwelling District |
| R-M | Multiple Family Dwelling District    |
| D-C | Downtown Commercial District         |
| S-C | Service Commercial District          |
| H-C | Highway Commercial District          |
| L-I | Light Industrial District            |
| I   | Industrial District                  |

**2. Interpretation of District Sequence.** Each district, having been designed to accomplish a specific purpose and encourage a particular type of development, shall be interpreted as separate and distinct. The districts shall not be interpreted to be of a higher or lower class.

**3. Map Incorporated.** The location and boundaries of the zoning districts established by this Chapter are as shown on a map entitled, "Zoning Map of the City of Perham, Minnesota," hereafter referred to as the Official Zoning Map, which is by reference incorporated as part of this Chapter. All notations, references, and other information shown on the Official Zoning Map, and all amendments thereto, shall be as much a part of this Chapter as if specifically set forth and literally described herein.

**4. Omitted Land.** It is the intent of this Chapter that the entire area of the City, including all land and water areas, shall be included in the districts established by this Chapter. Any area lying within the City but not shown on the Official Zoning Map as being included in a district shall be deemed to be, and is hereby classified in the O, Open Space District.

**SECTION 4. ANNEXED LAND.**

**1. Annexation of Land.** All land annexed to the City after the effective date of this Chapter shall be classified automatically upon annexation as being in an O, Open Space District.

**2. Application for Different Classification.** When any land is classified pursuant to this Section, it shall remain so classified unless and until an application to amend is filed pursuant to this Chapter. An application to amend may be filed prior to or contemporaneously with the annexation of the land in question; provided a preliminary plat or a registered land survey of the land is submitted with the amendment application.

**SECTION 5. DISTRICT BOUNDARIES.**

**1. District Boundaries.** In the event that any uncertainty exists with respect to the intended boundaries of the various districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerline of highway, streets, alleys, waterways, railroads, or other right-of-ways, unless otherwise indicated, shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of a change in a shoreline, the boundary shall be construed as moving with the actual shoreline.

(D) Boundaries indicated as approximately following the City limits shall be construed as following such City limits.

**2. Single Lot Divided by a District Boundary.** Where a district boundary line divides a lot which was a single ownership at the time of passage of this Chapter, the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot may be interpreted by the Zoning Administrator upon request of the lot owner.

**3. Maintenance and Availability of the Official Zoning Map.** A copy of the Official Zoning Map shall be maintained by the Zoning Administrator and shall be available for public inspection during City business hours. Any amendments to zoning district boundaries or any change in any other information shown on the Official Zoning Map made by amendment to this Chapter shall be indicated on the copy of the Official Zoning Map.

**SECTION 6. DISTRICT REGULATIONS.**

**1. Territorial Application.** This Chapter shall apply to all land, structures, and uses within the corporate limits of the City and as otherwise permitted by Minnesota State Statutes.

**2. General Application.** All structures erected, all uses of land or structures established, all structural alteration or relocation of existing structures occurring, and all enlargements and extensions of, additions to, changes in, and relocation of existing uses occurring after the effective date of this Chapter shall be subject to the regulations of this Chapter. Legally existing structures and uses that do not comply with the regulations of this Chapter shall be subject to the provisions of Section 28, Nonconforming Uses.

**3. General Prohibition.** No structure, no use of any structure or land, and no lot of record or zoning lot, now or hereafter existing, shall be established, enlarged, extended, altered, moved, divided or maintained in any manner after the effective date of this Chapter, except as authorized by and in compliance with, the provisions of this Chapter. Without limiting the foregoing, any such activity that would create any parcel of land that could not be developed in compliance with this Chapter shall be prohibited and no parcel of land created as a result of any such activity shall be used or developed for any purpose.

**4. Special Prohibitions.**

(A) No part of a yard, or open space, or off-street parking space, or loading space required for a structure under the provisions of this Chapter, shall be included as part of the yard, open space, or off-street parking or loading space similarly required for any other structure, unless otherwise permitted by this Chapter.

(B) No building permit shall be issued for the erection of any building, structure, or addition to an existing building or structure, on land that has neither been subdivided into lots and blocks in a preliminary plat nor has a registered land survey.

**5. Private Agreements.** This Chapter is not intended to abrogate, annul, or otherwise interfere with any platted building line, easement, covenant, or other private agreement or legal relationship; provided, however, that where the regulations of this Chapter are more restrictive or impose higher standards or requirements, the regulations of this Chapter shall govern.

**SECTION 7. SEVERABILITY.**

**1. Intent as to Severability.** If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter as to only a particular parcel of land, a particular structure, or a particular use, then such judgment shall not affect the application of said provision to any other land, structure, or use.

**[Section 8-10 reserved.]**

**RESIDENTIAL DISTRICTS**  
**SECTION 11. RESIDENTIAL DISTRICTS.**

**General Requirements.**

**1. Accessory Uses and Structures.** Accessory uses and structures are permitted in the Residential Districts subject to the regulations of Section 26 of this Chapter.

**2. Compliance with Applicable Regulations.** Any use established in a Residential District after the effective date of this Chapter shall comply with all applicable local, state, and federal standards for such uses, including, but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution, and glare.

**3. Off-Street Parking and Loading.** Off-street parking and loading facilities shall be provided for the Residential Districts in accordance with the regulations set forth in Sections 29 and 30 of this Chapter.

**4. Landscaping and Screening.** Landscaping and screening shall be provided for the Residential District in accordance with the regulations set forth in Section 32 of this Chapter.

**5. Signs.** Signs in the Residential Districts shall comply with the applicable sign regulations set forth in Section 31 of this Chapter.

**6. Performance Standards.** Requirements relating to performance standards in the Residential Districts are set forth in Section 33 of this Chapter.

**7. State Licensed Residential Facility.** State licensed residential facilities are allowed in all residential zoning districts pursuant to Minnesota State Statutes, as amended from time to time. The regulation of Residential Occupancies contained in this Section shall not apply to a State Licensed Residential Facility.

**8. Planned Unit Developments.** A planned unit development plan may be submitted for consideration by the City Council for any property located in the Residential Zoning Districts. Refer to Section 38 for submittal requirements and development standards.

**R – Residential District Regulations – See Sections 12-18 for additional regulations.**

|                                 | <b>R-1</b><br>One<br>Family | <b>R-2</b><br>One & Two<br>Family | <b>R-4</b><br>One to Four<br>Family  | <b>R-M</b><br>Multi<br>Family | <b>Accessory</b><br>Accessory<br>Building |
|---------------------------------|-----------------------------|-----------------------------------|--------------------------------------|-------------------------------|---|
| Minimum lot area (sq. ft.)      | 7500                        | 1-7500; 2-12,000                  | 1-7500; 2-12,000;<br>4-18,000        | Same as R-4<br>>4-2500 / unit | n/a                                       |
| Minimum lot width (ft)          | 75 <sup>(1)</sup>           | 1-75 <sup>(1)</sup> ; 2-90        | 1-75 <sup>(1)</sup> ; 2-90;<br>4-120 | 1-50 ; >1-60                  | n/a                                       |
| Minimum front yard setback (ft) | 20 <sup>(2)</sup>           | 20 <sup>(2)</sup>                 | 20 <sup>(2)</sup>                    | 20 <sup>(2)</sup>             | Not Permitted                             |
| Minimum side yard setback (ft)  | 10 <sup>(3)</sup>           | 10 <sup>(3)</sup>                 | 10 <sup>(3)</sup>                    | 10 <sup>(3)(4)</sup>          | 10  |

|  |                   |                   |                   |                    |                        |
|--|-------------------|-------------------|-------------------|--------------------|------------------------|
| Minimum rear yard setback (ft)         | 25 <sup>(3)</sup> | 25 <sup>(3)</sup> | 25 <sup>(3)</sup> | 25 <sup>(3)</sup>  | 10                     |
| Maximum lot coverage                   | 30%               | 30%               | <b>40%</b>        | 40% <sup>(5)</sup> | 30% <sup>(6)</sup>     |
| Maximum building height (ft)           | 35                | 35                | 35                | 35                 | 20 <sup>(7)</sup>      |
| Minimum building width and length (ft) | 24 x 30           | 24 x 30           | 24 x 30           | n/a                | n/a                    |
| Minimum roof pitch                     | 4:12              | 4:12              | 4:12              | n/a                | Similar <sup>(8)</sup> |

- (1) Seventy-five (75) feet with the exception of cul-de-sacs which is 50 feet
- (2) Wherever any block in which said proposed residence is to be located has already constructed thereon residences on lots forming more than 50% of the frontage, a new residence constructed in said block shall have a front yard of not less than that of the front yards of the majority of the residences already constructed on said block.
- (3) In the case of a corner lot, the side yard facing the street or right-of-way shall be not less than fifteen (15) feet.
- (4) Two story or greater shall have a minimum side yard set back of twenty (20) feet.
- (5) The sum total of ground area that may be covered by all structures located on a zoning lot in the R-M, Multiple-Dwelling District shall not exceed forty percent (40%). The sum total of impervious surface shall not exceed sixty percent (60%). **Ord. #329 11/14/2011**
- (6) An accessory building shall not occupy more than thirty percent (30%) of the total area of the rear yard and not to exceed 1000 square feet.
- (7) An accessory building shall not be over one story, not exceeding nine (9) feet in height as measured at the side wall, with a maximum height of twenty (20) feet.
- (8) The roof style and siding of the accessory building shall be similar to the roof style and siding of the main building.

**SECTION 12. "O" OPEN SPACE DISTRICT.**

**1. Purpose.** The purpose of the O, Open Space District, is to provide a temporary designation for new territory annexed to the City for which no plans or controls have been adopted. New development and expansion of existing uses are prohibited unless otherwise provided for below:

**2. Special Minimum Requirements.**

- (A) Existing agricultural uses may continue.
- (B) New development or subdivision of land is prohibited.
- (C) Additions to animal production and related operations are prohibited.
- (D) Building permits may only be issued for activities required for structural maintenance and/or interior remodeling. No additions to existing structures or the erection of a new structure shall be allowed.

**SECTION 13. “P” PARK SPACE DISTRICT**

**1. Purpose.** The purpose of the P, Park Space District, is to provide public land available for recreational, educational, cultural, or aesthetic use.

**SECTION 14 . "R-1" ONE FAMILY DWELLING DISTRICT.**

**1. Purpose.** The purpose of the R-1, One Family Dwelling District, is to provide for low density residential development.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-1, One Family Dwelling District:

- (A) Dwellings, One Family, Detached, not to include basement houses.
- (B) Essential service utility structures and facilities for local service when located within public right of way or utility easement.
- (C) Gardens provided there are no sales of goods.
- (D) Home occupations, as regulated by Section 27.
- (E) Parks, playgrounds, tennis courts, swimming pools, and other recreational areas owned and operated by a governmental unit.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the R-1, One Family Dwelling District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter:

- (A) Bed and breakfast residences, as regulated in Section 27.
- (B) Cemeteries, as regulated in Section 27.
- (C) Child day care facilities, when not operated as a home occupation and as regulated in Section 27.
- (D) Churches or places of religious worship, as regulated in Section 27, including parish houses, rectories, and convents.
- (E) Dwellings, One Family, Attached, provided each dwelling is located on a separate lot conforming to Section 14, Subd. 4.
- (F) Golf and country clubs.
- (G) Government institutions, municipal buildings, museums, senior centers, and libraries.
- (H) Hospitals, clinics, dental offices, congregate housing, and nursing homes as regulated in Section 27.
- (I) Other residential, institutional, or government service uses determined by the Planning Commission to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

(J) Parking lots providing off-street parking for a use permitted in a residential zoning district provided the parking lot is within five hundred (500) feet of the main building of said use.

(K) Schools, as regulated in Section 27.

**4. Minimum Lot Area.** The minimum lot area in the R-1, One Family Residential District, is seven thousand five hundred (7,500) square feet for a One Family dwelling.

**5. Minimum Lot Width.** The minimum lot width for the R-1, One Family Residential District, is seventy-five feet (75) with the exception of cul-de-sacs which is fifty (50) feet.

**6. Yards and Setbacks.** The minimum yard and setback requirements for the R-1, One Family Dwelling District, are as follows (Please note that it is the responsibility of the property owner to know the location of lot lines):

(A) Front Yard Setback. Each lot in the Residential District shall have a front yard of not less than twenty (20) feet. For the purpose of computing front yard dimensions, measurement shall be taken from the building line to the front lot line. Wherever any block in which said proposed residence is to be located has already constructed thereon residences on lots forming more than 50% of the frontage, a new residence constructed in said block shall have a front yard of not less than that of the front yards of the majority of the residences already constructed on said block.

(B) Side Yard Set Backs. Each lot in the Residential District shall have two side yards, one on each side of the building, including attached accessory buildings. For every dwelling hereafter erected or structurally altered each side yard shall have width of not less than ten (10) feet.

(C) Rear Yard Set Backs. Each lot in the Residential District shall have a rear yard of not less than twenty-five (25) feet.

(D) Corner Lots. In the case of a corner lot, the side yard facing the street or right-of-way shall be not less than fifteen (15) feet.

(E) Exemptions and Obstructions. Exemptions and obstructions that can be located in a required yard are indicated in Section 26, Subd. 2.

**7. Maximum Lot Coverage.** The sum total of lot area that may be covered by all impervious surface located on a zoning lot in the R-1, One Family Dwelling District, shall not exceed thirty percent (30%) of the lot area.

**8. Maximum Building Height.** The maximum building height in the R-1, One Family Dwelling District, is thirty-five (35) feet.

**9. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-1, One Family Dwelling District:

(A) Standards. In all districts where single family detached dwellings are permitted, the following standards shall apply for single family detached dwellings, including manufactured homes.

- (1) Minimum Width and Length. The minimum width of the main portion of the structure shall not be less than 24 feet over at least 75% of its length, a minimum length of 30 feet, and a minimum total square footage of 700 square feet, provided that the foregoing dimensions shall not take into account overhangs or other projections.
- (2) Foundations. All dwellings shall be placed on a permanent perimeter foundation of concrete, masonry, or treated wood construction and shall include frost footings in compliance with the Minnesota State Building Code.
- (3) Roofs. All roofs shall be pitched a minimum of 4:12. A soffit at least one foot wide is required on all sides.
- (4) Location of Manufactured Homes. Manufactured homes, as defined in Section 2 of this Chapter, may be occupied for dwelling purposes in manufactured home parks which may be located only in the R-M District. Manufactured homes may be located in other zoning districts provided that they comply with all other provisions of this chapter, as amended, and provided further, that they are constructed in accordance with M.S. §§ 327.31 through 327.35, as they may be amended from time to time. All manufactured homes located within the City must be secured by an approved anchoring system as defined by the manufactured home building code. Mobile homes, as defined in Section 2 of this Chapter, shall be prohibited within the City. Existing non-compliant mobile homes remain as non-conforming uses.

**SECTION 15. "R-2" ONE AND TWO FAMILY DWELLING DISTRICT.**

**1. Purpose.** The R-2, One and Two Family Dwelling District, is intended to provide for low and medium-density residential development.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-2, One and Two Family Dwelling District:

- (A) Dwellings, One and Two Family and attached One Family.
- (B) All uses permitted as in R-1, One Family Dwelling District.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the R-2, One and Two Family Dwelling District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter:

- (A) All uses permitted as a Conditional Use in R-1, One Family Dwelling District.

**4. Minimum Lot Area.** The minimum lot area for the R-2, One and Two Family Dwelling District, is as follows:

- (A) One Family (Attached or Detached). Seven thousand five hundred (7,500) square feet per dwelling unit.
- (B) Two-Family. Twelve thousand (12,000) square feet.

**5. Minimum Lot Width.** The minimum lot width for a One Family dwelling unit is, seventy-five feet (75) with the exception of cul-de-sacs which are fifty (50) feet. The minimum lot width for all other uses in the R-2, One and Two Family Dwelling District, is ninety (90) feet.

**6. Yards and Setbacks.** The minimum yard and setback requirements for the R-2, One and Two Family Dwelling District, are as follows:

- (A) As permitted as in R-1, One Family Dwelling District.

**7. Maximum Lot Coverage.** The sum total of lot area that may be covered by all impervious surface located on a zoning lot in the R-2, One and Two Family Dwelling District, shall not exceed thirty percent (30%) of the lot area.

**8. Maximum Building Height.** The maximum building height in the R-2, One and Two Family Dwelling District, is thirty-five (35) feet.

**9. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-2, One and Two Family Dwelling District:

- (A) As permitted as in R-1, One Family Dwelling District.

**SECTION 16. "R-4" ONE TO FOUR FAMILY DWELLING DISTRICT.**

**1. Purpose.** The R-4, One to Four Family Dwelling District, is intended to provide for medium density residential development.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-4, One to Four Family Dwelling District:

- (A) Dwellings, One through Four Family, Attached, with each family living independent from the other.
- (B) All uses permitted as in R-1 and R-2 Residential Districts.
- (C) Congregate housing. **(Amended Ord. 360 6/24/2014)**

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the R-4, One to Four Family Dwelling District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter.

- (A) All uses permitted as a Conditional Use in R-1 and R-2 Districts.
- (B) Multiple-Family dwellings, provided such use meet the criteria set forth for R-M, Multiple Family Dwellings.

**4. Minimum Lot Area.** The minimum lot area for the R-4, One to Four Family Dwelling District, is as follows:

- (A) One Family (Attached or Detached). Seven thousand five hundred (7,500) square feet per dwelling unit.
- (B) Two Family. Twelve thousand (12,000) square feet.
- (C) Four Family. Eighteen thousand (18,000) square feet.

**5. Minimum Lot Width.** The minimum lot width for a One Family dwelling unit is, seventy-five feet (75) with the exception of cul-de-sacs which are fifty (50) feet. The minimum lot width for all other uses in the R-2, One and Two Family Dwelling District, is ninety (90) feet. The minimum lot width for all other uses in the R-4, One to Four Family Dwelling District, is one hundred twenty (120) feet.

**6. Yards and Setbacks.** The minimum yard and setback requirements for the R-4, One to Four Family Dwelling District, are as follows:

- (A) As permitted as in R-1, One Family Dwelling District.

**7. Maximum Lot Coverage.** The sum total of lot area that may be covered by all impervious surface located on a zoning lot in the R-4, One to Four Family Dwelling District, shall not exceed thirty percent (30%) of the lot area.

**8. Maximum Building Height.** The maximum building height in the R-4, One to Four Family Dwelling District, is thirty-five (35) feet.

**9. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-4, One to Four Family Dwelling District:

- (A) As permitted as in R-1, One Family Dwelling District.

**SECTION 17. “R-M” MULTIPLE-FAMILY DWELLING DISTRICT.****“R-M” Multiple-Family Dwelling District.**

**1. Purpose.** The R-M, Multiple-Dwelling District, is intended to provide for high-density residential development.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-M, Multiple-Dwelling District:

- (A) Multiple-Family dwellings and apartments.
- (B) All uses permitted as in R-1 through R-4 Residential Districts.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the R-M, Multiple-Dwelling District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter:

- (A) All uses permitted as conditional in R1 – R4 Districts.
- (B) Privately-owned campgrounds, as regulated by the State of Minnesota.
- (C) Manufactured home parks, as regulated in Section 18.

**4. Minimum Lot Area.** The minimum lot area for the R-M, Multiple-Dwelling Residential District, is as follows:

- (A) One Family (Attached or Detached). Seven thousand five hundred (7,500) square feet per dwelling unit.
- (B) Two-Family. Twelve thousand (12,000) square feet.
- (C) Four Family. Eighteen thousand (18,000) square feet.
- (D) Five or more units. Require an additional 2,000 sq. ft. per unit. **Amended 1/11/2016 Ord. #383.**

**5. Minimum Lot Width.** The minimum lot width for a One Family dwelling unit is fifty (50) feet. The minimum lot width for all other uses in the R-M, Multiple Family Dwelling District, is sixty (60) feet.

**6. Yards and Setbacks.** The minimum yard and setback requirements for the R-M, Multiple-Family Dwelling District, are as follows:

- (A) As permitted as in R-1, One Family Dwelling through R-4, One to Four Family Dwelling Districts.
- (B) Two story or greater shall have a minimum side yard set back of twenty (20 feet).

**7. Maximum Lot Coverage.** The sum total ground area that may be covered by all structures located on a zoning lot in the R-M, Multiple Family Dwelling District shall not exceed forty percent (40%). The sum total of impervious surface shall not exceed sixty percent (60%). **Amended November 14, 2011 Ordinance #329.**

**8. Maximum Building Height.** The maximum building height in the R-M, Multiple Family Dwelling District, is fifty (50) feet. **Amended 1/11/2016 Ord. #383.**

**9. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-M, Multiple Family Dwelling District:

- (A) As permitted in accordance with the current Minnesota State Building Code.

**SECTION 18. MANUFACTURED HOME PARKS.**

**1. Permit Required.** It is unlawful for any person to construct, alter, or expand any manufactured home park within the limits of the city without it first being approved and licensed by the State of Minnesota and granted a conditional use permit issued by the City Council under the terms of this ordinance.

**2. Application and Fee.**

(A) Each application for a manufactured home park conditional use permit shall contain the following information:

- (1) Name and address of applicant.
- (2) Location and legal description of the property proposed for a manufactured home park.
- (3) Complete engineering plans and specifications of the proposed park showing but not limited to the following:
  - a. The area and dimensions of the tract of land; topography sketch of land.
  - b. The number, location, and size of all mobile home lots.
  - c. The location and width of roadways and walkways.
  - d. The location of water and sewer lines and riser pipes.
  - e. Plans and specifications of the water supply and refuse and sewage disposal facilities.
  - f. Plans and specifications of all buildings constructed or to be constructed within the manufactured home park.
  - g. The location and details of lighting and electrical system.
  - h. A landscaping plan approved by the City Council.
  - i. A plan of the park ground area and recreation facilities.
  - j. A survey by registered surveyor of the boundaries of the proposed manufactured home park.
  - k. A plan showing existing and proposed streets designed to accommodate the traffic generated by the proposed manufactured home park.

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(B) The applicant shall pay to the city a fee in the amount of \$500, or the amount of a standard conditional use application whichever is greater, at the time the application is filed. When a conditional use permit is granted hereunder, the applicant shall pay an additional amount equal to \$5 per manufactured home lot.

This fee is imposed for the purpose of defraying expenses incurred by the city in the administration of this section, and the fee shall not be construed to be a license.

**3. Review of Applications.** The Planning Commission shall review all applications for conditional use permits issued hereunder and shall hold a hearing as it may deem proper with respect thereto. The findings and recommendation of the Planning Commission shall be forwarded to the City Council for appropriate action.

**4. Denial.** Any person whose application for permit under this Chapter has been denied may request and shall be granted a hearing on this matter before the City Council.

**5. Permit Rendered Void.** Any conditional use permit for a manufactured home park issued hereunder shall be conditioned upon compliance with the terms hereof and any conditions attached to the conditional use permit and those requirements as imposed by the State of Minnesota. Any substantial and continued violation of these terms after issuance of the conditional use permit shall void the conditional use permit.

**6. Occupancy.** After issuance of a conditional use permit, the park may be constructed but may not be occupied until it has been inspected by the Zoning Administrator and an occupancy permit issued. An occupancy permit may be issued by the Zoning Administrator when it is found that construction is complete and that all terms of the permit have been complied with. A temporary occupancy permit may be issued for and upon completion of a portion of the park, allowing occupancy of the completed portion, if the developer or applicant furnished the City with a public contractor's performance bond, with corporate surety in an amount equal to the total cost of the uncompleted portion of the project. The bond shall be subject to approval by the City Council and filed with the City Manager.

**7. Transfer Of Permit.** Every person holding a conditional use permit shall give notice in writing to the Zoning Administrator within 72 hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any manufactured home park. The notice shall be made to the Zoning Administrator to include the name and address of the person succeeding to the ownership or control of the manufactured home park. Upon application in writing for transfer of the conditional use permit, the conditional use permit shall be transferred.

**8. Suspension And Revocation.** Whenever, upon inspection of any manufactured home park, the Zoning Administrator finds that conditions or practices exist which are in violation of this chapter, the Zoning Administrator shall give notice in writing to the person to whom the conditional use permit was issued, stating the nature of the conditions or practices which constitute a violation hereunder and stating that the conditions or practices shall be corrected within a period of 30 days following the delivery of such notice by the Zoning Administrator. The date of mailing the notice by certified mail shall constitute delivery. Upon expiration of the 30-day period, the Zoning Administrator shall re-inspect the manufactured home park in violation and, if such conditions or practices have not been corrected, shall notify the City Council, and the City Council will give notice in writing of the suspension of the permit to the person to whom the conditional use permit was issued.

**9. Time Within Which To Comply.** If the work necessary to correct the conditions or practices which are the subject of a notice cannot be completed in the 30-day period, written extensions may be granted by the City Council if reasons for hardship prevail and can be verified.

**10. Hearing.** Any person affected by any notice which has been issued in connection with the enforcement of any provisions of these regulations may request and shall be granted a hearing of the same before the City Council.

**11. Final Suspension.** If, after the 30-day period of notice has expired, the conditions and practices which constitute a violation of these regulations have not been corrected and the permittee has not within the prescribed 30-day period requested a hearing, the City Council may suspend or revoke the conditional use permit previously issued for the manufactured home park by sending by certified mail or by delivering personally a notice of the suspension or revocation to the permittee. Upon receipt of the notice of suspension or revocation, the permittee shall cease operation of the manufactured home park.

**12. Emergency.** Whenever the Zoning Administrator finds that an emergency exists which requires immediate action to protect the public health, the Zoning Administrator may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that such action be taken as the Zoning Administrator may deem necessary to meet the emergency, including the suspension of the conditional use permit. Notwithstanding any other provision of these regulations, the order shall be effective immediately. Any person to whom the order is directed shall comply therewith immediately, but upon petition to the Zoning Administrator shall be afforded a hearing before the City Council as soon as possible. Pending the hearing, emergency orders shall be in full force and effect until and unless later removed, modified or changed by the Zoning Administrator or the City Council.

## INSPECTIONS

**1. Compliance With Chapter.** The Zoning Administrator is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with these regulations, including the power to enter at reasonable times upon any private or public property for this purpose.

**2. Registration Record.** The Zoning Administrator, Chief of Police, or duly authorized representatives, shall have the power to inspect the register containing a record of all residents of the manufactured home park.

**3. Access.** It shall be the duty of the park management to give the Zoning Administrator free access to all lots at reasonable times for the purpose of inspection.

**4. Repairs.** It shall be the duty of every occupant of a manufactured home park to give the owner thereof or the owner's agent or employee access to any part of such manufactured home park at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this chapter.

## ENVIRONMENTAL, OPEN SPACES AND ACCESS REQUIREMENTS

**1. General Requirements.** The conditions of all soil, groundwater level, drainage, and topography shall not create hazards to the property or the health and safety of the occupants. The site should not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable or sudden flooding.

**2. Soil And Ground Cover Requirements.** Exposed ground surfaces in all parts of every manufactured home park shall be paved or covered with stone, screenings or other solid materials or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

**3. Site Drainage Requirements.** The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

**4. Use Requirements.** No part of any park shall be used for non-residential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park or such other uses as are permitted in single-family dwellings and approved by the park management.

**5. Required Separation Between Manufactured Homes.** Unless separated by fireproof structures approved by the Zoning Administrator, manufactured homes shall be separated from each other and from other buildings and structures by at least 20 feet or the sum of the heights of both trailer units, whichever is greater. Unless separated by fireproof structures approved by the Zoning Administrator, manufactured homes placed end-to-end must have minimum clearance of 15 feet; an accessory structure such as an awning, cabana, storage cabinet, carport, windbreak or porch which has a floor area exceeding 25 feet and has an opaque top or roof shall for purposes of all separation requirements, be considered to be a part of the manufactured home. Minimum lot sizes shall be not less than 5,000 square feet.

**6. Open Space.** A minimum of 500 square feet per manufactured home shall be provided for definable play areas and open space within the manufactured home park. Such areas of open space and play area shall not be areas included within any setback nor shall they include any areas of less than 20 feet in length or width.

**7. Required Setbacks, Buffer Strips And Screening.** All manufactured homes shall be located at least 30 feet from any property line abutting upon a public street or highway and at least 20 feet from other property boundary lines; there shall be a minimum distance of 15 feet between the manufactured home stand and abutting park street. All manufactured home parks located adjacent to residential, recreational, commercial or industrial land uses shall provide screening such as fences, shrubs and trees along the property boundary line separating the park and such uses and shall be maintained in a neat and orderly fashion.

**8. Average Density.** Notwithstanding the type of development concept used, the maximum density shall be seven manufacture homes per acre.

**9. Accessory Buildings.** One accessory building for storage of equipment and refuse is required and the accessory building shall be a minimum of 48 square feet and designed of water resistant material that will enhance the general appearance of the lot.

**10. Park Street System And Car Parking.**

- (A) General Requirements. All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Such access shall be provided by streets, driveways or other means.
- (B) Park Entrance. Entrances to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 30 feet from its point of beginning.
- (C) Internal Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic and, in any case, shall meet the following minimum requirements:
  - (1) All streets except minor streets shall be a minimum of 30 feet in width from face of curb to face of curb. Streets without curb shall be considered minor streets.
  - (2) Dead-end streets shall be limited in length to 500 feet and shall be provided at the closed end with a cul-de-sac having an outside roadway diameter of at least 1000 feet. All dead-end streets shall be marked with approved signs at the entrance to the dead-end street.
- (D) Street Construction And Design Standards.

- (1) Pavements. All streets shall be provided with a paved concrete or bituminous surface. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained reasonably free of cracks, holes and other hazards.
- (2) Grades. Longitudinal grades of all streets shall range between 0.4% and 8.0%. Transverse grades (crown) of all streets shall be sufficient to insure adequate transverse drainage.
- (3) Storm Sewers. If conditions warrant, an adequate storm sewer system shall be provided to dispose of all runoff water. The storm sewer system shall be connected to existing City storm sewer systems upon City approval.
- (4) Intersections. Within 50 feet of an intersection, streets shall be at right angles. Intersections of more than two streets at one point shall be avoided.
- (5) Car Parking. For all new manufactured home parks or additions to present parks, off-street parking areas for the use of park occupants and guests are required such areas shall be furnished at a rate of at least two car spaces for each manufactured home lot, of which at least one-half of the spaces may be in compounds. All off-street parking areas shall be paved concrete or bituminous surface.

## 11. Walks.

- (A) General Requirements. All parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual manufactured homes, park streets, and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
- (B) Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Common walks shall have a minimum width of 4 ½ feet.
- (C) Individual Walks. All manufactured homes shall be connected to common walks, to paved streets or to paved driveways or parking spaces connecting to a paved street. Individual walks shall have a minimum width of two feet.

**12. Patio.** Each manufactured home lot shall have a patio of 4-inch concrete, with minimum dimensions of nine feet by 20 feet.

**13. Trees.** A minimum of one tree per lot is required. In open areas and park areas, a minimum of 20 trees per acre is required.

## SERVICE BUILDING AND OTHER COMMUNITY SERVICE FACILITIES

**1. General Provisions.** The requirements of this subchapter shall apply to service buildings, recreation buildings and other community service facilities, such as management offices, repair shops, storage areas, sanitary facilities, laundry facilities, indoor recreation areas and commercial uses supplying essential goods or services for the exclusive use of park occupants.

**2. Structural Requirements For Buildings.** All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

**3. Barbecue Pits, Fireplaces, Stoves and Incinerators.** Cooking shelters, barbecue pits, fireplaces, wood-burning stoves and incinerators shall be so located, constructed and maintained and used as to minimize fire hazards and smoke nuisances both on the property on which used and on neighboring property and shall comply with all appropriate ordinances, laws or other regulations.

#### **SOLID WASTE**

**1. Solid Waste.** The storage, collection and disposal of refuse in the manufactured home parks shall be so constructed as to create no health hazards, rodent harborage, insect breeding, accident or fire hazards or air pollution.

#### **INSECT AND RODENT CONTROL**

**1. Grounds, Buildings and Structures.** Grounds, buildings and structures shall be maintained free of insects and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the State and County health code.

**2. Parks.** Parks shall be maintained free of accumulation and of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

**3. Storage Areas.** Storage areas shall be so maintained as to prevent rodent harborage.

**4. Screens.** Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

**5. Brush Weeds and Grass.** The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

#### **FIRE PROTECTION**

**1. Litter, Rubbish, And The Like.** Manufactured home parks shall be kept free of litter, rubbish and other flammable material.

**2. Fire Extinguishers.** Portable fire extinguishers rated for classes A, B and C fires shall be kept visible and in service buildings and other locations conveniently located and maintained in good operating condition. Their capacity shall be not less than 10 pounds.

**3. Fires.** Fires shall be made only in stoves, indoor incinerators and other equipment intended for such purposes.

**4. Fire Hydrants.** Fire hydrants shall be installed if the park water supply system is capable to serve them in accordance with the following requirements: the water supply system shall permit the operation of standard City fire hydrants; and fire hydrants, if provided, shall be located within 300 feet of any manufactured home, service building or other structure in the park.

**STORM SHELTERS**

**1. Storm Shelters.** Manufactured home parks shall provide a storm shelter which meets the minimum standards specified by the State of Minnesota.

**PARK MANAGEMENT RESPONSIBILITIES**

**1. General Requirements.** The person to whom a license for a manufactured park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

**2. Inspection Of Register.** The Park Manager shall keep the required register available for inspection at all times by law enforcement officers, public health officers and other officials whose duty necessitates acquisition of the information contained in the register. The register record for such occupant registration shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

***COMMERCIAL DISTRICTS*****SECTION 19. COMMERCIAL DISTRICTS.**

**1. Accessory Uses and Structures.** Accessory uses and structures, including surface parking lots and parking structures or garages, are permitted in the Commercial Districts subject to the regulations of Sections 26 and 29 of this Chapter.

**2. Compliance with Applicable Regulations.** Any use established in a Commercial District after the effective date of this Chapter shall be so operated as to comply with all applicable local, state, and federal standards for such uses, including but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution and glare.

**3. Off-Street Parking and Loading.** Off-street parking and loading facilities shall be provided for the Commercial Districts in accordance with the regulations set forth in Sections 29 and 30 of this Chapter.

**4. Landscaping and Screening.** Landscaping and screening shall be provided for the Commercial Districts in accordance with the regulations set forth in Section 32 of this Chapter.

**5. Signs.** Signs in the Commercial Districts shall comply with the applicable sign regulations set forth in Section 31 of this Chapter.

**6. Performance Standards.** Requirements relating to performance standards in the Commercial Districts are set forth in Section 33 of this Chapter. All uses, either permitted or conditional, shall be operated in their entirety within a completely enclosed building. The unenclosed storage of materials, equipment, and products outside of completely enclosed buildings is prohibited unless explicitly allowed within the district standards and per Section 27 of this Chapter.

**7. Site Plan Review.** Applications for development approval for properties located in the commercial districts shall be subject to Site Plan Review in accordance with the requirements of Section 34 of this Chapter.

**8. General Provisions.** Refer to Sections 26 and 27 of the Chapter, Standards for General Applicability, for additional standards and exceptions.

**9. Planned Unit Development.** A planned unit development plan may be submitted for consideration by the Planning Commission for any property located in the Commercial Zoning Districts. Refer to Section 38 of this Chapter for submittal requirements and development standards.

**C – Commercial District Regulations – See Sections 20-22 for additional regulations.**

|                                  | <b>D-C</b>             | <b>S-C</b>            | <b>H-C</b>            | <b>Accessory</b>              |
|----------------------------------|------------------------|-----------------------|-----------------------|-------------------------------|
|                                  | Downtown<br>Commercial | Service<br>Commercial | Highway<br>Commercial | Accessory<br>Building         |
| Minimum lot area (sq. ft.)       | 3000                   | 10,000                | 15,000                | n/a                           |
| Minimum lot <i>frontage</i> (ft) | 25                     | 50                    | 100                   | n/a                           |
| Minimum front yard setback (ft)  | 0                      | 20 <sup>(2)</sup>     | 25 <sup>(5)</sup>     | Not Permitted                 |
| Minimum side yard setback (ft)   | 0 <sup>(1)</sup>       | 10 <sup>(1)(3)</sup>  | 20 <sup>(1)(6)</sup>  | Same as District side yard    |
| Minimum rear yard setback (ft)   | 0 <sup>(1)</sup>       | 20 <sup>(1)(4)</sup>  | 20 <sup>(1)(4)</sup>  | 10                            |
| Maximum lot coverage             | 100%                   | 60%                   | 75%                   | Included in max. lot coverage |
| Maximum building height (ft)     | 50                     | 35                    | 50                    | Same as District height       |

- (1) A transitional yard shall be provided anywhere a Commercial District, abuts a Residential District. The yard shall conform to the following requirements:
  - a. The dimensions of the required transitional yard on the property located in the Commercial District shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.
  - b. The transitional yard shall extend the entire length of the abutting Residential District boundary.
  - c. The transitional yard shall be no less than ten (10) feet in depth and no less than a required yard in the related Commercial District.
  - d. The transitional yard shall be landscaped in conformance with Section 32.
- (2) There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot front yard setback to any portion of a building as measured from the property line.
- (3) There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a ten (10) foot setback to any portion of a building, except that on a corner lot, the setback shall be a fifteen (15) foot setback as measured from the property line.
- (4) There shall be provided a five (5) foot rear yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.
- (5) There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty five (25) setback to any portion of a building.
- (6) There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building. The corner side yard setback to an impervious parking or storage surface and/or any portion of a building along the secondary street frontage of a corner lot shall be equal to that of the front yard setback required in this District.

**SECTION 20.****“D-C” Downtown Commercial District.**

**1. Purpose.** The D-C, Downtown Commercial District, is designed and intended to provide locations in the downtown core area of the city for high density shopping and business developments on compact sites, stressing pedestrian orientation and access.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the D-C, Downtown Commercial District. Every use shall be operated in its entirety, within a completely enclosed structure, including the storage of all materials, products, and equipment, except as allowed by Subd. 3. **Amended – Ord #303 10/11/2010**

- (A) Antique, hobby and craft, gift, novelty, and souvenir shops.
- (B) Apartments, only when located above the ground floor.
- (C) Apparel, department, and variety stores.
- (D) Appliance sales and repair stores.
- (E) Art, photography, and similar fine arts schools, studios, and galleries, including commercial display and sales.
- (F) Art supply stores.
- (G) Banks, savings and loans, and other financial institutions.
- (H) Barber and beauty shops.
- (H-a) Body Art including tattooing, permanent make-up, and piercing. **Ord. #303**
- (I) Book stores, stationery and greeting card stores, newsstands, newspaper offices, and print shops
- (J) Business machine and office supply stores.
- (L) Candy, ice cream, and confectionery stores.
- (M) Caterers and retail bakeries.
- (M-a) Churches or places of religious worship – **Ord #310 (3/14/11)**
- (N) Dental and medical clinics and laboratories.
- (O) Drug stores.
- (P) Dry cleaners and Laundromats.

- (Q) Essential service utility structures and facilities for local service when located within public right of way or utility easement.
- (R) Floral sales.
- (S) Furniture, carpeting, and home furnishings stores.
- (T) Government institutions, municipal buildings, museums, senior centers, and libraries.
- (U) Grocery stores.
- (V) Gunsmiths.
- (W) Hardware stores.
- (X) Health and fitness clubs.
- (Y) Health equipment and sporting goods stores.
- (Z) Heating and plumbing shops.
- (AA) Hotels and motels.
- (BB) Jewelry stores.
- (CC) Liquor stores (off-sale).
- (DD) Locksmiths.
- (EE) Medical appliance sales and fittings.
- (FF) Music stores, including accessories and studios.
- (GG) Opticians and optical sales.
- (HH) Painting and decorating stores and interior decorators.
- (II) Parks, playgrounds, and other public open green spaces.
- (JJ) Performing arts studios and theaters.
- (KK) Pet shop, not for the treatment or boarding of animals.
- (LL) Photo studios, picture processing, and camera equipment and supplies sales.
- (MM) Professional and business offices.

(NN) Radio and television broadcasting, excluding transmitters.

(OO) Recreational services including theaters, bowling alleys, pool and billiard rooms, video arcades, and youth centers.

(PP) Restaurants and other eating and drinking establishments, as regulated in Section 27.

(QQ) Shoe repair and sales shops.

(RR) Tailor, seamstresses, and dressmaking shops.

(SS) Ticket agencies and travel bureaus.

(TT) Toy stores.

(UU) Upholstery shops.

(VV) Video rentals and sales.

**3. Allowable Display Area.** All merchandise will be displayed in a manner as to not project more than 42 inches into the right of way that is directly in front of the business. Display of sandwich board signs and merchandise will be done in such a manner as to allow a clear, unobstructed handicap accessible passageway of not less than 6 feet at all times. In addition, no sign or merchandise will be allowed to hinder the flow of traffic or people parking and getting out of their vehicles.

**4. Conditional Uses.** Except as specifically limited herein, the following uses may be permitted in the D-C, Downtown Commercial District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter. Conditions of approval for conditional uses may include requirements to provide off-street parking facilities in partial or total conformance with Section 29. Every use shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment:

(A) Automobile service stations, convenience stores, and car washes (including detail shops), as regulated in Section 27.

(B) Convention and civic centers.

(C) Drive-in facilities, accessory to a principal use, as regulated in Section 27.

(D) Recreational facilities, swimming pools, skating rinks, and similar open air facilities, provided such establishments shall be located not less than 100 feet from any residential district.

(E) Shopping centers.

(F) Surface parking lots and parking structures or garages, when not accessory to a permitted use.

(G) Other commercial and residential uses determined by the Planning Commission to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

**5. Minimum Lot Area.** The minimum lot area in the D-C, Downtown Commercial District, is three thousand (3,000) square feet.

**6. Minimum Lot Frontage.** The minimum lot frontage in the D-C, Downtown Commercial District, is twenty-five (25) feet.

**7. Yards and Setbacks.** None required.

(A) Transitional Yard. A transitional yard shall be provided anywhere a D-C, Downtown Commercial District, abuts a Residential District. The yard shall conform to the following requirements:

- (1) The dimensions of the required transitional yard on the property located in the D-C, Downtown Commercial District shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.
- (2) The transitional yard shall extend the entire length of the abutting Residential district boundary.
- (3) The transitional yard shall be no less than ten (10) feet in depth.
- (4) The transitional yard shall be landscaped in conformance with Section 32.

**8. Maximum Lot Coverage.** No restriction.

**9. Building Design and Construction.** All buildings and structures in the D-C, Downtown Commercial District, shall meet the following building design and construction standards:

(A) Exterior Wall Finish. All exterior wall finishes that are exposed to front or side streets on any building or structure shall be of the following materials, or a combination of the following materials:

- (1) Face brick.
- (2) Natural or cultured stone, stucco and glass panels.
- (3) Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.
- (4) Excluding materials that require exposed fasteners.
- (5) Other materials as approved by the Planning Commission.

(B) Additions and Accessory Buildings. All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

**10. Maximum Building Height.** No principle structure shall exceed three stories or 50 feet in height.

**SECTION 21. "S-C" Service Commercial District.**

**1. Purpose.** The S-C, Service Commercial District, is designed to provide for a broad range of retail and service businesses which are adjacent to residential areas and maintain traditional aesthetic characteristics.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the S-C, Service Commercial District. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment: **Amended – Ord #303 10/11/2010**

- (A) Antique, hobby and craft, gift, novelty, and souvenir shops.
- (B) Apparel, department, and variety stores.
- (C) Art, photography, and similar fine arts schools, studios, and galleries, including commercial display and sales.
- (D) Art supply stores.
- (E) Barber and beauty shops.
- (F) Book stores, stationery and greeting card stores, newsstands, newspaper offices, and print shops
- (F-a) Body Art, including tattooing, permanent make-up, and piercing.
- (G) Business machine and office supply stores.
- (H) Candy, ice cream, and confectionery stores.
- (I) Caterers and retail bakeries.
- (J) Dental and medical clinics and laboratories.
- (K) Drug stores.
- (L) Dry-cleaners, and Laundromats.
- (M) Essential service utility structures and facilities for local service when located within public right of way or utility easement.
- (N) Floral sales.
- (O) Funeral homes.
- (P) Furniture, carpeting, and home furnishings stores.

- (Q) Garden supply stores and landscape nurseries. Outside display and storage of merchandise is permitted.  
*Amended April 11, 2011 Ordinance #312*
- (R) Grocery stores.
- (S) Gunsmiths.
- (T) Hardware stores.
- (U) Health and fitness clubs.
- (U1) Hospitals, congregate housing, and nursing homes. *Amended March 12, 2012 Ordinance #334*
- (V) Health equipment and sporting goods stores.
- (W) Jewelry stores.
- (X) Liquor stores (off-sale).
- (Y) Locksmiths.
- (Z) Medical appliance sales and fittings.
- (AA) Music stores, including the sale of instruments and recorded music.
- (BB) Opticians and optical sales.
- (CC) Painting and decorating stores and interior decorators.
- (DD) Parks, playgrounds, and other public open green spaces.
- (EE) Performing arts studios and theaters.
- (FF) Pet shop, not for the treatment or boarding of animals.
- (GG) Photo studios, picture processing, and camera equipment and supplies sales.
- (HH) Professional and business offices.
- (II) Shoe repair and sales stores.
- (JJ) Tailor, seamstresses, and dressmaking shops.
- (KK) Ticket agencies and travel bureaus.
- (LL) Toy stores.

(MM) Upholstery shops.

(NN) Video rentals and sales.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the S-C, Service Commercial District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment, such uses shall be separated from any adjoining residential districts by a landscaped buffer strip of not less than 20 feet in width:

(A) Bed and breakfast establishments, as regulated in Section 27, to accommodate not more than six guests provided such facilities do not have separate kitchen and dining facilities for guests.

(B) Child day care facilities, when not operated as a home occupation and as regulated in Section 27.

(C) Churches or places of religious worship, as regulated in Section 27.

(D) Drive-in facilities, accessory to a principal use, as regulated in Section 27.

(E) Government institutions, municipal buildings, museums, senior centers, and libraries.

(F) Hotels and motels.

(G) Multiple family dwelling units, provided such uses meet the guidelines of R-M, Multiple Family District.

(H) Residential – one and two family, including home occupations as regulated by Section 27.

(I) Restaurants and other eating and drinking establishments, as regulated in Section 27.

(J) Surface parking lots and parking structures or garages, when not accessory to a permitted use.

(K) Other commercial and residential uses determined by the Planning Commission to be of the same general character as the permitted and conditional uses above and found not to be detrimental to existing uses and the general public health, safety, and welfare.

**4. Minimum Lot Area.** The minimum lot area in the S-C, Service Commercial District, is ten thousand (10,000) square feet.

**5. Yards and Setbacks.** The yard and setback requirements for the S-C, Service Commercial District are as follows:

(A) Front Yard Setback. There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot front yard setback to any portion of a building as measured from the property line.

(B) **Side Yard Setback.** There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a ten (10) foot setback to any portion of a building, except that on a corner lot, the setback shall be a fifteen (15) foot setback as measured from the property line.

(C) **Rear Yard Setback.** There shall be provided a five (5) foot rear yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.

(D) **Transitional Yard.** A transitional yard shall be provided anywhere an S-C, Service Commercial District, abuts a Residential District. The yard shall conform to the following requirements:

- (1) The dimensions of the required transitional yard on the property located in the S-C, Service Commercial District shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.
- (2) The transitional yard shall extend the entire length of the abutting Residential District boundary.
- (3) The transitional yard shall not be less than a yard required in the S-C, Service Commercial District.
- (4) The transitional yard shall be no less than ten (10) feet in depth.
- (5) The transitional yard shall be landscaped in conformance with Section 32.

**6. Minimum Lot Frontage.** The minimum street frontage in the S-C, Service Commercial District, shall be fifty (50) feet.

**7. Maximum Lot Coverage.** Not more than 60% of the lot area may be covered by impervious surfaces to include all required parking. Open areas on the lot shall be maintained with grass, trees, shrubs, flower gardens, or similar material, and existing trees, shrubs, and similar landscaping materials shall be maintained. Removal of trees within the public right-of-way requires approval of the City Council. The location of any trees proposed for removal shall be identified on a building permit application. The Planning Commission or City Council, at their option, may require replacement of any trees removed from the right-of-way.

**8. Building Design and Construction.** All buildings and structures in the S-C, Service Commercial District, shall meet the following building design and construction standards except to match existing structures. (Amended April 22, 2011 Ordinance #312)

(A) **Exterior Wall Finish.** All exterior wall finishes that are exposed to front or side streets on any building or structure shall be of the following materials, or a combination of the following materials:

- (1) Face brick.
- (2) Natural or cultured stone, stucco and glass panels.
- (3) Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.

(4) Excluding materials that require exposed fasteners except to match existing structures.

(Amended April 22, 2011 Ordinance #312)

(5) Other materials as approved by the Planning Commission.

(B) Additions and Accessory Buildings. All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

**9. Maximum Building Height.** The height of a building in the S-C, Service Commercial District, shall not exceed thirty-five (35) feet or be more than two (2) stories.

**SECTION 22.****“H-C” HIGHWAY COMMERCIAL DISTRICT.**

**1. Purpose.** It is the purpose of the H-C, Highway Commercial District to provide areas in close proximity to major highways for the development of commercial businesses and services which serve the needs of the traveling public in a manner which is compatible with the safe and efficient movement of traffic and does not adversely impact upon adjoining land uses.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the H-C, Highway Commercial District. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment: **Amended – Ord #303 10/11/2010**

- (A) Uses listed as permitted uses in the S-C, Service Commercial District.
- (B) Amusement parks and facilities, including miniature golf courses.
- (C) Appliance sales and repair stores.
- (D) Automobile parts, tires, and accessory sales.
- (E) Automobile repair garages, including automobile glass, muffler, tire, electrical and upholstery repair services.
- (F) Automobile sales (new and used). Outside display and storage of automobiles is permitted.
- (G) Automobile service stations, convenience stores, and car washes, as regulated in Section 27.
- (H) Banks and savings and loans, including drive-in facilities, as regulated by section 27.
- (I) Boat, motorcycle, and other recreational vehicle sales and service, not including wrecking or dismantling.
- (Ia) Body Art, including tattooing, permanent make-up, and piercing.
- (J) Bus depots, including ticket offices and taxi terminals.
- (K) Government institutions, municipal buildings, museums, senior centers, and libraries.
- (L) Heating and plumbing shops.
- (M) Hotels and motels.
- (N) Radio and television broadcasting, including transmitters and studios.
- (O) Recreational services including theaters, bowling alley, pool and billiard rooms, video arcades, and youth centers.

- (P) Restaurants and other eating and drinking establishments, as regulated in Section 27.
- (Q) Schools, as regulated in Section 27.
- (R) Surface parking lots and parking structures or garages.
- (S) Veterinarians, including observation kennels for domestic pets, provided that all such be located at least 100 feet from any residential district.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the H-C, Highway Commercial District, subject to the regulations for conditional uses set forth in Section 36 of this Chapter. Every use, unless expressly exempted below or allowed by a conditional use permit, shall be operated in its entirety within a completely enclosed structure, including the storage of all materials, products, and equipment, such uses shall be separated from any adjoining residential districts by a landscaped buffer strip of not less than 20 feet in width:

- (A) Churches or places of religious worship, as regulated in Section 27.
- (B) Community convention and civic centers.
- (C) Drive-in facilities, accessory to a principal use, unless specifically permitted above, as regulated in Section 27.
- (D) Meat processing and slaughtering facility.
- (E) Public or semipublic recreational facilities, including sport arenas, stadiums, auditoriums, gymnasiums, football, softball, and baseball fields, tracks, tennis courts, skating rinks, roller rinks, and similar recreational facilities.
- (F) Shipping and outside storage when accessory to a permitted or conditional use. If allowed, such outside storage shall conform to the restrictions of Section 27.
- (G) Shopping centers.
- (H) Other commercial uses determined by the Planning Commission to be of the same general character as the permitted and conditional uses above, and found not to be detrimental to existing uses and to the general public health, safety, and welfare.

**4. Minimum Lot Area.** The minimum lot area in the H-C, Highway Commercial District, is fifteen thousand (15,000) square feet.

**5. Minimum Lot Frontage.** The minimum street frontage in the H-C, Highway Commercial District, shall be one hundred (100) feet as measured from the Setback Line.

**6. Yards and Setbacks.** The yard and setback requirements for the H-C, Highway Commercial District are as follows:

- (A) **Front Yard Setback.** There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty five (25) foot setback to any portion of a building.
- (B) **Side Yard Setback.** There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building. The corner side yard setback to an impervious parking or storage surface and/or any portion of a building along the secondary street frontage of a corner lot shall be equal to that of the front yard setback required in this District.
- (C) **Rear Yard Setback.** There shall be provided a five (5) foot rear yard setback to an impervious parking or storage surface and twenty (20) feet to any portion of a building.
- (D) All such areas shall be maintained with grass, scrubs, trees, or similar landscape materials.
- (E) **Transitional Yard.** A transitional yard shall be provided anywhere an H-C, Highway Business District, abuts a Residential District. The yard shall conform to the following requirements:

- (1) The dimensions of the required transitional yard on the property located in the H-C, Highway Commercial District shall be equal to the dimensions of the required yard on the residentially zoned property which is located in closest proximity.
- (2) The transitional yard shall extend the entire length of the abutting Residential District boundary.
- (3) The transitional yard shall not be less than a yard required in the H-C, Highway Commercial District or less than ten (10) feet in depth.
- (4) The transitional yard shall be landscaped in conformance with Section 32.

**7. Maximum Lot Coverage.** The sum total of ground area that may be covered by all impervious surfaces on a lot in the H-C, Highway Commercial District, shall not exceed seventy-five percent (75%) of the lot area.

**8. Building Design and Construction.** All buildings and structures in the H-C, Highway Commercial District, shall meet the following building design and construction standards.

- (A) **Exterior Wall Finish.** All exterior wall finishes that are exposed to front or side streets on any building or structure shall be of the following materials, or a combination of the following materials:
  - (1) Face brick.
  - (2) Natural or cultured stone, stucco and glass panels.
  - (3) Precast concrete panels or units if the surfaces have been integrally treated with an applied decorative material or texture.
  - (4) Excluding materials that require exposed fasteners.

(5) Other materials as approved by the Planning Commission.

(B) Additions and Accessory Buildings. All subsequent additions to a principal building and all accessory buildings and structures shall be constructed of the same materials as the principal building and shall be of the same architectural design and general appearance as the principal building.

**9. Maximum Building Height.** No principal structure shall exceed 50 feet in height or be more than 3 stories.

**INDUSTRIAL DISTRICTS**

**SECTION 23. INDUSTRIAL DISTRICTS.**

**1. Accessory Uses and Structures.** Accessory uses and structures, including accessory surface parking lots and parking structures or garages, are permitted in the Industrial Districts subject to the regulations of Section 26 and 29 of this Chapter.

**2. Compliance with Applicable Regulations.** Any use established in an Industrial District after the effective date of this Chapter shall be so operated as to comply with all applicable local, state, and federal standards for such uses, including but not limited to, the control for noise, vibration, air pollution, fire and explosive hazards, toxic substances, water pollution, and glare.

**3. Off-Street Parking and Loading.** Off-street parking and loading facilities shall be provided for the Industrial Districts in accordance with the regulations set forth in Sections 29 and 30 of this Chapter.

**4. Landscaping and Screening.** Landscaping and screening shall be provided for the Industrial Districts in accordance with the regulations set forth in Section 32 of this Chapter.

**5. Signs.** Signs in the Industrial Districts shall comply with the applicable sign regulations set forth in Section 31 of this Chapter.

**6. Performance Standards.** Requirements relating to performance standards in the Industrial Districts are set forth in Section 33 of this Chapter.

**7. Site Plan Review.** Applications for development approval for properties located in the industrial districts shall be subject to Site Plan Review in accordance with the requirements of Section 34 of this Chapter.

**8. General Provisions.** Refer to Sections 26 and 27, Standards for General Applicability, for additional standards and exceptions.

**9. Planned Unit Development.** A planned unit development plan may be submitted for consideration by the City Council for any property located in the Industrial Zoning Districts. Refer to Section 37 of this Chapter for submittal requirements and development standards.

**I – Industrial District Regulations – See Sections 24-25 for additional regulations.**

|                            | <b>L-I</b><br>Light<br>Industrial | <b>I</b><br>Industrial | <b>Accessory</b><br>Accessory<br>Building |
|----------------------------|-----------------------------------|------------------------|---|
| Minimum lot area (sq. ft.) | 15,000                            | 15,000                 | n/a                                       |
| Minimum lot width (ft)     | 100                               | 200                    | n/a                                       |
| Minimum front yard setback | 20 <sup>(1)</sup>                 | 20 <sup>(1)</sup>      | Not Permitted                             |

|                                |                      |                      |                               |
|--------------------------------|----------------------|----------------------|-------------------------------|
| (ft)                           |                      |                      |                               |
| Minimum side yard setback (ft) | 10 <sup>(2)(3)</sup> | 10 <sup>(2)(3)</sup> | Same as District side yard    |
| Minimum rear yard setback (ft) | 20 <sup>(2)(4)</sup> | 20 <sup>(2)(4)</sup> | 10                            |
| Maximum ground coverage        | 75% <sup>(5)</sup>   | 75% <sup>(5)</sup>   | Included in max. lot coverage |
| Maximum building height (ft)   | none                 | none                 | none                          |

- (1) There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot front yard setback to any portion of a building as measured from the property line.
- (2) A transitional yard of thirty (30) feet shall be provided whenever an L-I, Light Industrial District, abuts a Residential District. The transitional yard shall extend the entire length of the abutting Residential District boundary and shall be landscaped per Section 32.
- (3) There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a ten (10) foot side yard setback to any portion of a building, except on a corner lot, the setback shall be a fifteen (15) foot setback as measured from the property line.
- (4) There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) setback to any portion of a building.
- (5) The sum total of ground area that may be covered by all structures located on the zoning lot shall not exceed seventy-five percent (75%).

**SECTION 24. “L-I” LIGHT INDUSTRIAL DISTRICT.**

**1. Purpose.** The L-I, Light Industrial District, is intended to provide sites for light manufacturing and light industrial uses under controls that minimize any adverse effects on property in neighboring residential, business or commercial districts.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the L-I, Light Industrial District:

- (A) Airports.
- (B) Automobile, airplane, and farm implement assembly.
- (C) Automobile parts, tires, and accessory sales.
- (D) Automobile repair garages, service stations and car washes, as regulated in Section 27.
- (E) Automobile sales (new and used). Outside display and storage of automobiles is permitted.
- (F) Boat, motorcycle, and other recreational vehicle sales and service, not including wrecking or dismantling.
- (G) Building materials yards and contractors’ yards.
- (H) Concrete mixing and concrete products manufacturing.
- (I) Essential service utility structures and facilities.
- (J) Farm implement sales, repair, and service.
- (K) Machine and welding shops.
- (L) Manufacturing industries consisting of the processing, treatment, and packaging of goods and foodstuffs.
- (M) Meat processing and slaughtering facility.
- (N) Outside storage of material and equipment, per the restrictions of Section 27.
- (O) Railroad lines and spurs, passenger and freight deposits.
- (P) Recyclable material collection (temporary or permanent).
- (Q) Self-Service Storage Facilities.
- (R) Storage elevators.

(S) Veterinarians, including observation kennels for domestic pets, provided that all such be located at least 100 feet from any residential district.

(T) Warehouses, public maintenance garages, construction offices and warehouses, public utility buildings, and similar uses.

(U) Wholesale gasoline and oil storage.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the L-I, Light Industrial District:

(A) Electricity generating facilities, when not determined to be objectionable due to noise, odor, or vibration.

(B) Other wholesale, light manufacturing, construction or service uses similar in character to those listed above.

**4. Interim Uses.** Except as specifically limited herein, the following uses may be allowed in the L-I, Light Industrial District, subject to the regulations for an interim use set forth in Section 37 of this Chapter:

(A) Temporary Workforce Housing

**5. Minimum Lot Area.** The minimum lot area required in the L-I, Light Industrial District, is fifteen thousand (15,000) square feet.

**6. Minimum Lot Width.** The minimum lot width in the L-I, Light Industrial District, is one hundred (100) feet, to be measured at the front property line.

**7. Yards and Setbacks.** The yard and setback requirements for the L-I, Light Industrial District, are as follows:

(A) Front Yard Setback. There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.

(B) Side Yard Setback. There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a ten (10) foot side yard setback to any portion of a building, except on a corner lot, the setback shall be a fifteen (15) foot setback as measured from the property line

(C) Rear Yard Setback. There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.

(D) Transitional Yard Setback. A transitional yard of thirty (30) feet shall be provided whenever an L-I, Light Industrial District, abuts a Residential District. The transitional yard shall extend the entire length of the abutting Residential District boundary and shall be landscaped per Section 32.

**8. Maximum Building Height.** No restriction.

**9. Maximum Ground Coverage.** The sum total of ground area that may be covered by all structures located on the zoning lot in the L-I, Light Industrial District, shall not exceed seventy-five percent (75%).

**SECTION 25.****“I” INDUSTRIAL DISTRICT.**

**1. Purpose.** The I, Industrial District, is intended to provide sites for a range of intensive manufacturing and industrial uses under controls that minimize any adverse effects on property in neighboring residential, business, or commercial districts.

**2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the I, Industrial District:

(A) Permitted and conditional uses in the L-I, Light Industrial District shall be permitted in the I, Industrial District.

**3. Conditional Uses.** Except as specifically limited herein, the following uses may be allowed in the I, Industrial District:

(A) Cement, lime, gypsum or plaster of Paris manufacturer.

(B) Compost facility.

(C) Distilling of bones, coal, tar, petroleum, refuse, grain, or wood.

(D) Drilling or excavation for, or removal of, oil, gas, or other hydrocarbons or minerals.

(E) Explosives manufacturing or storage.

(F) Fat rendering.

(G) Fertilizer manufacturing.

(H) Garbage, offal, dead animal or fish reduction incineration.

(I) Gas, illuminating or heating, manufacturing.

(J) Power generation.

**4. Minimum Lot Area.** The minimum lot area required in the I, Industrial District, is fifteen thousand (15,000) square feet.

**5. Minimum Lot Width.** The minimum lot width in the I, Industrial District, is two hundred (200) feet, to be measured at the front property line.

**6. Yards and Setbacks.** The yard and setback requirements for the I, Industrial District, are as follows:

(A) Front Yard Setback. There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.

(B) **Side Yard Setback.** There shall be provided a five (5) foot side yard setback to an impervious parking or storage surface and a ten (10) foot side yard setback to any portion of a building, except on a corner lot, the setback shall be a fifteen (15) foot setback as measured from the property line.

(C) **Rear Yard Setback.** There shall be provided a five (5) foot front yard setback to an impervious parking or storage surface and a twenty (20) foot setback to any portion of a building.

(D) **Transitional Yard Setback.** A transitional yard of thirty (30) feet shall be provided whenever a I, Industrial District, abuts a Residential District. The transitional yard shall extend the entire length of the abutting Residential District boundary and shall be landscaped per Section 32.

**7. Maximum Building Height.** No restriction.

**8. Maximum Ground Coverage.** The sum total of ground area that may be covered by all structures located on the zoning lot in the I, Industrial District, shall not exceed seventy-five percent (75%).

***STANDARD OF GENERAL APPLICABILITY*****SECTION 26. GENERAL PROVISIONS.**

**1. Accessory Uses and Structures.** Except as otherwise expressly provided or limited in this Section, accessory uses and structures are permitted in any zoning district in connection with any principal use lawfully existing within such district.

(A) Compliance. No accessory use or structure shall be established or constructed unless in compliance with this Chapter.

(B) Use Limitations. In addition to any other condition or limitation required by this Section, accessory uses and structures shall be subject to the following conditions and limitations:

- (1) No accessory use or structure shall be established or constructed before the principal use is in operation or the principal structure is under construction in accordance with these regulations.
- (2) In Residential Districts, no sign shall be erected in connection with an accessory use or structure.

(C) General Yard, Bulk, and Height Limitations. All accessory uses permitted by this Section shall be subject to the following general requirements:

- (1) Location of Accessory Building in Required Yards.
  - a. Accessory buildings are prohibited in any front yard or side yard.
  - b. No accessory building on a corner lot shall be located in the corner side yard.
  - c. Accessory buildings may be located in the rear yard, provided the building is located at least ten (10) feet from any property line.
- (2) Maximum Coverage.
  - a. In Residential Districts, an accessory building shall not occupy more than thirty percent (30%) of the total area of the rear yard and not to exceed 1000 square feet.
- (3) Maximum Height of Accessory Structures.
  - a. The height of accessory buildings shall not exceed the limits set for uses permitted in the district. However, accessory utility structures shall comply with applicable Federal Communications Commission or Federal Aviation Administration height regulations.

b. In Residential Districts, an accessory building shall not be over one story, not exceeding ten (10) feet in height as measured at the side wall from bottom sill plate to top sill plate, with a maximum height of twenty (20) feet. (Amended April 10, 2010, Ordinance #295)

(D) Minimum Structural Requirements. Accessory buildings in residential zoning districts shall conform to the following minimum structural requirements:

- (1) The roof style and siding of the accessory building shall be similar to the roof style and siding of the main building.
- (2) Corrugated metal exterior finishes are prohibited for accessory buildings that have a ground coverage of greater than one hundred and twenty (120) square feet.
- (3) The construction shall conform to the Minnesota State Building Code as adopted by the City Council.
- (4) The building shall be constructed on a concrete slab or footing.

(E) Kennel, Private. Private dog kennels in residential zoning districts shall not be allowed in the front or side yards. Kennels may be located in the rear yard setback, provided all portions of the kennel are located at least five (5) feet from any property line.

(F) Swimming Pools, Accessory Use. Accessory swimming pools containing more than three thousand (3,000) gallons or with a depth of water over three and one half (3½) feet shall conform to the following standards. In addition, such pools shall be subject to site plan review pursuant to Section 34.

- (1) No pool shall be located within at least ten (10) feet of any side or rear lot line or within six (6) feet of any principal structure or frost footing. No pool shall be located within any front yard.
- (2) No pool shall be located beneath overhead electrical lines or over underground utility lines of any type.
- (3) No pool shall be located within any private or public utility, walkway, drainage, or other easement.
- (4) All accessory mechanical apparatus shall be located at least thirty (30) feet from any adjacent residential structure and no closer than five (5) feet to any lot line.
- (5) Lighting for the pool shall be oriented so as not to cast light onto adjacent properties.
- (6) A security fence of at least six (6) feet in height shall completely enclose the pool area. The security fence shall be screened in conformance with the requirements of Section 32.

(G) Satellite Dishes and Antennas. Satellite dishes and antennas shall not be allowed in any required front or side yard. Satellite dishes or antennas shall be allowed in the rear yard, provided the satellite dish or antenna, including support structures, are set back five (5) feet from any property line.

(H) Garage Sales, Estate Sales, Yard Sales, Rummage Sales, and Other Sales of Personal Property. Garage sales, estate sales, yard sales, rummage sales, any other sales of personal property that have similar traffic and parking patterns are permitted if:

- (1) The sales occur during no more than four (4) periods of a maximum of three (3) consecutive days each in any 12-month period.
- (2) The items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends / family of the resident, or by participants in an organization that occupies the permitted use on the property.
- (3) None of the items offered for sale have been purchased for resale or received on consignment for purposes of resale.

(I) Accessory Seasonal Unenclosed Uses. The unenclosed accessory sale and display of cut Christmas trees, wreaths, tree branches, pine cones, holly, and related plant items during the related season, and the unenclosed sale and display of plants and garden supplies during the related season shall be permitted as an accessory use, provided that the sale and display is conducted in connection with the operation of an existing retail use in the D-C-, S-C, or H-C zoning districts, and the area used for the unenclosed sale and display does not exceed twenty percent (20%) of the area of the parcel containing buildings or use more than twenty percent (20%) of the required parking area.

- (1) Uses in excess of paragraph A above and self supporting business require a conditional use permit.
- (2) Temporary structures erected not in excess of 30 square feet are permitted with out a conditional use permit unless they are used to house hazardous, life, health or safety materials.

**2. Obstructions.** Projections of a principal or accessory structure may be located in a required yard only as indicated below. In no case shall any obstruction extend beyond the limits of the lot and adequate drainage shall be provided which is directed away from adjacent private property.

- (A) Air conditioners, central air outside condensing units, and window units, projecting not more than thirty-six (36) inches into the required yard.
- (B) Arbors and trellises in all required yards.
- (C) Architectural ornaments and projections not more than four (4) inches into a required yard.
- (D) Unenclosed awnings and canopies extending not more than two and one-half (2½) feet into front or side yards and not more than five (5) feet into rear yards. Such canopy shall be cantilevered from the principal or accessory structure and shall not contain separate ground supports with the exception of DC, Downtown Commercial District.
- (E) Fences or walls.

(F) Fire escapes may extend into the required side yard a distance not exceeding thirty-six (36) inches.

(G) Flagpoles.

(H) Unenclosed porches, landings, or steps; provided the area of the porch, landing, or step does not project more than six (6) feet into the required front yard or three (3) feet into the required side yard, if the landing, porch, or step has its floor no higher than three (3) feet above grade. An open railing no higher than three (3) feet may be placed around such place.

(I) Projecting eaves, gutters, bay windows, and cantilevered building extensions, provided the projection is more than thirty-six (36) inches above the ground grade and projects not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards.

(J) Fireplaces, not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards.

(K) Awnings in the DC, Downtown Commercial District shall be allowed to project no more than six (6) feet into the right-of-way with a minimum clearance height of seven (7) feet.

**3. Basement Dwellings.** No basement dwelling shall hereafter be permitted in any district. Existing basement dwellings shall have the status of nonconforming uses. Basement dwellings as defined in the Minnesota State Building Code.

**SECTION 27. SPECIAL PROVISIONS APPLICABLE TO SPECIFIC PERMITTED AND CONDITIONAL USES.**

**1. Home Occupations.** It is the finding of the City Council that home occupations affect neighborhood character, have a potential to be a nuisance to neighbors, and may negatively affect City services. The purpose of this Section is to regulate home occupations in order to avoid such negative impacts and to ensure the integrity and goals of the residential zoning districts. Standards for home occupations are intended to ensure compatibility with other permitted uses and the character of the residential neighborhood.

(A) **No Special Permission Required.** When an accessory use is deemed a home occupation as defined in this Chapter, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation in conformance with this subdivision, without securing special permission from the City. This shall not be construed to exempt owners, lessees, or other persons who have a legal right to the use of the dwelling unit from other applicable regulations of the City Code.

(B) **Allowed in Residential Zoning Districts.** Home occupations are allowed as accessory uses where the principal use of the premises is a dwelling. The accessory use of residential property for a home occupation shall conform to the following standards:

- (1) Such home occupation shall be conducted solely by residents of the dwelling.
- (2) Such home occupation shall be contained entirely within the dwelling. The use of detached accessory buildings or private garage, attached or detached, for a home occupation is prohibited.
- (3) There shall be no outside storage of materials, goods, supplies, or equipment of any kind related to the home occupation.
- (4) Such occupation shall create no noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than what normally occurs in a residential zoning district.
- (5) No employees, which do not reside at the premises on which the home occupation is located, shall report to work at the location of the home occupation or park motor vehicles on the property or in the vicinity of the home occupation.
- (6) No commercial vehicle in excess of nine thousand (9,000) pounds gross weight shall be used in connection with the home occupation or parked on the property.
- (7) One automobile is allowed to be used in connection with a home occupation. Such vehicle shall be parked on a conforming off-street parking stall located on the property.
- (8) No traffic or parking demand shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- (9) Only one (1) sign shall be allowed. The sign may display the name of the occupant and/or the name of the home occupation.

The sign shall be non-illuminated and attached flat to an exterior wall of the dwelling or visible through a window of the dwelling, not to exceed four (4) square feet in size.

(10) In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, or vibrations.

(C) **Prohibited Home Occupations.** The following uses, by the nature of the investment or operation, have a pronounced tendency to rapidly increase beyond the limits permitted for home occupations. The following uses, therefore, are not permitted as home occupations: **Amended – Ord #303 10/11/2010**

- (1) Automobile, boat, and trailer painting and detailing.
- (2) Automobile, boat, small engine, recreational vehicles, and trailer repair or servicing.
- (3) Automobile, boat, and trailer sales or rental.
- (4) Junkyard, scrapping, or salvage operations.
- (4-a) Body Art including tattooing, permanent make-up, and piercing.
- (5) Medical or dental offices.
- (6) Mortuaries or funeral homes.
- (7) Painting, electrical, plumbing, or general contractor; unless operated only as an office for said uses, and provided further that no employees report to work at the premises.
- (8) Restaurants or other eating and drinking establishments.
- (9) Any other use as determined by the City Council.

**2. Child Day Care Center.** In addition to any other condition or limitation required by this Chapter, day care facilities that are not licensed as home occupations shall be subject to the following conditions and limitations.

- (A) Where the facility is accessory to a principal use, service shall be made available to the employees of the principal use.
- (B) Each facility shall provide separate off-street passenger loading and unloading area devoted solely to the facility.
- (C) Each facility shall provide a separate and protected outside recreation area.
- (D) Where the facility is accessory to a principal use, physical separation from the major operations of the principal use shall be required and direct access to the principal use shall be restricted or otherwise controlled.

**3. Bed and Breakfast Establishments.** In addition to any other condition or limitation required by this Chapter, bed and breakfast establishments shall be subject to the following conditions and limitations:

- (A) The bed and breakfast residence shall be owner-occupied.
- (B) One bed and breakfast bedroom shall be allowed per dwelling unit that is allowed by the applicable zoning district.
- (C) Two (2) parking spaces are required for each dwelling unit, plus one (1) additional parking space for each bed and breakfast bedroom. Required parking for dwelling units and bed and breakfast bedrooms shall be located on the zoning lot. Guests and residents in the dwelling units shall be assigned parking spaces.
- (D) The number of guests allowed to a permitted accessory activity, such as a wedding, banquet, dinner, etc., shall be based on the number of off-street parking spaces available at the bed and breakfast. Two (2) parking spaces shall be required for each three (3) guests.

Required off-street parking for a permitted accessory activity shall be provided on the zoning lot or within three hundred (300) feet of the zoning lot. Guests shall be required to park at the off-street parking areas provided.

- (E) Parking spaces shall be screened from view at ground level from all adjoining properties, public streets and ways.
- (F) Parking spaces shall be hard surfaced with concrete or asphalt and shall be well-drained, striped, and numbered.
- (G) The structure and performance of the operation of the bed and breakfast and residence shall comply with all local, county, and state regulations.
- (H) Signage shall not exceed one (1) single- or two-sided sign not exceeding four (4) square feet on one (1) side. The sign may be attached to the dwelling or located five (5) feet from any property line. The signage shall not be illuminated.
- (I) The owner of the bed and breakfast shall maintain a guest register showing the name, address, motor vehicle license number, and inclusive dates of visits of all guests. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of fourteen (14) calendar days during any consecutive ninety day (90) day period.
- (J) Meals shall be served only to registered bed and breakfast guests or registered guests of a permitted accessory activity.
- (K) Accessory activities shall be limited to the hours of 9:00 a.m. to 5:00 p.m., Monday through Thursday, 9:00 a.m. to 10:00 p.m., Friday and Saturday, and noon to 8:00 p.m. on Sundays and holidays.
- (L) Sound and light emanating from the property shall not be disruptive to the normal peace and quiet of the neighborhood.

(M) The City Council may modify standards or require additional standards which are site specific in order to assure the compatibility of the bed and breakfast activities with the neighborhood in which it is located.

(N) The City Council reserves the right to review the conditional use permit annually and either continue or modify the conditions of the permit.

(O) The City Council reserves the right to terminate the conditional use permit any time the owner fails to adhere to the standards or conditions established by this Section or contained in the conditional use permit.

**4. Cemeteries.** In addition to any other condition or limitation required by this Chapter, cemeteries shall be subject to the following conditions and limitations:

(A) Minimum lot size of five (5) acres.

(B) Located so that access can be provided without conducting significant traffic on local residential streets.

(C) Direct views from all adjoining residential parcels shall be buffered by appropriate means and subject to Section 32.

**5. Churches or Places of Religious Worship.** In addition to any other condition or limitation required by this Chapter, churches or places of religious worship shall be subject to the following conditions and limitations:

(A) Located so that access can be provided without conducting significant traffic on local residential streets.

(B) Buildings set back fifty (50) feet from all property lines and parking and loading areas subject to Sections 29 and 30.

(C) No more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped.

**6. Hospitals, Clinics, Dental Offices, Congregate Housing, and Nursing Homes.** In addition to any other condition or limitation required by this Chapter Hospitals, Clinics, Dental Offices, Congregate Housing, and Nursing Homes shall be subject to the following limitations: **Amended March 12, 2012 Ordinance #334.**

(A) Located so that access can be provided without conducting significant traffic on local residential streets.

(B) Building set back fifty (50) feet from all property lines and parking and loading areas subject to Sections 29 and 30.

(C) No more than 60 percent of the site be covered with impervious surface and the remainder to be suitably landscaped. **Amended March 12, 2012 Ordinance #334.**

**7. Schools.** In addition to any other condition or limitation required by this Chapter, schools shall be subject to the following conditions and limitations:

- (A) Located so that access can be provided without conducting significant traffic on local residential streets.
- (B) Building set back fifty (50) feet from all property lines and parking and loading areas subject to Sections 29 and 30.
- (C) School bus pick-up and drop-off areas located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety.
- (D) Recreational areas designed for group activities set back twenty-five (25) feet from residential property, suitable buffering provided to protect neighboring properties from noise and adverse visual impacts, and lighted playing fields permitted only upon determination that off-site impacts can be mitigated substantially.
- (E) No more than 60 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped.

**8. Restaurants and Other Eating and Drinking Establishments, Unenclosed Service Area or Unenclosed Seating Area.** Restaurants and other eating and drinking establishments serving intoxicating liquor in an unenclosed service area or providing an unenclosed seating area where intoxicating liquor is consumed must, in addition to complying with any applicable provisions of this Chapter, ensure the following:

- (A) Minors shall not have open access to the unenclosed service area or unenclosed seating area.
- (B) Liquor cannot be passed to persons not within the confines of the unenclosed service area or unenclosed seating area.
- (C) Adequate lighting shall be provided in the unenclosed service area or unenclosed seating area.
- (D) No sound amplification equipment shall be located in, or directed into, the unenclosed service area or unenclosed seating area.
- (E) The unenclosed seating area must be surrounded by a wall or fence. The wall or fence shall be designed so as not to allow individuals to enter or exit the unenclosed service or seating area except for direct access into the main building.
- (F) The City Council may modify these standards through the granting of a conditional use permit or by granting a temporary license under the liquor licensing provisions of the Perham City Code.

**9. Drive-Thru Facilities.** Drive-thru facilities shall conform to the following minimum standards.

- (A) The drive-thru facility, including drive-thru traffic lanes and parking areas for waiting automobiles, shall not be located in any required yard.
- (B) The drive-thru facility shall provide three (3) off-street spaces for waiting automobiles in each drive-thru traffic lane. A parking space shall be a minimum of nineteen (19) feet by nine (9) feet, and parking

spaces may be provided in a tandem arrangement. If drive-thru traffic lanes are not utilized, then parking spaces equal to three (3) times the maximum number of customer automobiles that can be serviced at any one (1) time shall be provided.

(C) The drive-thru facility, and accessory parking areas and drive-thru traffic lanes, shall not obstruct or interfere with other traffic lanes or parking areas located on the zoning lot.

(D) If the operation of the drive-thru facility results in traffic hazards or congestion on public streets or alleys, the City Council may order the modification or termination of the drive-thru facility.

**10. Automobile Service Stations and Car Washes.** In addition to any other conditions or limitations required by this Chapter, automobile service stations and car washes shall be subject to the following conditions and limitations:

(A) No automobile service station or car wash building or structure, driveway surface, parking area, advertising device or other similar site improvement, except driveways traversing a public road or boulevard, shall be located within one hundred (100) feet of any part of a residential district site.

(B) Each site shall have a minimum frontage of one hundred (100) feet.

(C) Each site shall be permitted two (2) points of ingress and egress for every one hundred (100) feet of frontage.

(D) Pump islands shall be set back not less than fifteen (15) feet from any street right-of-way and twenty-five (25) feet from any property line not abutting a street right-of-way.

(E) Canopies covering pump islands shall not be located in, or overhang, required yards.

(F) Unenclosed parking of vehicles not being serviced or not owned by the station operator shall be limited to twelve (12) hours.

(G) Interior drives, parking areas, and service stalls shall not be located in the required front yard.

(H) Islands for sweeping and vacuuming equipment shall be set back not less than fifteen (15) feet from any street right-of-way and five (5) feet from any property line not abutting a street right-of-way.

(I) Three (3) parking spaces for waiting vehicles shall be provided for each washing bay. A parking space shall be a minimum of nineteen (19) feet by nine (9) feet and such parking spaces may be provided in a tandem. If bays are not utilized, then parking spaces equal to three (3) times the maximum number of automobiles that can be washed at any one (1) time shall be provided.

(J) The accessory sale of lubricating oil, grease, tires, batteries, automobile accessories or any other items related to the operation of motor vehicles shall be allowed. Accessory services shall be limited to include the washing of vehicles, sale and installation of tires, oil changing, lubrication services, or minor repair work and mechanical maintenance.

(K) Automobile service stations shall not include the storage of non-operable vehicles, services for large commercial trucks, major automobile repairs, automobile wrecking or automobile sales of any kind. No automobile service station may lease trucks, cars or trailers, operate automobile sales, or operate an automobile wash without obtaining a conditional use permit from the City Council.

**11. Outside Storage of Materials, Commercial and Industrial Districts.** Where outside storage of materials, equipment, and product is permitted, or is conditionally permitted, in commercial or industrial zoning districts, such outside storage shall conform to the following provisions:

(A) In Commercial Districts, outside storage areas shall be fenced and screened from any abutting property, Residential District, and public street or way by fencing or screen planting of ninety percent (90%) opacity. Such fencing or screen planting shall be not less than eight (8) feet in height.

(B) In Industrial Districts, outside storage areas shall be screened from the public street and Residential Districts by screen fencing or plantings of ninety percent (90%) opacity. Such fencing or screen planting shall be not less than eight (8) feet in height.

(C) Storage areas in all commercial districts shall be hard surfaced with concrete or asphalt. Storage areas in the industrial districts may have a gravel surface; provided the storage area is used only to store heavy machinery and the access to the storage area is not less than one hundred (100) feet from a public right-of-way.

(D) Seasonal Unenclosed Uses. The unenclosed sale and display of cut Christmas trees, wreathes, tree branches, pine cones, holly, and related plant items during the months of November and December, and the unenclosed sale and display of plants and garden supplies during the months of April, May, and June shall be permitted as an accessory use, provided that the sale and display is conducted in connection with the operation of an existing retail use in a D-C, S-C or H-C zoning district, and that the area used for the unenclosed sale and display does not exceed twenty percent (20%) of the area of the parcel containing buildings or use more than twenty percent (20%) of the required parking area.

**12. Substantial Land Alteration.** A Conditional Use Permit shall be required where the excavation, grading, and filling of any land would result in the movement of earth and materials in excess of twenty-five (25) cubic yards and would significantly change the existing ground contour and existing drainage, or cause flooding and/or erosion.

The above requirement for a conditional use permit shall not apply to projects for which an approved grading or drainage plan was submitted and approved as part of the required review process.

The conditional use permit shall be administered through and subject to the requirements of the conditional use process pursuant to Section 36. In addition to the requirements set forth in Section 36, applications for a Conditional Use Permit shall include the following:

(A) A legal description of the land to be altered.

(B) The nature of the proposed alteration and future use of the property.

(C) The starting date and the completion date of the land alteration.

- (D) The names of all the owners of all the land to be altered.
- (E) The names and addresses of all owners and occupants of land adjoining the land to be altered.
- (F) A plan showing existing and proposed topography. The plan shall be to scale required in Section 34, Subd. 6, and the plan shall include two (2) foot topographic contour intervals depicting existing and proposed topography. The plan shall be signed by a registered surveyor, architect or engineer in the State of Minnesota.
- (G) A plan showing existing and proposed vegetation and ground cover.
- (H) A soil erosion and sedimentation control plan.

**SECTION 28. NON-CONFORMITIES.**

**1. Purposes.** This Section regulates and limits the continued existence of uses, structures, and lots established prior to the effective date of this Chapter that do not conform to the regulations of this Chapter applicable in the zoning districts in which such uses, structures, and lots are located.

The zoning districts established by this Chapter are designed to guide the future use of land within the City by encouraging the development or maintenance of desirable residential, business, office, institutional, and industrial areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of non-conformities is frequently inconsistent with the purposes for which such districts are established and thus the gradual elimination of such non-conformities is generally desirable.

**2. General Scope and Scheme of Regulation.** This Section establishes separate restrictions for the following categories of non-conformity:

- (A) Nonconforming uses (Subd. 3).
- (B) Nonconforming structures (Subd. 4).
- (C) Nonconforming lots (Subd. 5).
- (D) Nonconforming junkyards (Subd. 6).
- (E) Nonconforming parking surfaces (Subd. 7).

The degree of restriction made applicable to each category of non-conformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with non-conformities of that type. Pursuant to Section 39, provision is made for relief from some of the restrictions of this Section when practical difficulties or particular hardship exist.

**3. Nonconforming Uses.** The following restrictions shall apply to nonconforming uses of land.

(A) Authority to Continue. Except with regard to the termination by discontinuance or abandonment of a use as provided for below, any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below:

- (1) Ordinary Repair and Maintenance. Normal maintenance and incidental repair or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use; provided, however, that this restriction shall not be deemed to authorize any violation of this Section.
- (2) Enlargement of Structure. No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the

use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located.

(3) Extension of Use. A lawful existing nonconforming use may be extended or expanded throughout an existing building provided that such extension or expansion does not require that the structure devoted to the nonconforming use be structurally altered or enlarged; and provided further that the extension or expansion of the use shall not be allowed unless the off-street parking and loading spaces required for such extension or expansion are provided in accordance with the requirements of Sections 29 and 30 of this Chapter.

(4) Moving. No structure devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

(5) Change in Use.

a. A lawful nonconforming use may be changed to a conforming use permitted in the zoning district in which it is located; provided, however, when such a nonconforming use is changed to a conforming use, it shall not thereafter be changed back to any nonconforming use.

b. A lawful nonconforming use may be changed to another nonconforming use of the same or similar type or intensity, or to another nonconforming use of the same or similar type, but of less intensity, subject to interpretation by the Zoning Administrator pursuant to Section 42. In addition to the requirements set forth in Section 4, the Zoning Administrator shall not approve such change if it will require the violation of the restrictions of this Section. Whenever a nonconforming use is changed to a less intense nonconforming use, it shall not thereafter be changed back to a more intense nonconforming use.

(6) Damage or Destruction. Any structure devoted in whole or in part to a nonconforming use, if destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged, shall thereafter conform to the use regulations of the zoning district in which it is located.

For any use that is legally existing on the effective date of this Chapter, and is otherwise conforming to this Chapter except that the existing number of off-street parking and loading spaces provided for said use is not in compliance with Sections 29 and 30, but said existing parking and loading spaces currently provided for the use were conforming when the use was established, that when said use is thereafter damaged or destroyed by fire, collapse, explosion, or other cause not under the control of the property owner, the requirements of Section 29, Subd. 20, and Section 30, Subd. 12, shall not apply if the use is reconstructed, re-established, or repaired within one (1) year and to the same condition, density, and floor area as existed before being damaged or destroyed.

The property owner shall be required to restore, or continue in operation, parking and loading facilities equal to the parking and loading to useable floor area ratio maintained at the time of such damage or destruction, and the parking and loading facilities shall conform to all other requirements of Sections 29 and 30.

(7) Termination by Discontinuance or Abandonment. When a nonconforming use is discontinued or abandoned for a period of twelve (12) consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

Any period of such discontinuance caused by government action, strikes, material shortages, or natural disasters, and without any contributing fault by the nonconforming uses, shall not be considered in calculating the length of discontinuance for purposes of this Section.

#### **4. Nonconforming Structures.**

(A) Authority to Continue. Any nonconforming structure may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below.

(1) Repair, Maintenance, Alterations, and Enlargement. Except as limited below and allowed elsewhere in this Chapter, any nonconforming structure may be repaired, maintained, altered, or enlarged; provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new non-conformity or increase the degree of the existing non-conformity of all or any part of such structure.

(2) Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to all of the regulations of the zoning district in which it is located after being moved.

(3) Damage or Destruction. Any nonconforming structure that is damaged or destroyed by any means not within the control of the owner thereof, to any extent, may be repaired or restored; provided, however, that no such repair or restoration shall be allowed that would increase the degree of any non-conformity existing prior to such damage or destruction, and no such repair or restoration shall be allowed for that portion of a structure encroaching into a public right-of-way or sight triangle.

**5. Nonconforming Lots.** Subdivided lots of record in existence prior to the date of this ordinance, which do not meet the minimum width, area, and frontage requirements of this Chapter, shall be considered legally nonconforming and developable lots, provided all other regulations of this Chapter are satisfied and an approved public access is provided to the lot. If two or more nonconforming lots are contiguous and under single ownership at the time of the enactment of this Chapter, then such lots shall be combined for the purposes of development in order to satisfy the requirements of this Chapter.

**6. Nonconforming Junkyards.** No junkyard may continue as a legal nonconforming use for more than one (1) year after the effective date of this Chapter, except that a junkyard may continue as a legal nonconforming use in an Industrial District if, within that period, it is completely enclosed within a building, fence, screened planting, or other device of such height as to completely screen the operations of the junkyard. Plans of such a building or device shall be subject to site plan review and shall be approved by the City Council, upon the recommendation of the Planning Commission, prior to the establishment of such building or device.

**7. Nonconforming Parking, Driveway, and Driving Surfaces.** All legal nonconforming off-street parking spaces, driveways, and driving surfaces which are not constructed in conformance with Section 29, Subd. 10 shall be hard surfaced with concrete or asphalt within one (1) year of any of the following:

- (A) The issuance of a building permit which would allow the increase in the amount of lot coverage on the zoning lot.
- (B) The change in the principal use of the zoning lot.
- (C) The hard surfacing of a public right-of-way, which was previously not hard surfaced with concrete or asphalt, when said right-of-way serves as an access to the nonconforming surface.
- (D) A major reconstruction of a public roadway, as defined in the Perham Assessment Policy or Capital Improvements Program, when said right-of-way serves as an access to the nonconforming surface.
- (E) The expansion of any existing, or development of any additional driveways, parking areas or driving areas on the zoning lot.

**8. Nonconforming Accessory Uses and Structures.** No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have been terminated, unless it shall thereafter conform to all regulations of the zoning district in which it located.

**9. Burden of Owner to Establish Legality of Non-Conformity.** The burden of establishing that any non-conformity is lawfully existing under the provisions of this Section shall, in all cases, be upon the owner of the nonconforming property and not upon the City.

**SECTION 29. OFF-STREET PARKING.**

**1. Scope of Regulations.** The off-street parking provisions of this Chapter shall apply to all buildings and structures erected and all uses of land established after the effective date of this Ordinance. All required off-street parking shall be provided on private property, unless authorized otherwise by the City Council.

**2. Existing Parking Facilities.** Accessory off-street parking facilities in existence on the effective date of this Chapter shall not hereafter be reduced below the parking and loading requirements of this Chapter.

**3. Alternative to Required Parking Spaces.** In lieu of required parking spaces in the D-C, Downtown Commercial District, a payment may be made to the City parking fund or other authorized parking fund. The in-lieu payment per parking space shall be determined by the Council in accordance a fee schedule as established from time to time by the City Council. Requests for payment in-lieu of required parking spaces must be made to the Council through the City Planning Commission. The determination to allow a payment in-lieu of required parking will be made by the Council and shall be based on available municipal parking facilities within five hundred (500) feet of the use and the total City parking system in general.

**4. Voluntary or Required Provision of Additional Parking Facilities.** Nothing in this Ordinance shall be deemed to prevent the voluntary establishment of off-street parking to serve any existing use of land or buildings, provided that all regulations of this Ordinance governing the location, design, and operation of such facilities are adhered to.

As part of the conditional use approvals, the City Council may require additional off-street parking to be provided in excess of the requirements of this Section in order to ensure that an anticipated parking demand will be served.

**5. Parking of Commercial Vehicles or Equipment.** No commercial vehicle or equipment of any kind exceeding nine thousand (9,000) pounds gross weight, shall be parked, stored, or otherwise continued in a Residential District unless in a completely enclosed structure or unless the vehicle or equipment is being used in conjunction with a legitimate service being rendered for the benefit of the residential premises.

**6. Parking and Storage of Certain Vehicles.** Automobile vehicles or trailers of any kind or type without current legal license plates or which are inoperable are a public nuisance and enforcement and abatement shall be undertaken as provided in the Perham City Code.

**7. Submission of a Site Plan.** Any application for a Building Permit affected by this Section and required to provide more than four (4) off-street parking stalls shall include a site plan, drawn to scale and fully dimensioned, showing any off-street parking or loading facilities to be provided in compliance with this Chapter. Such site plan shall be a part of the Building Permit Application and no Building Permit shall be issued until the site plan is approved. The site plan shall be drawn to a scale of one (1) inch equals twenty (20) feet or larger and shall include at least the following information:

(A) The applicant's name and address and interest in the property.

(B) The owner's name and address, if different from the applicant, and the owner's signed consent to the filing of the site plan.

(C) The street address and legal description of the property.

- (D) The zoning classification and the required setback for the property.
- (E) A complete description of the proposed use.
- (F) The actual dimensions of the parking lot and exact sizes and location of all proposed buildings or other structures.
- (G) The actual dimensions and location of all driveways, parking spaces, safety curbs, loading areas, and landscaping.
- (H) A depiction of all drainage features and any environmental features.
- (I) Such other and further information or documentation as the Zoning Administrator may deem to be necessary or appropriate to a full and proper consideration and disposition of the particular site plan.

### **8. Location of Parking Spaces.**

- (A) Parking spaces required for One and Two Family dwellings shall be located on the same lot as the dwelling served or on an abutting lot.
- (B) Off-street parking spaces required for all non-One and Two Family dwellings shall be located on the same lot as the land use activity; provided, however, that when four (4) or more parking spaces are required, off-premise parking may be provided on a lot located not more than five hundred (500) feet from the main building of the use requiring said parking, provided the off-premises parking lot shall be held under the same ownership or leasehold interest as the zoning lot occupied by the building or use to which the parking facilities are accessory.

In no instance shall a use not permitted in a residential zoning district be allowed to provide off-street parking in a residential zoning district.

- (C) The prohibition against parking in any yards shall not be interpreted to prohibit the use of hard surfaced driveways for the temporary parking of automobiles.

**9. Parking in Required Yards.** The location of parking spaces and internal driveways shall conform to the stated setbacks and ground coverages for impervious surfaces contained in each zoning district. Parking areas shall be designed so as to avoid parked vehicles encroaching into required yards.

**10. General Parking Provisions.** Every parcel of land hereafter used as a public or private parking area, regardless of whether or not the parking is required by this Section, shall be developed and maintained in accordance with the following requirements.

- (A) Design. The design of parking lots or areas shall be subject to the approval of site plan review, in accordance with standards set forth in Section 34, and any additional standards established by the Zoning Administrator. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with the movement of street traffic.

(B) Landscaping and Screening. Landscaping and screening shall be provided in accordance with the requirements of Section 32.

(C) Lighting. Where a parking area or parking lot is illuminated, fixed lighting shall be arranged to prevent direct glare beams onto any public property, including streets and any adjoining private property. All light fixtures shall incorporate a luminary with a ninety (90) degree or less cut-off that prevents light from the luminary to be projected above the elevation of the light fixture or beyond the zoning lot on which the lighting fixture is located. In no case shall illumination exceed one (1) foot candle at the property line.

(D) Signs. Accessory signs shall be permitted on parking areas in accordance with the provisions specified in Section 31 of this Chapter. All compact parking stalls shall be signed as such.

(E) Curb and Striping. Off-street parking areas in multiple-family, commercial, or planned industrial zones may require a six (6) inch high non-surmountable curb around the perimeter of the parking area and driveway as deemed necessary by the site plan.

All off-street parking spaces containing more than four (4) parking spaces shall delineate individual parking spaces by striping or painting having a width of at least four (4) inches.

(F) **Parking Spaces and Driveway Surfaces.** All off-street parking spaces, driveways, and driving surfaces, except as exempted below, shall be hard surfaced with concrete or asphalt and shall be well-drained and maintained in a well-kept manner.

(1) Exemptions.

a. Off-street parking spaces, driveways, and driving surfaces which only have access to a public right-of-way that is not hard surfaced with concrete or asphalt are not required to be hard surfaced with concrete or asphalt until such right-of-way is surfaced with concrete or asphalt.

b. Industrial properties located in L-I and I Districts may maintain gravel parking or storage areas and driving surfaces to be utilized by heavy equipment in excess of nine thousand (9,000) pounds.

**11. Utilization of Required Parking Spaces.** Except as otherwise provided in this Section, required accessory off-street parking facilities provided for uses listed in this Section shall be solely for the parking of motor vehicles utilized by the owners, guests, patrons, occupants, or employees of such uses.

**12. Handicap Parking.** Any parking area to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped, and these shall be clearly marked as such. Handicap stalls shall be located in close proximity to the most accessible handicap entrance of the principal building.

The number and dimension of the stalls shall conform to applicable state and federal regulations.

**13. Off-Street Parking Dimensions.** The dimensions for parking stalls shall conform to a minimum of nine (9) feet in width and eighteen (18) feet in length. Associated driving lanes shall conform to a minimum of twelve (12) feet in width for single lanes and twenty (20) feet in width for double lanes.

**14. Provision for Collective Parking.**

(A) Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements of each such use and all regulations governing location of accessory parking spaces in relation to the use served are adhered to. No parking space or portion thereof shall serve as required space for more than one (1) use unless otherwise authorized by the Zoning Administrator.

(B) The Zoning Administrator may authorize a reduction in the total number of required parking spaces for two (2) or more non-residential uses jointly providing off-street parking when their respective peak hours of operation do not coincide. (See the Schedule for Minimum Off-Street Parking Requirements in Subd. 20 and the Schedule of Shared Parking Calculations in Subd. 19.) Reduction of joint use parking shall be subject to the following conditions:

- (1) No more than fifty percent (50%) of the parking spaces required for a principal use may be supplied by parking facilities required for any other principal use with the exception of churches or places of religious worship which may utilize up to seventy five percent (75%). **Ord #316  
5/25/2011**
- (2) If the Zoning Administrator determines that one or all of the land uses proposing to make use of joint parking facilities do not conform to one of the general land use classifications in the Schedule of Shared Parking Calculations, then the petitioner shall submit sufficient data to indicate that there is not substantial conflict in the principal or peak operating hours of the uses.
- (3) The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the City Attorney guaranteeing that the parking spaces shall be maintained so long as the uses requiring parking are in existence unless the required parking is provided elsewhere in accordance with the provisions of this Section. Such instrument shall be recorded by the property owner with the County Recorder of Deeds, and a copy filed with the Zoning Administrator.

**15. Parking Spaces for Accessory Uses.** Parking spaces for accessory uses not specifically enumerated within Subd. 20 of this Section, shall be assumed to be included in the principal (permitted or conditional) use requirement.

**16. Calculation of Parking Space Requirements for Mixed-Use Developments.** In computing required parking spaces for a mixed use development or a shopping center, the total number of required spaces shall be based upon the parking requirements for all the principal uses on the zoning lot.

**17. Determination of Required Number of Parking Spaces for Uses Not Specified Herein.** In the event this Chapter does not specify the number of parking spaces for a specific use, the Zoning Administrator shall determine the number of spaces required. In making this determination, the Zoning Administrator shall consider the following criteria:

- (A) The number of parking spaces required for a use listed in Subd. 20 of this Section, that is the most similar to the proposed use in terms of the parking demand anticipated to be generated.

(B) The square footage to be occupied by the proposed use.

(C) The number of employees and patrons that are anticipated for the proposed use.

**18. Standards and Units of Measurement to Determine Off-Street Parking.** For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

(A) Floor Area, Livable or Useable. The gross useable or livable floor area shall be used to determine the parking requirement.

(B) Places of Assembly (Public or Private). In places of assembly in which those in attendance occupy benches, pews, and other similar seating facilities, each twenty-two (22) inches of lineal bench or pew space shall be counted as one (1) seat for the purpose of determining required off-street parking.

(C) Open Assembly Areas. In places of public assembly in which those in attendance shall be counted as requiring one (1) parking space.

(D) Interpreting Calculation of Fractional Parking Spaces. When determination of the number of off-street parking spaces required by this Section results in a requirement of a fractional space, any fraction of less than one-half ( $\frac{1}{2}$ ) may be disregarded, while a fraction of one-half ( $\frac{1}{2}$ ) or more, shall be counted as one (1) parking space.

Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing on the premises or both, at any one time.

(E) Garages, Driveway Parking, Tandem Parking.

(1) Parking stalls located within a private garage may be used to satisfy the off-street parking requirements of this Section.

(2) The area of the driveway immediately adjacent to the entrance to a private garage may be considered a parking area for the purpose of satisfying the off-street parking requirements of this Section, provided that such parking space(s) conforms to the dimensional requirements of this Section, and such parking spaces(s) shall not restrict or interfere with an internal traffic lane and shall not be located on a public right-of-way. All other areas of the driveway, as defined in Section 2, shall not be used to satisfy the off-street parking requirement of this Section.

(3) Notwithstanding any of above, or as otherwise permitted in this Chapter, tandem parking arrangements shall not be allowed in order to satisfy the parking requirements of this Section.

(4) The provision of this Subdivision shall also apply to the rental housing standards.



**USE****PARKING SPACES REQUIRED**

|   |  |
|---|--|
| Congregate Housing                                | One-half (1/2) space per dwelling unit.                                    |
| Fraternity/Sorority House                         | Two (2) spaces per each three (3) occupants.                               |
| Dormitories                                       | Two (2) spaces per each three (3) occupants.                               |
| Nursing Home, Rest Home,<br>Convalescent Facility | One (1) for each four (4) beds, plus one (1) for each three (3) employees. |

**B. COMMERCIAL:****General**

One (1) space per two hundred (200) sq. ft. of retail or sales floor area, unless specifically noted.

**Special Commercial**

Automobile Service (No convenience)

Three (3) spaces per service stall, plus one (1) for each employee on major shift and two (2) stalls per pump.

Banks

One (1) space per two hundred fifty (250) sq. ft. of gross floor area.

Convenience Store

*Without Gas Pumps* - One (1) space per two hundred (200) sq. ft. of sales area.

*With Gas Pumps* - One (1) space per two hundred (200) sq. ft. of retail sales area, plus two (2) spaces per each pump (parking adjacent to each pump may be used to satisfy retail parking requirement provided stall dimensions are conforming to Section 29, Subd. 14).

Drive-Thru Facility

Three (3) off-street stacking spaces per drive-thru lane.

Furniture and Appliance

One (1) space per four hundred (400) sq. ft. of gross sales floor area, and one (1) space per employee on major shift.

Hotel or Motel

One (1) space per unit, plus one (1) space per four (4) seats located in an accessory restaurant and/or lounge and one (1) space per each two (2) employees.

**USE**

**PARKING SPACES REQUIRED**

Mini-Storage One (1) parking stall for every two (2) storage units. A parking space adjacent to a storage unit may be counted as one (1) parking space.

Restaurant and Lounge One (1) space per each four (4) seats, one (1) space for each two (2) employees on major shift, one (1) space for each delivery vehicle, and one (1) space for customer food pick-up.

**C. SERVICE BUSINESS USES:**

Automobile Repair Three (3) spaces per service stall, plus one (1) for each employee on major shift.

Beauty and Barber Shops Two and one half (2 1/2) spaces per operator station.

Carwash Three (3) off-street vehicle stacking spaces per wash stall and one (1) off-street parking space per employee on major shift.

Private Club One (1) space per three (3) persons of the maximum capacity of the facility.

Motor Vehicle, Manufactured Home, Bicycle or Motorcycle, and Manufactured Home Sales One (1) space per employee, one (1) space for each two hundred fifty (250) square feet of office area, and five (5) spaces per one thousand (1,000) sq. ft. of enclosed sales area.

**D. OFFICES AND RELATED USES:**

**General Standards** One (1) parking space per each two hundred fifty (250) sq. ft. of gross floor area.

**Other Office Uses**

Medical and Dental Offices One (1) parking space per each two hundred (200) sq. ft. of gross floor area.

**E. RECREATIONAL USES:**

**General Standards** One (1) space per four (4) persons of the maximum occupancy load.

**USE**

**PARKING SPACES REQUIRED**

**Specific Recreational Uses**

|  |   |
|--|---|
| Auction House, Skating Rink, Health Clubs                | One (1) parking space for each four hundred (400) sq. ft. of gross floor area.  |
| Billiard Parlor, Dance Hall                              | One (1) parking space per fifty (50) sq. ft. of gross floor area.   |
| Bowling Lanes  | Five (5) spaces per lane, plus fifty percent (50%) of the spaces otherwise required for any accessory use (e.g., bars, restaurants).          |
| Golf Courses   | Five (5) parking spaces per green, plus fifty percent (50%) of the spaces otherwise required for any accessory use (e.g., bars, restaurants). |
| Indoor Movie Theater                                     | One (1) parking space for each four (4) seats.  |
| Stadium, Auditorium, Gymnasium, Community Center         | One (1) parking space for each four (4) persons of the maximum occupant load.   |
| Miniature Golf Course, Archery Range, Golf Driving Range | Ten (10) spaces respectively.   |

**F. INDUSTRIAL USES:**

|   |  |
|---|--|
| Manufacturing, Testing, Research or Lab <b>(Ord. #341 11/12/2012)</b> | Five (5) off-street parking spaces, plus one (1) space per employee on the major shift.            |
| Truck Terminals   | Three (3) off-street parking spaces, plus one (1) per employee on the largest working shift.       |
| Warehousing and Wholesale Business                                    | Three (3) off-street parking spaces, plus one (1) space per employee on the largest working shift. |

**G. INSTITUTIONAL:**

|  |   |
|--|---|
| Church and Other Religious Institutional | One (1) space per four (4) seats of maximum seating capacity in largest congregation area.                  |
| Hospital                                 | One (1) space per each four (4) beds, plus one (1) space per each three (3) employees on the largest shift. |

**USE**

**PARKING SPACES REQUIRED**

Funeral Homes

One (1) space per four (4) seats of maximum seating capacity in largest congregation area.

**H. LIBRARIES / MUSEUMS:**

**General Standards**

One (1) space per two hundred fifty (250) sq. ft. of floor area or one (1) space per four (4) seats at the maximum occupancy load, whichever is greater, plus one (1) space per employee on the largest work shift.

**I. SCHOOLS:**

Elementary and Junior High

One (1) space per staff member, plus one (1) space per each two (2) classrooms.

Senior High School

One (1) space per staff member, plus one (1) space per five (5) students.

Post Secondary

One (1) space per staff member, plus one (1) space per two (2) students. In an instance where the school restricts the number of vehicles used by students and faculty, the parking requirement shall be based on the number of vehicles allowed under the restriction and other uses found on school property.

**J. CLINICS:**

**General Standards**

One (1) space per each two hundred fifty (250) sq. ft. of floor area plus, one (1) space per staff member.

**SECTION 30.****OFF-STREET LOADING.**

**1. Scope of Regulations.** The off-street loading provisions of this Chapter shall apply to all non-residential buildings and structures erected and all uses of land established after the effective date of this Ordinance.

**2. Existing Parking Facilities.** Accessory off-street loading facilities in existence on the effective date of this Chapter shall not thereafter be reduced below the parking and loading requirements of this Chapter.

**3. Voluntary Provision of Additional Parking Facilities.** Nothing in the Ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations of this Ordinance governing the location, design, and operation of such facilities are adhered to.

**4. Location of Off-Street Loading Areas.** All required loading berths shall be located on the same zoning lot as the use served. All motor vehicle loading berths that abut a Residential District or an intervening alley, separating a Residential District from a Business, Commercial, or Industrial District, shall be completely screened there from.

No permitted or required loading berth shall be located within thirty (30) feet of the nearest point of intersection of any two (2) streets. No loading berth shall be located in a required front yard. Any loading berth located in a required rear or side yard may be open to the sky.

**5. Access of Off-Street Loading Areas.** Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic movement, and shall be subject to Traffic and Safety and Site Plan Review approval.

**6. Utilization of Off-Street Loading Areas.** Space allocated to any off-street loading use shall not, while so allocated, be used to satisfy off-street parking requirements.

**7. Size of Off-Street Loading Areas.** Unless otherwise specified, a required off-street loading berth shall be at least ten (10) feet in width by at least thirty-five (35) feet in length for short berths, and twelve (12) feet in width by at least fifty (50) feet in length for long berths exclusive of aisle and maneuvering space. Maneuvering aprons of appropriate width and orientation shall be provided and will be subject to site plan review approval.

**8. Vertical Clearance of Off-Street Loading Areas.** All loading areas shall have a vertical clearance of at least fourteen (14) feet.

**9. Minimum Facilities Required for Off-Street Loading Areas.** Uses for which off-street loading facilities are required herein, but that are located in buildings of less floor area than the minimum prescribed for such required facilities, shall provide adequate receiving facilities, accessible by motor vehicle off any adjacent alley, service drive, or open space on the same zoning lot.

**10. Central or Joint Loading.** Central loading facilities may be substituted for loading berths on individual zoning lots, provided the following conditions are fulfilled:

- (A) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(B) Total off-street loading berths provided shall meet the minimum requirements herein before computing number of loading berths.)

(C) No zoning lot served shall be more than five hundred (500) feet away from the central loading area.

**11. General Off-Street Loading Provisions.**

(A) Design of Loading Areas. All loading areas shall be oriented away from adjacent residential or other incompatible uses.

(B) Plan. The design of loading areas shall be subject to the approval of the site plan review in accordance with Section 34, and any additional standards established by the Zoning Administrator.

(C) Landscaping and Screening. Landscaping and screening shall be provided in accordance with the requirements of Section 32.

(D) Lighting. Where a parking area or parking lot is illuminated, fixed lighting shall be arranged to prevent direct glare beams onto any public property, including streets and any adjoining private property. All light fixtures shall incorporate a luminary with a ninety (90) degree or less cut-off that prevents light from the luminary to be projected above the elevation of the light fixture or beyond the zoning lot on which the lighting fixture is located. In no case shall illumination exceed one (1) foot candle at the property line.

(E) Signs. Accessory signs shall be permitted on loading areas in accordance with the provisions specified in the Section 31 of this Chapter.

(F) Loading Area Surface. Loading area surfaces shall be effectively drained and shall be hard surfaced with concrete or asphalt.

**12. Schedule of Off-Street Loading Requirements.** Off-street loading facilities for new developments shall be provided as specified below:

**SCHEDULE OF OFF-STREET LOADING REQUIREMENTS**

| USE   | GROSS FLOOR AREA (Sq. Ft.) | NO. OF BERTHS & SIZE |
|---|----------------------------|----------------------|
| <b>Auditoriums, Cultural, &amp; Conference Facilities</b> | 10,000 - 20,000            | One (1) short        |
|   | 20,001 - 100,000           | One (1) short        |
| each additional   | 100,000                    | One (1) long         |
| <b>Freight Facilities</b>                                 | 5,000 - 40,000             | One (1) long         |
|   | 40,001 - 100,000           | Two (2) long         |
| each additional   | 100,000                    | One (1) long         |

| USE   | GROSS FLOOR AREA (Sq. Ft.) | NO. OF BERTHS & SIZE        |
|---|----------------------------|-----------------------------|
| <b>Hospitals, Universities, Colleges</b><br>each additional                               | 10,000 - 300,000           | One (1) short               |
|   | 200,000                    | One (1) short               |
| <b>Hotels &amp; Institutional</b><br>each additional                                      | 10,000 - 200,000           | One (1) short               |
|   | 100,000                    | One (1) short               |
| <b>Industrial &amp; Manufacturing Uses</b><br><br>each additional                         | 5,000 - 10,000             | One (1) short               |
|   | 10,001 - 40,000            | One (1) long                |
|   | 40,001 - 100,000           | Two (2) long                |
|   | 100,000                    | One (1) long                |
| <b>Office Uses</b><br>each additional up to 500,000<br>each additional<br>each additional | 10,000 - 200,000           | One (1) short               |
|   | 100,000                    | One (1) short               |
|   | 500,000                    | One (1) short               |
|   | 200,000                    | One (1) long                |
| <b>Retail/Commercial</b>  | 5,000 - 10,000             | One (1) short               |
|   | 10,001 - 25,000            | Two (2) short               |
|   | 25,001 - 60,000            | Two (2) long                |
|   | 60,001 - 100,000           | Three (3) long              |
| <b>Transportation Facilities (Air/Bus/Rail)</b><br>each additional                        | 10,000 - 40,000            | One (1) short               |
|   | 40,001 - 100,000           | One (1) long, One (1) short |
|   | 100,000                    | One (1) long                |
| <b>Utilities &amp; Communication Facilities</b><br><br>each additional                    | 10,000 - 40,000            | One (1) short               |
|   | 40,001 - 100,000           | One (1) long, One (1) short |
|   | 100,000                    | One (1) long                |

Gross Floor Area refers to buildings or structures on premises.  
 Berth (loading dock): Short - 10 ft. wide x 35 ft. deep  
 Long - 12 ft. wide x 50 ft. deep

**SECTION 31. SIGNS.** (amended 2/9/2015 Ord. # 369)

**1. Intent.** The intent of this section is to provide for necessary visual communications and to preserve and promote a pleasant physical environment within the City by regulating the type, number, size, height, lighting, maintenance, and erection of sign structures.

**2. Definitions.** The following terms, as used in this section, shall have the meaning stated.

(A) Address Sign. A sign communicating the street address and/or the name of the occupant of a property.

(B) Automobile Service Station. Any building or premises primarily used for dispensing of gasoline or diesel fuel.

(C) Balloon. A flexible, nonporous, bag inflated with either air or helium that causes it to rise and float in the atmosphere.

(D) Banner. A temporary sign made of cloth, plastic, or vinyl materials with no enclosing framework.

(E) Canopy or Awning. Any projecting structure, moveable or stationary, that is attached to and supported by a building. Does not include canopies covering fuel dispensing islands at automobile service stations.

(F) Directional Sign. A sign with directional arrows or information on the location of a business or other use for the purpose of guiding vehicular and pedestrian traffic.

(G) Earth Tone Colors. Beige, tan, brown, gray, forest green, and burgundy. Black shrouding will be considered an earth tone color for monument signs.

(H) Electronic Message Sign. A sign whose message may be changed at intervals by electronic process or remote control and whose only movements are the periodic changing of information having a constant light level.

(I) Facade. The face of a building from the lowest exposed point to the roof.

(J) Flashing Sign. Any illuminated sign that has artificial light or color which is not maintained at a constant light level intensity or color when such sign is in use.

(K) Franchise Architecture. Any franchise color schemes or other designs, symbols, or features intended to attract the attention of the viewing public and reinforce the corporate or distinct image of a given business.

(L) Ground/Pylon Sign. A freestanding sign, including the structure needed to support such sign.

(M) Illuminated Sign. Any sign that is lighted by an exterior or interior artificial light source.

- (N) Lineal Frontage. That street frontage of a zoning lot designated by the street address for the main building.
- (O) Lot, Through. A lot having front and rear lot lines abutting a public street. Alleys are not considered a public street for the purpose of this section.
- (P) Marquee, Awning, and Canopy Signs. Any message or identification which is affixed to or part of a marquee, awning, or canopy.
- (Q) Menu Sign. A sign incorporated into a drive-thru facility where products or services are offered directly to the occupant of the vehicle. A menu sign identifies only the products or services available at the drive-thru facility.
- (R) Monument Sign. A freestanding sign in which the entire base of the sign structure is in contact with the ground, providing a solid and continuous background for the sign face that is the same width as the sign from the ground to the top of the sign. The base of the sign shall be constructed of a permanent material such as concrete block or stone.
- (S) Monument Sign Area. The advertising area of a monument sign.
- (T) Nonconforming Sign. A sign which lawfully existed at the time of the adoption of this section and does not conform to the requirements thereof.
- (U) Off-premises Sign. A sign advertising a business, commodity, service, or entertainment conducted, sold, or offered elsewhere other than upon the zoning lot where the sign is maintained.
- (V) On-premises Sign. A sign which advertises the business, commodity, service, or entertainment offered upon the same zoning lot on which the sign is located.
- (W) Parapet. A low, protective wall or railing along the edge of a roof, balcony, or similar structure.
- (X) Permanent Sign. Any sign which is not temporary. Banners shall not be considered to be a permanent sign.
- (Y) Portable Sign. A sign designed to be moveable from one location to another or not permanently attached to the ground or to any permanent structure.
- (Z) Projecting Sign. A sign, other than a wall sign, which projects from and is supported by a building.
- (AA) Public Alley. Any public right-of-way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage along a street.
- (BB) Reader Board Sign. A sign intended to display a message through the use of manually changed letters, which is permanently attached to a ground/pylon sign or affixed to a wall of the principal building. All other such signs shall be deemed as temporary signs.

(CC) Real Estate Sign. A sign advertising the sale, rental, or development of the premises upon which it stands, or directing attention to the opening or location of a new residential development.

(DD) Redevelopment. Construction of a new building on a zoning lot and/or a 50% expansion of an existing building floor area.

(EE) Roof Line. In structures with a flat roof, the top line of the coping or parapet; in structures with pitched roofs, the intersection of the outside wall with the roof.

(FF) Roof Sign. A sign affixed upon the roof of a building and located above the roof line.

(GG) Rotating Sign. Any sign which revolves, rotates or has any moving parts.

(HH) Searchlight. An apparatus containing a light source and a reflector for projecting a bright beam of approximately parallel rays of light.

(II) Shared Internal Access. A driving aisle or lane that provides access to a public street for two or more businesses. The access should be dedicated in a plat or via an access easement.

(JJ) Sign Setback. The required minimum horizontal distance between any part of a sign and the related front, side, or rear property lines.

(KK) Sight Triangle. A triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(LL) Sign. Any written announcement, declaration, demonstration, display, illustration, insignia, or illumination used to advertise or promote the interest of any person or persons when the same is displayed or placed out of doors in view of the general public, or inside of a building within three feet of a transparent window.

For the purpose of enforcing this ordinance, the maximum allowed sign area shall include any portion of a building or accessory structure that displays franchise color schemes or other designs, symbols, or features intended to attract the attention of the viewing public and reinforce the corporate or distinct image of a given business.

(MM) Sign Height. The vertical distance measured from the average elevation of the finished ground grade within 10 feet of the sign to the highest point of said sign.

(NN) Temporary Sign. Any sign, balloon, banner, blimp, flag, free standing sign, pennant, poster, reader board or advertising display which is intended to be displayed for a limited period of time. Signs other than temporary signs shall be considered permanent signs.

(OO) Wall Area. The face of a building from the lowest exposed point to the roof.

(PP) Wall Sign. A sign affixed to the exterior wall of a building.

**3. Permit and Sign Plan Required.**

(A) No sign shall be erected, re-erected, or altered unless a permit has been obtained, unless no permit is required pursuant to Subdivision 4. Application for a sign permit shall be made in writing on forms furnished by the Zoning Administrator. In addition, a sign plan must be submitted with each new sign that is erected in the City and shall include the following:

(1) The type of sign materials used.

(2) A scaled site plan which displays the size, number, and location of signs on the site and buildings.

(3) If the sign is being illuminated with external lighting, a lighting plan shall be submitted and shall conform to Section 33, Subdivision 4.

(4) If a pylon or ground/pylon sign is proposed, a structural footing detail shall be submitted as required by Subdivision 8 of this Section.

(B) The fee for a sign permit shall be in accordance with a fee schedule as establish from time to time by the City Council. A double fee shall be charged if a sign is erected without first obtaining a permit for such sign.

(C) No separate building permit shall be required, but the Building Inspector may require the submittal of plans or other pertinent information where such information is necessary to ensure compliance with the Building Code.

**4. Exempted Signs - No Permit.**

(A) The following signs need no permit, but shall conform to the standards of this section.

(1) Address signs for one-or two-family dwellings identifying the occupant or street address, provided that such signs are less than two square feet in area.

(2) Address signs for a dwelling group of five or more units identifying the occupants, street addresses, or serves as a directory, provided that such signs are less than 12 square feet in area

(3) Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are no more than eight square feet in area and six feet in height. For a zoning lot, a maximum of one such sign shall be permitted at each access/egress point of a development.

(4) Public signs, street signs, warning signs, railroad crossing signs, or signs of public service companies for the purpose of promoting safety.

(5) Signs denoting the architect, engineer, or contractor working upon a work site and real estate signs pertaining to the sale, development, or rental of the property. Such signs shall be removed within 10 days after completion of construction or the sale, lease or development of 80% of the property. No more than three such signs shall be allowed at one time. Each sign shall not exceed

the following size limitations:

| <b>Project Area</b> | <b>Residential</b> | <b>Commercial/Industrial</b> |
|---------------------|--------------------|------------------------------|
| Under one acre      | 8 sq. ft.          | 32 sq. ft.                   |
| 1.01 to 10 acres    | 64 sq. ft.         | 64 sq. ft.                   |
| 10.1 to 25 acres    | 150 sq. ft.        | 150 sq. ft.                  |
| 25.1 plus acres     | 300 sq. ft.        | 500 sq. ft.                  |

(6) Any political sign pertinent to Minnesota Statute 211B.045. Such signs shall be located on private property and at least five feet from all property lines and shall not be located in the sight triangle.

Other elections held at other times than a state general election are subject to the following restrictions:

- a. The maximum size of all signs shall be eight square feet.
- b. Such signs may be erected 60 days prior to the election until three days following the election.
- c. Such signs must be at least five feet away from all property lines and shall not be located in the sight triangle.

(7) Emergency signs as required by any governmental agency.

(8) Memorial signs or tablets, names of buildings and date of erection when cut into or attached to any masonry surface or noncombustible material.

(9) Home occupation signs, only one (1) allowed, non illuminated, attached flat to an exterior wall of the dwelling or visible through a window of the dwelling, not to exceed four (4) square feet in size.

(10) Signs or posters attached or painted on the inside of a display window including illuminated signs, but not flashing signs. These signs shall be placed as not to obstruct or interfere with any window, doorway, or fire escape. Such signs shall not exceed 50% of the window area or 32 square feet. Such signs shall be prohibited in Residential Districts.

(11) Signs denoting employment opportunities within a said property. Such signs shall not exceed 32 square feet.

(12) Signs which denote the location of an office, delivery, or service area within a business, provided such signs are not greater than eight square feet.

(13) Signs which display a noncommercial message for a local festival or an activity sponsored by a non-profit group. Such signs may be displayed no more than two weeks per calendar year.

(14) Temporary signs for sales events which last no longer than three days.

(15) Temporary garage and estate sale signs shall conform to the following:

a. One such sign not exceeding eight square feet shall be allowed.

b. All signs shall be located on private property where the sale is conducted setback five feet from all property lines and out of the sight triangle.

c. Such signs may be erected for periods not exceeding three days and all signs shall be removed at the end of the sale. Not more than four such periods shall be allowed in any 12 month period.

## 5. Prohibited signs.

(A) The following signs are prohibited by this section:

(1) Signs that resemble any official marker erected by a government agency by reason of position, shape or color, which would interfere with the proper function of a traffic sign, signal or be misleading to vehicular traffic.

(2) Signs within a public right-of-way or easement, except for signs installed by governmental entities.

(3) Signs attached to rocks, trees, public fences, or utility poles. Signs on fences denoting safety hazards will be allowed.

(4) Signs with rotating beam or flashing illumination.

(5) Signs advertising by letters, words or figures painted upon any sidewalk within the City.

(6) Rotating signs.

(7) Signs painted or attached to vehicles where the vehicle is parked on a property and not intended to be moved or are inoperable. At all times, vehicles containing advertising and/or signage shall not be parked along the property frontage.

(8) Roof signs.

(9) Temporary signs which advertise a business, product, or service which is not produced or conducted on the zoning lot upon which the sign is located.

(10) Signs which project over the public right-of-way over six (6) feet and or have less than ten (10) feet clear space from the grade of the soil to the bottom most portion of the sign at any point projecting into the right-of-way.

(11) In Residential Districts, no sign shall be erected in connection with an accessory use or

structure.

## 6. General Requirements

### (A) Construction Standards.

- (1) All signs shall be constructed and maintained in a manner where they will be safe to the general public. A sign shall be repainted whenever its paint begins to fade, chip or discolor and defective parts shall be replaced promptly.
- (2) On-premises signs, including the supporting structure shall be removed from a zoning lot by the owner of such property within 30 days after termination of the use for which the sign was used.
- (3) If the Zoning Administrator shall find that any sign is unsafe, a detriment to the public, not maintained, or constructed, erected or maintained in violation of the provisions of this section, the Zoning Administrator shall give written notice to the property owner thereof. If the property owner fails to comply with the standards of this section within 30 days after such notice, if no appeal is taken pursuant to the provisions of Section 35, Subdivision 4, or if no owner, occupant, or agent can be found, such sign may be removed or altered by the City. The cost of such City action shall be specially assessed against the subject property.
- (4) All permanent signs shall be constructed to meet Minnesota State Building Code standards for wind resistance, dead loads, wind loads and other applicable sections of the Minnesota State Building Code. Signs shall be rigidly suspended by means of fastening or support so as not to be free swinging nor a menace to persons or property. All applications for newly erected ground/pylon signs shall include a detailed footing plan which shall be approved and signed by a Registered Professional Engineer under the laws of the State of Minnesota. Before any pylon sign is erected, a footing inspection must be conducted by a City Building Inspector or the Zoning Administrator. Inspections must be scheduled at least forty-eight (48) hours prior to the inspection.
- (5) All parts of a ground/pylon sign (including monument signs) shall be located at least five feet from any property line and shall not be located in the sight triangle, unless the bottom of any sign is at least nine (9) feet above grade.
- (6) The base of all free standing signs shall be screened with suitable planting.
- (7) Projecting signs and any support mechanism of the sign shall not project more than 6 feet out from the face of the building.
- (8) All electrical wiring of signs shall comply with the provisions of the National Electric Code and other applicable sections of the Minnesota State Building Code.
- (9) No sign shall be erected as to obstruct access/egress to or from fire escapes, windows, doors or exits and fire lanes.

(10) The sign area is the net geometric sign area that encloses the display surface of the sign. Only one face of a multi-faced sign shall be considered in determining the display area.

(11) No pylon sign or ground sign shall be erected in such a manner that projects or will project over any building.

(12) Monument signs shall be constructed with the entire bottom of the sign structure in contact with the ground. The bottom two feet of such signs shall either be Kasota Stone, precast concrete, brick, or landscaping masonry blocks that are earth tone colors unless otherwise provided for. A solid continuous background area should be provided from the ground to the top of the sign via a combination of either Kasota Stone, precast concrete, brick, stone, landscaping blocks, or metal shroud which matches the appearance and color of the principal building.

(B) Auto Service Stations/Repair. Auto service stations shall conform to the following and all sign areas shall be applied to the maximum allowable sign area.

(1) Auto service stations shall be allowed a maximum of four signs.

(2) Signs on gas pump island canopies shall be included as one of the four total allowable signs.

(3) Signage on each gas pump island shall be limited to six square feet. Such signs will not be applied toward one of the four total allowable signs.

(4) Sign groupings above service bays shall be counted as one of the four total allowable signs.

(C) Drive-Thru Facilities.

(1) Establishments may have one canopy sign at the location of drive-thru facilities and automatic teller machines (ATM). The area of the sign shall not be counted towards the maximum allowable signage.

(2) Menu signs shall be at least five feet from the property line, shall have only one face, shall not exceed 50 square feet in sign area, and shall not exceed eight feet in height. The area of such signs shall not be counted towards the maximum allowable signage.

(D) Franchise Architecture.

(1) Ten percent of the front building facade and 5% of side and rear sides of the building facades may contain contrasting colors, excluding signage. Contrasting colors shall be the colors not defined as earth tones colors. Earth tone colors include brown, gray, tan, beige, forest green, and burgundy.

(2) Franchise architecture must be distributed uniformly on the building and be architecturally harmonious with the building design.

**7. District Permitted On-Premise Signs.**

## (A) R-1, R-2, R-4, and R-M Dwelling Districts.

(1) Religious uses, fraternal or civic uses, public institutions, nonresidential, or residential development uses identification signs not exceeding 32 square feet in area. Such identification signs may be wall or ground mounted or combination thereof. There may be a second sign if the use abuts two or more public streets.

## (B) S-C, Service Commercial District.

(1) Signs as permitted and regulated in Residential Districts.

(2) A freestanding sign advertising the business or business activities shall be located in a manner not to obstruct pedestrian traffic and/or hinder vehicular movement and vision of both pedestrian and vehicular traffic. The sign shall not exceed 32 square feet in area or exceed eight (8) feet in height.

## (3) Wall Signs.

a. Total wall signage on any wall of any building shall not exceed 10 percent of the respective wall area.

b. Wall signs may be located on each wall of a building that faces and is parallel to a street, shared internal access easement, public alley, the main parking lot of the use or on the wall within the main building entrance. Signs facing residential zoned districts shall be non-illuminated.

(4) The following provisions shall apply for freestanding “sandwich” board style signs and are exempt from the provisions Subdivision 8 (A) 3 of this Section.

a. All signs placed on the city right-of-way will be of a “sandwich” board style. Signs will contain less than eight (8) square feet per side, be less than 30 inches in width and less than 48 inches in height. The sign will be self-supporting with the bottom edge of the sign placed directly on the permanent surface. No projecting legs or other such stabilizing devices, which may create a trip hazard will be allowed.

## (C) D-C, Downtown Commercial District

(1) A freestanding sign advertising the business or business activities shall be located in a manner not to obstruct pedestrian traffic and/or hinder vehicular movement and vision of both pedestrian and vehicular traffic. The sign shall not exceed 80 square feet in area or exceed 35 feet in height. Only one free standing sign may be permitted on the premises. Additional monument signs which shall not exceed eight (8) feet in height may be allowed if the property abuts two (2) or more streets.

- (2) Wall Signs.
    - a. Total wall signage on any wall of any building shall not exceed 10 percent of the respective wall area.
    - b. Wall signs may be located on each wall of a building that faces and is parallel to a street, shared internal access easement, public alley, the main parking lot of the use or on the wall within the main building entrance. Signs facing residential zoned districts shall be non-illuminated.
    - c. Wall signs shall not project above the roof level.
    - d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.
  - (3) Signs shall not project more than six (6) feet into any public right-of-way, and overhanging signs shall have a minimum clearance of 10 feet.
  - (4) The following provisions shall apply for freestanding “sandwich” board style signs and are exempt from the provisions Subdivision 8 (A) 3 of this Section.
    - a. All signs placed on the city right-of-way will be of a “sandwich” board style. Signs will contain less than eight (8) square feet per side, be less than 30 inches in width and less than 48 inches in height. The sign will be self-supporting with the bottom edge of the sign placed directly on the permanent surface. No projecting legs or other such stabilizing devices, which may create a trip hazard will be allowed.
    - b. Display of sandwich board signs and merchandise shall be done in such a manner as to allow clear, unobstructed handicap accessible passageway of not less than six (6) feet at all times. In addition, no sign will be allowed to hinder the flow of traffic or people parking and getting out of their vehicles.
- (D) H-C, Highway Commercial District.
- (1) A freestanding sign advertising the business or business activities shall be located in a manner not to obstruct pedestrian traffic and/or hinder vehicular movement and vision of both pedestrian and vehicular traffic. The sign shall not exceed 300 square feet in area or exceed 50 feet in height south of Coney Street or 80 square feet or exceed 35 feet in height north of Coney Street. Only one free standing sign may be permitted on the premises. Additional monument signs which shall not exceed eight (8) feet in height may be allowed if the property abuts two (2) or more streets.
  - (2) Wall Signs.
    - a. Total wall signage on any wall of any building shall not exceed 30 percent of the respective wall area.

- b. Wall signs may be located on each wall of a building that faces and is parallel to a street, shared internal access easement, public alley, the main parking lot of the use or on the wall within the main building entrance. Signs facing residential zoned districts shall be non-illuminated.
- c. Wall signs shall not project above the roof level.
- d. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

(3) The following provisions shall apply for freestanding “sandwich” board style signs and are exempt from the provisions Subdivision 8 (A) 3 of this Section.

- a. All signs placed on the city right-of-way will be of a “sandwich” board style. Signs will contain less than eight (8) square feet per side, be less than 30 inches in width and less than 48 inches in height. The sign will be self-supporting with the bottom edge of the sign placed directly on the permanent surface. No projecting legs or other such stabilizing devices, which may create a trip hazard will be allowed.
- b. Display of sandwich board signs and merchandise shall be done in such a manner as to allow clear, unobstructed handicap accessible passageway of not less than six (6) feet at all times. In addition, no sign will be allowed to hinder the flow of traffic or people parking and getting out of their vehicles.

(e) L-I, Light Industrial, and I, Industrial Districts.

(1) A freestanding sign advertising the business or business activities shall be located in a manner not to obstruct pedestrian traffic and/or hinder vehicular movement and vision of both pedestrian and vehicular traffic. Signs shall not exceed 80 square feet in area or exceed 35 feet in height. Only one freestanding sign may be permitted on the premises. Additional monument signs which shall not exceed eight (8) feet may be allowed if the property abuts two or more public streets.

(2) Wall signs.

- a. Wall signs on any building shall not exceed 10% of the wall area.
- b. One wall sign may be located on each wall of a building that faces and is parallel to a street, shared internal access easement, public alley, the main parking lot of the use or on the wall with the main building entrance.
- c. Multi-tenant business centers may have one wall sign per business which has an exclusive exterior entrance. A second wall sign may be allowed if a tenant has an additional exclusive exterior entrance on a second wall. All wall signs shall not exceed more than 10% of the wall area.
- d. Wall signs shall not project above the roof level.

- e. Wall signs shall not project in excess of 12 inches with the exception of canopies or awnings that do not overhang the public right-of-way.

## 8. Temporary Signs.

(A) Temporary use of portable or moveable signs shall be allowed in excess of and in addition to the sign limitations of this section.

(1) General Provisions.

- a. Such signs shall comply with setback provisions for monuments and ground/pylon signs in each zoning district.
- b. Such signs shall only be permitted in D-C, S-C, H-C, I, and L-I zoning districts.
- c. Such signs shall be limited to 32 square feet in area.
- d. A permit with a related fee as established from time to time by the City Council shall be obtained from the Zoning Administrator for each location and time period for placement of such signs with the exception of sandwich boards as defined in Subdivision. 7.C.4 and D.2.
- e. Temporary signs shall be located on the property which the advertising pertains to.
- f. All pennants, streamers, banners, and other forms of temporary signs must be maintained and not frayed, torn or tattered.

(2) The following provisions shall apply for banners, balloons, flag, or posters.

- a. Any balloon, banner, flag, pennant, poster, or advertising display shall be located on a property for a period not to exceed 30 days. No more than two such signs will be allowed at any one time.
- b. No property shall be allowed more than four such periods in any 12 month period.

(3) The following provisions shall apply for freestanding signs, reader boards, and other temporary ground signs.

- a. Any freestanding sign, or reader board may be located on a property for continuous periods not to exceed 30 days. No more than one such sign will be allowed.
- b. No property shall be allowed more than four such periods in any 12 month period.

(4) Special event temporary signage will require a permit issued by the office of the City Manager. No more than one 30 day permit will be issued in a 12 month period.

(B) Search Lights.

(1) Revolving beacons and search lights may be permitted for special events in industrial and commercial properties. They shall be permitted no more than six days of a calendar year and shall be directed away from residential areas and public streets. A temporary sign permit is required from the Zoning Administrator.

**9. Administration and Enforcement.**

(A) This section shall be enforced pertinent to Section 40 of this Ordinance.

(B) The Zoning Administrator may grant administrative variances from the monument sign requirements for uses in existence on the effective date of this ordinance if a valid hardship is constituted by Section 38 of this Ordinance. The Zoning Administrator's decision may be appealed to the City Council.

**10. Nonconforming Signs.**

(A) Any sign legally existing on the effective date of this section which does not conform to the requirements set forth in this section shall be considered a nonconforming sign. Nonconforming signs shall comply with the following requirements:

(1) Normal maintenance of signs shall be allowed including the repair, replacement, and repainting of a sign face, lettering, or other sign materials, so long as the location, configuration, and sign area of the sign remain the same. Existing signs painted directly on an exterior building as an off-premise advertising sign, deemed by the Council as having historical or cultural value, may be restored to its original condition in repainting.

(2) Nonconforming ground/pylon signs or pylon sign structures may continue to be used for signage until the business operating the principal use of the property changes and sign changes are proposed or redevelopment of the property occurs.

**SECTION 32. LANDSCAPING AND SCREENING.**

**1. General Landscaping and Maintenance Requirements.** All undeveloped lots and parcels shall be mowed and kept free of accumulation of garbage, trash, refuse, debris, and other unsightly or nuisance creating materials until developed. Except for accessory uses expressly permitted to be located in required yards, all yards and open spaces between and about structures and off-street parking lots and loading areas shall be landscaped and kept free from accumulations of garbage, trash, refuse, debris, and other unsightly or nuisance creating materials. All landscaping shall be continually maintained by the owner or other person responsible for maintenance of the premises, and all planting areas shall be kept free of weeds and debris.

All planting material shall be of good quality, of species normally grown in Minnesota and capable of withstanding the extremes of individual site microclimates. All specifications for measurement, quality, and installation of trees and shrubs shall be in accordance with the *American Standards for Nursery Stock*, published by the American Association of Nurserymen.

Landscaping and screening required by this Section shall be interrupted only by required access drives and sidewalks. All landscaping and screening required by this Section shall be so designed and maintained as to preserve unobstructed vision of the street and sidewalk at points of access and as not to interfere with, or be damaged by, work within any public or utility easement unless the Zoning Administrator shall determine that no other location is reasonably feasible.

**2. Applicability.** A landscaping plan, and the implementation and maintenance of such plan, shall be required for all uses, except for One and Two Family dwellings.

**3. Landscape Plans.** Wherever the submission and approval of a landscape plan is required by this Chapter, the landscape plan and its maintenance shall be part of the Certificate of Occupancy.

No Certificate of Occupancy shall be issued without approval of a landscape plan. Failure to implement the approved landscape plan within six (6) months of the issuance of a Certificate of Occupancy shall be cause for revocation of the Certificate of Occupancy pursuant to Section 40.

(A) **Content of Landscape Plan.** All landscape plans submitted for approval shall contain or have attached thereto the following information:

- (1) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-ways, sidewalks, bicycle paths, ground signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment and other recreational facilities, and other freestanding structural features as determined necessary by the Zoning Administrator.
- (2) The location, quantity, size and name, both botanical and common names, of all proposed planting materials.
- (3) The location of existing buildings, structures, and plant materials on adjacent property within one hundred (100) feet of the site.
- (4) Existing and proposed grading of the site, including proposed berming, indicating contours,

at one (1) foot intervals.

- (5) Specification of the type and boundaries of all proposed ground cover.
- (6) Elevations of all fences proposed for location on the site.
- (7) Irrigation plan.
- (8) Elevations, cross-sections and other details as determined necessary by the Zoning Administrator.

(B) Design Criteria. Landscaping plans described above shall be prepared based on the following design criteria. The evaluation and approval of landscape plans shall also be based on these design criteria.

(1) Scale and Nature of Landscaping Material. The scale and nature of landscaping materials should be appropriate to the size of the structures. Large scaled buildings, for example, should generally be complemented by larger scaled plants.

Landscaping of larger areas, such as required yards, should be accomplished by both horizontal landscaping elements, such as planting beds, and vertical landscaping elements, such as trees, berms, and fences.

(2) Selection of Plant Material. Plant material should be selected for its form, texture, color, and concern for its ultimate growth. The use of Silver Maples, Box Elders, Russian Olives, Tree of Heaven, Mulberry, Poplars, and other weak wooded species should be avoided.

(3) Evergreens. Evergreens should be incorporated into the landscape treatment of a site, particularly in those areas screening parking lots from dedicated public right-of-ways or property zoned for residential use. All evergreens shall have a minimum height of two and one-half (2½) feet.

(4) Shade Trees. All shade trees shall have a minimum trunk size of one and one-quarter (1¼) inches in diameter upon installation, as measured six (6) inches above the established ground level.

(5) Softening of Walls and Fences. Plant material should be placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.

(6) Planting Bed. Planting beds should be mulched with bark chips, rock mulch, feather rocks, or similar materials.

(7) Detention, Retention, Basins, and Ponds. Detention/retention basins and ponds shall be landscaped. Such landscaping should include shade and ornamental trees, evergreens, shrubbery, hedges, and/or other planting materials.

(8) Watering Plant Material. A permanent means of watering plant material should be provided. Installation of an underground irrigation system is recommended.

- (9) Energy Conservation.
- a. Deciduous trees should be placed on the south and west sides of buildings and parking lots to provide shade from the summer sun.
  - b. Evergreens and other similar plant materials should be concentrated on the north side of buildings to dissipate the effect of winter winds.
- (10) Preservation of Existing Plant Material. Existing plant material should, wherever practical as determined by the Zoning Administrator, be incorporated into the landscape treatment of a site.
- (11) Berming. Earthen berms, and existing topography should be, whenever determined practical by the Zoning Administrator, incorporated into the landscape treatment of a site, particularly when combined with plant material to facilitate screening from adjacent residential uses. Berms should be designed to allow for maintenance, mowing, and adequate drainage. The elevation and horizontal ground location of the berm should be varied in order to mimic a natural topographical feature.
- (12) Fencing and Walls. Fencing and walls shall conform to the restrictions of this Section.

**4. Transitional Yards.** Except as expressly provided elsewhere in this Chapter, every transitional yard shall extend along the entire length of the lot line and shall be designed and maintained to function as a buffer area. Every required transitional yard shall consist of a combination of ground cover, shade trees, evergreen trees and shrubs, and appropriate screening devices such as decorative walls, fences, or berms. Areas not planted with shrubs, trees, or other appropriate screening devices shall be maintained with living ground cover.

**5. Perimeter Landscaping - Off-Street Parking Lots.** Every off-street parking lot containing four (4) or more parking stalls shall be buffered and screened by perimeter landscaping consisting of an area at least three (3) feet or greater in width as required in the yard and setback standards of each zoning district. The required perimeter landscaping area shall be measured from the back curb and excludes any parking space overhang area. The perimeter landscaping shall consist of a combination of ground cover, shade trees or evergreen trees, shrubs, and appropriate screening devices such as decorative walls, fences, or berms. Shade trees shall be provided at a rate of one (1) tree for every fifty (50) linear feet of perimeter length or fraction thereof. Evergreen trees shall be provided at a rate of one (1) tree and shrub for every twenty-five (25) linear feet of perimeter length of fraction thereof. Evergreen trees shall be maintained at a height of not less than three (3) feet. Subject to approval by the Zoning Administrator, ornamental trees and shrubs may be substituted for shade trees and evergreens. Areas not planted with shrubs, trees, or other appropriate screening devices shall be maintained with living ground cover, or planting beds with bark or rock mulch.

Off-street parking areas for more than four (4) vehicles shall be effectively screened by a fence or densely planted hedge on each side of a parking area that adjoins or faces any property located in a Residential District, unless such property is developed with a non-residential use. Such fence or hedge shall be not less than four (4) feet nor more than eight (8) feet in height, nor be less than eighty percent (80%) opaque. If plant material is used to satisfy this screening requirement, opacity shall be effective within one (1) year of the construction of the parking lot. Such screen shall be maintained in a good and slightly condition.

**6. Interior Landscaping - Off-Street Parking Lots.** Every off-street parking lot providing fifty (50) spaces or more shall provide interior landscaping. Interior landscaping shall consist of planting islands with a minimum area of sixty (60) square feet and a minimum width of six (6) feet, measured from the back of curb to back of curb. The interior landscaping shall constitute at least five percent (5%) of the area of the parking lot. Area devoted to perimeter landscaping shall not be considered as any part of interior landscaping. Where more than one (1) planting island is provided, such islands shall be appropriately spaced throughout the parking lot.

As part of site plan review, pursuant to Section 34, interior landscaping may be required for off-street parking lots containing less than fifty (50) spaces.

**7. Refuse Containers.** All refuse and recyclable material containers, located in any front or corner side yard, except those containers used by a One Family dwelling in connection with the municipal refuse collection service or those containers used on a temporary basis for a construction or disposal activity, shall be fully enclosed by a gated opaque fence or wall of a sufficient height to completely screen such containers from view by all adjoining properties and all streets. The fence or wall shall have an exterior finish that is similar to the material found on the exterior walls of the main building on the property or other approved material as determined by the Zoning Administrator. The outside base of the wall or fence shall be landscaped if the wall or fence fronts on a public street.

**8. Antennas and Support Structures.** Ground-mounted antennas and antenna support structures shall be buffered and screened by a fence and a densely planted evergreen hedge of not less than six (6) feet in height along with any other landscaping materials as may be needed. Such screening shall be provided between any such ground-mounted antennas and antenna support structure and each lot line of the property on which such antenna or antenna support structure is located so as to provide the maximum reasonably achievable screening of such antenna and antenna support structure from view by adjacent properties and public or private streets.

**9. Rooftop Mechanical Equipment.** Except for roof mounted antennas, all mechanical equipment located on the roof of any building constructed after the effective date of this Chapter and exceeding six (6) feet in height shall be completely screened to the full height of such equipment by a parapet wall or other screening structure constructed of the same or similar materials as the principal building facade.

**10. Fences.** No fence or wall shall be erected, enlarged, expanded, altered, relocated, or replaced in any yard unless a fence permit has been obtained. Application for a fence permit shall be made in writing on forms furnished by the Zoning Administrator. The fee for a fence permit shall be in accordance with a fee schedule as established from time to time by the City Council. A penalty shall be charged if a fence or wall is erected without first obtaining a permit for such fence. A separate building permit shall be required for any fence exceeding six (6) feet in height. **Ordinance #336 5/114/2012**

(A) Construction.

(1) Prohibited Material. No fence or wall shall be constructed of any agricultural fencing materials, electrically charged element or barbed wire, except that in the Industrial Districts barbed wire may be used above a height of six and one-half (6½) feet when incorporated with a permitted fence or wall.

(2) Approved Material. All fences shall be constructed of stone, brick, finished wood, vinyl, metal or chain link. Chain link fence is prohibited in the front yard. The finished side of the fence

shall face outward from the property line.

(3) Maintenance. Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be repaired or replaced immediately.

(B) Height.

(1) Side and Rear Yards. No fence or wall located in a side or rear yard shall be of a height exceeding eight (8) feet, measured from its top edge to the ground at any point. **Ord. #336 5/14/12**

(2) Front Yards. No fence or wall located in a front yard shall be of a height exceeding four (4) feet, measured from its top edge to the ground at any point. However, in the Industrial District, chain link security fencing may be installed at a height greater than four (4) feet provided such fencing shall not exceed eight (8) feet.

(C) Setbacks.

(1) A fence may be located adjacent to, but not on, a property line.

(2) No fence, wall, hedge, or other screening device shall be permitted to encroach on any public right-of-way.

**SECTION 33. PERFORMANCE STANDARDS.**

**1. General Requirement.** All uses shall comply with the performance standards established in this Section unless any federal, state, county, or city law, ordinance, or regulation establishes a more restrictive standard, in which case the more restrictive standard shall apply.

**2. Noise.** Any activity or operation of any use producing noise, other than ordinary vehicle noise, shall be conducted so that no noise from the activity shall be deemed a public nuisance, as declared by the City Council.

**3. Glare and Heat.** Any activity or operation of any use producing glare or heat shall be conducted so that no glare or heat from the activity or operation shall be detectable at any point off the zoning lot on which the use is located. Flickering or intense sources of light shall be controlled or shielded so as not to cause a nuisance across lot lines.

**4. Exterior Lighting.**

(A) Purpose and Intent. The purpose of this lighting ordinance is to create standards for outdoor lighting which will provide for nighttime safety, security and utility while reducing light pollution, light trespass, and conserving energy.

It is the intent of this ordinance to require appropriate lighting levels, efficient (watts to lumens) lighting sources, full cut-off lighting, and to minimize/discourage lighting glare, lighting pollution and lighting trespass.

(B) Definitions. For the purposes of applying the regulations of this section, the following definitions shall apply:

- (1) Cutoff: The point at which all light rays emitted by a lamp, light source or luminary is completely eliminated (cutoff) at a specific angle above the ground.
- (2) Cutoff Angle: The maximum angle formed by a line drawn in the direction of emitted light rays at the light source and a line perpendicular to the ground from the light source.
- (3) Full Cutoff-Type Luminary: A luminary constructed or shielded to direct all light at a cutoff angle of less than 90 degrees. Also, referred to as a Horizon Limited Luminary.
- (4) Foot-candle: A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one-candle.
- (5) Glare: Direct light emitted from a light source which causes eye discomfort.
- (6) Light Pollution: The shining of light produced by a luminary above the height of the luminary and into the sky.
- (7) Light Trespass: The shining of light produced by a luminary beyond the boundaries of the property on which it is located.

(8) Luminary: A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

(C) General Standards. The following provisions shall apply:

(1) General Standards for Lighting on Private Property:

a. No flashing light shall be permitted.

b. Light for outdoor advertising shall be designed to function as Full Cutoff Luminaries. Lighting intended for outdoor advertising which projects light into the sky shall be prohibited. The temporary use of lasers and spotlights that project light into the sky may be allowed subject to the restrictions of temporary signs contained in Section 31.

c. Light sources or luminaries shall not be located within transitional yards except along pedestrian walkways.

d. All luminaries located on commercial, industrial, or institutional property shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of an observer standing a point five feet above grade on the lot line abutting a transitional yard or at any location on residentially zoned property.

e. All luminaries located on private property shall be designed so that the maximum illumination at the property line shall not exceed one-half (1/2) foot candle.

f. Lighting for canopies covering fueling stations at automobile service stations and drive-thru facilities shall not illuminate abutting properties and the luminaries shall be designed so that the light source (bulb or lamp) is completely shielded from direct view of an observer standing at the property line at a point five feet above grade.

g. Because of their unique requirement for nighttime visibility and their limited hours of operations, ball diamonds, playing fields and tennis courts are exempted from the general standards of this section. Lighting for these outdoor recreational uses shall be shielded to minimize light and glare from spilling over onto adjacent residential properties. The maximum permitted illumination at the property line shall not exceed two foot candles.

h. As part of the approval of public street or sidewalk projects, the City Council may vary from the requirements of this Section.

i. The illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America, as amended from time to time, shall be used as a guide for providing adequate and safe illumination levels. The City Council may require conformance with the illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America as part of the review and approval of a private or public development project.

(2) Method of Measurement. Illumination levels shall be measured in foot candles with a meter sensor in a horizontal position at an approximate height of three feet above grade. Maximum illumination readings are to be taken directly beneath the luminary. Readings should normally be taken after a cumulative initial lamp burn in period of at least 200 hours. To determine minimum permitted illumination, illumination levels shall be measured in foot candles with a meter sensor in a horizontal position at an approximate height of three feet above grade. The point at which readings shall be taken is dependent upon the area classification and fixture arrangement as follows:

- a. Opposite Spaced Street Lighting. (Requires two readings) Readings should be taken as described above 1.) At the center of the street, equidistant between two sets of fixtures, and 2.) at the curb line equidistant between two fixtures on the same side of the street.
- b. Public Sidewalks. (Sharing a lighting system with the street) Readings should be taken as described above at the farthest "house" side of the pavement, equidistant between two fixtures.
- c. Public Sidewalks. (Separate lighting system from street lighting) Readings should be taken as described above in the center of the pavement, equidistant between two fixtures.
- d. Parking Areas. (Perimeter lit) Readings should be taken as described above equidistant between two fixtures at the perimeter, as well as at the location of the property farthest from the fixtures.
- e. Parking Areas. (Centrally lit or combination of central/perimeter lighting) Readings should be taken as described above in the center of large parking areas, equidistant between all of the fixtures illuminating the area. If perimeter lighting is also used, take readings as described in Parking Areas, Perimeter lit.

In instances where only one fixture is located on a property, the minimum illumination level shall be measured in foot candles with a meter sensor in a horizontal position located approximately three feet above grade. Readings should be taken at the location on the property farthest from the fixture.

(D) Exemptions. The following are exempt from the standards contained in this ordinance:

- (1) Decorative seasonal lighting with a power rating of less than or equal to 75 watts per lamp.
- (2) Lighting for one- and two-family dwellings, provided that the lamps have a power rating of less than or equal to 75 watts, a cutoff component is incorporated in the design of the luminary, and the lighting level at the property line shall not exceed the maximum level contained in Subpart C. The maximum lighting level at the property line may be exceeded in cases where the lamp is turned on and off by a motion sensor and the lamp is not on for a continuous period exceeding ten minutes.
- (3) Temporary emergency lighting used by police, fire fighters, or other emergency services, as well as all vehicular luminaries.
- (4) Hazard warning luminaries which are required by federal regulatory agencies.

(E) **Exterior Lighting Plan Required.** A lighting plan shall be required anytime exterior lighting is proposed, or modified, that is associated with use of greater intensity than a one or two-family dwelling. The lighting plan shall be submitted with the site plan information required in Section 34, Subd. 6 of this Chapter.

The plan shall be prepared by a certified engineer, architect, master electrician, landscape architect or lighting engineer or design professional. The plan shall identify the location, size, type of luminary, height of luminary, a photometric plan of the site, and fixture data sheets. The plan shall also contain a certification by the property owner or agent and the preparer of the plan that the exterior lighting depicted on the plan complies with the requirements of this subdivision. Once the plan is approved, the exterior lighting of the property shall conform to the plan.

(F) **Nonconforming Luminaries.** Exterior lighting luminaries in existence on the effective date of this chapter shall be exempt from the standards of this chapter and shall be considered legally nonconforming. Such fixtures may be repaired and maintained. However, if any legal nonconforming luminary is moved or damaged by any means to an extent that its total replacement is necessary, the luminary, or replacement, shall comply with this subdivision.

Exterior lighting luminaries existing on the effective date of this ordinance which are located on private commercially zoned property and are found to direct light or glare to private property located in a residential zoning district may be declared a public nuisance if the level of illumination on private property located in the residential zoning district, which is caused by the luminary, is equal to or greater than 1/2 foot candle. Such fixtures shall be altered to reduce the level of illumination in the residential zoning district to less than 1/2 foot candle within six months of receiving a written notice of violation from the Zoning Administrator.

## **5. Dust and Air Pollution.**

(A) **Dust.** Dust and other types of air pollution borne by the wind from sources such as storage areas, yards, roads, bulk materials, conveying equipment and the like within lot boundaries shall be kept to a minimum by appropriate landscaping, screening, sheltering, paving, fencing, wetting, collecting, or other acceptable means.

(B) **Fugitive Particulate Matter.** No person shall cause or allow the emission or movement of fugitive particulate matter across the lot lines of a zoning lot. This requirement shall not apply when the wind speed is greater than twenty-five (25) miles per hour.

**6. Electromagnetic Interference.** Electromagnetic interference from any operations of any use in any district shall not adversely affect the operation of any equipment located off the zoning lot on which such interference originates.

**7. Odors.** The regulation of odors shall conform to State Law.

**8. Storage.** Except as specifically permitted by this Chapter, all raw materials, supplies, finished or partially finished products, and equipment shall be stored within an enclosed building, unless said items are used in connection with an approved construction activity.

**9. Compliance.** In order to assure compliance with the performance standards set forth above, the Zoning Administrator may require an owner of any permitted or allowed use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigations and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the Zoning Administrator. The cost incurred in having such investigations or tests conducted shall be the responsibility of the owner or operator.

**SECTION 34. SITE PLAN REVIEW.**

**1. Authority.** Site plan review shall be required before Building Permits or Certificates of Occupancy may be issued. The Zoning Administrator shall have the authority to approve site plans upon consideration of all comments received from City departments, and may waive the requirements for site plan review by the Planning Commission, if, in the Zoning Administrator's opinion, such addition or new construction does not substantially affect the proposed development of adjacent properties and conforms with all requirements of this Chapter and that of other city ordinances.

**2. Purpose.** The intent of these regulations is to promote the safe and efficient use of land, to contribute to an orderly and harmonious appearance in the City and to ensure compliance with the City Code. The site plan review process is intended to help ensure that newly developed properties and redeveloped properties are compatible with adjacent development and that traffic, public safety, overcrowding, and environmental problems are minimized to the greatest extent possible.

Site plan review shall include, but shall not be limited to, the following aspects of development:

- (A) A project's compatibility with its environment and with other existing land uses and buildings in the surrounding area.
- (B) The quantity, quality, utility, size, and type of a project's required open space and proposed landscaping improvements.
- (C) The ability of a project's traffic circulation system to provide for the convenient and safe internal and external movement of vehicles and pedestrians.
- (D) The quantity, quality, utility, size, and type of a project's required community facilities.
- (E) The location and adequacy of a project's provision for drainage and utilities.
- (F) Security, fire protection, and life/safety issues.

**3. Scope of Application.**

- (A) **Principal Uses.** Site plan review approval shall be required as a condition to receiving a Building Permit for all permitted uses and conditional uses.
- (B) **Accessory Uses.** Site plan review shall be required for accessory uses and structures, but such uses may be reviewed in conjunction with the review of principal structures which such accessory structures are shown on the site plan.
- (C) **Additional Parking.** Where a change of use or an increase in density of an existing structure requires additional parking, a site plan and landscape plan shall be submitted for review to insure that the change of use can be accomplished within the purpose and intent of this Chapter, except when such requirement is waived by the Zoning Administrator.

**4. Scope of Modifications Authorized.** The authority of the Zoning Administrator through the site plan review process to require modification of a proposed site development shall be limited to the following elements in order to achieve the following objectives:

- (A) Traffic and Parking.
  - (1) Minimizing dangerous traffic movements.
  - (2) Promoting the smooth and efficient flow of traffic in accordance with standards in the *Institute of Traffic Engineers' Transportation and Traffic Engineering Handbook*, and other local sources of authority as adopted by resolution.
  - (3) Optimizing the efficient use of property access and parking facilities through provision and requirement for adequate interior circulation, off-street parking stalls, turning lanes on the public right-of-way necessary to serve the development, and mass transit access.
- (B) Site Layout.
  - (1) Promoting compatibility with adjacent and nearby properties.
  - (2) Preserving and protecting valuable natural features and amenities to the greatest extent practical.
  - (3) Promoting the efficient provision of public services.
- (C) Environmental Protection.
  - (1) Preserving existing healthy and long-lived trees whenever possible.
  - (2) Designing drainage facilities to promote the use and conservation of natural watercourse and patterns of drainage.
  - (3) Minimizing alterations to existing topography in environmentally sensitive areas, as defined in this Chapter and the City Code.
- (D) Landscaping.
  - (1) Promoting the use of plant material compatible with the climate of the region and micro-climate conditions on the site.
  - (2) Ensuring that plant material can be maintained for long-term health and continued growth.
  - (3) Ensuring that the arrangement of required landscaping produces the desired visual effect.

- (E) Signage.
  - (1) Ensuring that the location, size, and orientation of signage does not impair the visibility of or distract motorists.
  - (2) Ensuring that the location, size, and orientation of signage minimize obstructions and hazards to pedestrians.
- (F) Public Safety.
  - (1) Ensuring that adequate and unrestricted access is provided for fire and emergency vehicles.
  - (2) Ensuring that adequate fire hydrants are provided on the premises and that access to the fire hydrants is not restricted.
  - (3) Ensuring that adequate safety and security lighting is provided.
  - (4) Ensuring that life safety issues have been adequately addressed.
- (G) General Conformance. The site plan review process shall also ensure that the proposed site development shall conform to all applicable requirements of this Chapter and other applicable ordinances and regulations of the City of Perham.

**5. Site Plan Review Committee.** The Zoning Administrator may be assisted in conducting site plan reviews by the Planning Commission.

**6. Site Plan Content.** An 11" x 17" reduction to scale shall be submitted. The site plan shall contain the following information, unless determined not applicable by the Zoning Administrator.

- (A) General Information.
  - (1) The applicant's name, address, telephone number, and interest in the property.
  - (2) The owner's name, address, and telephone number if different than the applicant, and the owner's signed consent to the filing of the application.
  - (3) The street address and legal description of the property.
  - (4) The zoning classification, zoning district boundaries, and present use of the property.
  - (5) The proposed title of the project, and the names, addresses, and telephone numbers of the architect, landscape architect, planner or engineer on the project.
- (B) Preliminary Development Drawing.
  - (1) The location, dimensions, and total area of the site.

- (2) The location, dimensions, floor area, type of construction, and use of each proposed building or structure.
  - (3) Floor plan showing specific uses within the building.
  - (4) The number, the size and type of dwelling units in each building, and the overall dwelling unit density.
  - (5) The proposed treatment of open spaces and the exterior surfaces of all structures, with sketches of proposed landscaping and structures, including typical elevations.
  - (6) The number, location, and dimensions of parking spaces and loading docks, with means of ingress and egress.
  - (7) The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements.
  - (8) The location and purpose of any existing or proposed dedication or easement.
  - (9) The general drainage plan for the development tract.
  - (10) The location and dimensions of adjacent properties, abutting public right-of-ways and easements, and utilities serving the site.
  - (11) Significant topographical or physical features of the site, including existing trees.
  - (12) Wetland delineations for all wetlands present on the site.
  - (13) The location and proposed treatment of any historical structure or other historical design element or feature.
- (C) Plat of Survey. A plat of survey of the piece or parcel of land, lot, lots, block, blocks, or parts or portions thereof, drawn to scale, showing the actual dimensions of the piece or parcel of land according to a registered or recorded plat of such land.
- (D) A Preliminary Plat of Subdivision, If Required. A preliminary plat of subdivision depicting the development parcel is required if the development parcel is not currently a lot of record that is subdivided in accordance with the City Code. A preliminary plat shall also be required for any development which will involve a re-subdivision of an existing lot or parcel.
- (E) Additional Information. The site plan shall also contain the following information and be accompanied by the following submissions, as well as such additional information, drawings, plans or documentation as may be requested by the P Zoning Administrator, if determined necessary or appropriate for a full and proper consideration and disposition of the application:
- (1) A certificate of disclosure of ownership interest.

- (2) When a proposed planned development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by an entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
- (3) Copies of any restrictive covenants that are to be recorded with respect to property in a proposed planned development or subdivision are for informational decision making only, enforcement is the responsibility of the respective property owners.
- (4) When the development is to be constructed in stages, a schedule for the development of such stages shall be submitted stating the approximate beginning and completion time for each stage. When the development provides for common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire development as the stages completed or under development bear to the entire development.
- (5) If requested by the Chief of Police, a personal safety risk assessment for employees, visitors, and customers of the development.
- (6) A traffic study showing the impact of the development on public streets which serve the development. The study shall be undertaken by a registered traffic engineer.

**7. Effect of Approval of Drawings.** The approval of a site plan by the Planning Commission shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits of approvals that may be required by the regulations of the City, including but not limited to a Building Permit, Certificate of Occupancy, subdivision approval, and conditional use approval.

The approval of a site plan by the Planning Commission shall be valid for one (1) year; provided further that the approval is valid only in terms of the safety, fire, building, and other city codes, in effect at the time of review.

**8. Appeals.** Appeals shall follow the procedure outlined in Section 44 of this Chapter.

**9. Fees.** An applicant submitting a site plan shall pay a non-refundable fee in connection with the submittal in accordance with a fee schedule as established, from time to time, by the City Council.

**SECTION 35. ADMINISTRATION.**

**1. Summary of Authority.** The City offices and bodies listed herein, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this Chapter in the manner so described.

**2. Authority.** The following City offices and bodies have responsibility for implementing and administering this Chapter:

- (A) Zoning Administrator.
- (B) Board of Adjustments and Appeals.
- (C) Planning Commission.
- (D) City Council.

**3. Zoning Administrator.** The position of Zoning Administrator shall have the following responsibilities:

- (A) Administer this Chapter and maintain permanent and current records of all associated maps, amendments, conditional uses, variances, and appeals.
- (B) Maintain a record of all conditional use and variance applications, all nonconforming uses, and all notices of violation, discontinuance, or removal in order to insure compliance with the provisions of this Chapter and, on request, provide such information for public inspection.
- (C) Forward any application for appeal of any administrative order or final decision made in the administration of this Chapter, to the Board of Adjustments and Appeals.
- (D) Receive and process any application for an amendment, conditional use, and planned development, and forward it to the Planning Commission for its recommendation to the City Council.
- (E) Receive and process any application for a variance and forward it to the Board of Adjustments and Appeals.
- (F) Make a determination of compliance with this Chapter on all applications for a Building Permit and a Certificate of Occupancy.
- (G) Authorize minor adjustments to approved development site plans.
- (H) Render interpretations of the provisions of this Chapter.
- (I) Enforce this Chapter (the zoning code).

**4. Board of Adjustments and Appeals.** The Board of Adjustments and Appeals shall have the following responsibilities:

- (A) Hear and decide applications for appeal of any administrative order or final decision made in the administration of this Chapter.
- (B) Approve, approve with conditions, or deny variance requests.
- (C) Maintain a record of its proceedings, including the minutes of the meetings, its findings, and the action taken on each matter heard by it. The record shall be maintained in the City Manager's office.
- (D) The Board of Adjustments and Appeals shall have any such other powers given to it by State Law.

**5. Planning Commission.** The Planning Commission shall have the following responsibilities:

- (A) Hear and make recommendations to the City Council regarding all applications for a conditional use permit and amendments to conditional use permits.
- (B) Hear and make recommendations to the City Council regarding all applications for a variance.
- (C) Hear and make recommendations to the City Council regarding all applications for a planned unit development.
- (D) Hear and make recommendations to the City Council regarding all applications for an amendment to this Chapter.
- (E) Review and prepare recommendations on any proposed change to the City's comprehensive planning policies and plans, including this Chapter.
- (F) Review this Chapter from time to time and make recommendations to the City Council for such changes to this Chapter as the Planning Commission may deem appropriate.
- (G) Hear and make recommendations on any other matter referred to it by the City Council.

**6. City Council.** The City Council shall have the following responsibilities:

- (A) Hold a public hearing.
- (B) Approve, approve with conditions, or deny any application for a planned unit development.
- (C) Approve, approve with conditions, or deny any application for a conditional use permit.
- (D) Approve or deny any application for an amendment to this Chapter.
- (E) Take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this Chapter.

**SECTION 36. CONDITIONAL USE PERMITS.**

**1. Authority.** The City Council, in accordance with the procedures and standards set out in this Section, may grant conditional use permits authorizing the development of uses listed as conditional uses in the regulations applicable to the district in which the specific property is located. The City Council also reserves the right to review, modify, or terminate the approval of any conditional use permit.

**2. Purpose.** The principal objective of this Chapter is to provide for an orderly arrangement of compatible building and land uses, and for the proper locations of all types of uses required by the City. To accomplish this objective, each type and kind of use is classified as permitted in one (1) or more of the various districts established by this Chapter. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which may be allowed because of their unusual characteristics or the service they provide the public. These conditional uses require particular considerations as to their proper location in relation to adjacent established or intended use and the planned development of the community; therefore, each application will be reviewed on a case by case basis and will be subject to a public hearing process.

**3. Persons Entitled to Seek Conditional Use Permits.** An application for a conditional use permit may be made by any governmental office, department, board, or commission, or by any person having a contractual interest in the subject property.

**4. Procedure.** The following procedures shall govern application for Conditional Use Permits:

(A) Application. An application, in accordance with a fee schedule as established from time to time by the City Council, for a Conditional Use Permit shall be filed with the Zoning Administrator on the form provided and shall contain at least the following information:

- (1) The applicant's name, address, and proof of interest in the property.
- (2) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
- (3) The names and addresses of all professional consultants advising the applicant with respect to the proposed development.
- (4) The street address and legal description of the property.
- (5) The zoning classification and present use of the subject property.
- (6) A general description of the proposed conditional use.
- (7) A statement indicating whether the applicant will require a variance in connection with the proposed conditional use.
- (8) A site plan conforming to the requirements of Section 34.
- (9) Such other information or documentation as the Zoning Administrator may deem to be necessary or appropriate for a full and proper consideration and disposition of the application.

(B) Action of Zoning Administrator. Upon receipt of a properly completed application for a conditional use and accompanying site plan, the Zoning Administrator shall forthwith transmit to the Planning Commission, the application together with all other documents made part thereof.

(C) Public Hearing. Upon receipt of a properly completed application for a conditional use, the **Planning Commission of the City of Perham** shall set a date for a public hearing. **Amended – Ord #301 7/12/2010**

(D) Notice. Notice of the public hearing shall be given in accordance with current state statute guidelines.

(E) Action of the Planning Commission. The Planning Commission shall either recommend the granting of the Conditional Use Permit, granting the Conditional Use Permit subject to conditions, or denying the conditional use. When a request is tabled by the Planning Commission, said request shall not be forwarded to the Council until a recommendation to approve, approve with conditions, or deny has been adopted.

(F) Action of the City Council. The City Council, after receipt of the Planning Commission's recommendation shall either deny the Conditional Use Permit, or grant the Conditional Use Permit with or without conditions. **Amended – Ord #3017/12/2010**

**5. Standards.** The Planning Commission shall only recommend the granting of the Conditional Use Permit, granting the Conditional Use Permit subject to conditions, or denying the conditional use based on written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for specific uses set forth in the provisions of a specific zoning district.

(A) It is one (1) of the conditional uses listed in the particular district.

(B) It is in keeping with the comprehensive planning policies of the City and this Chapter as amended from time to time.

(C) It does not interfere with or diminish the use of property in the immediate vicinity.

(D) It can be adequately served by public facilities and services.

(E) It does not cause undue traffic congestion.

(F) It preserves significant historical and architectural resources.

(G) It preserves significant natural and environmental features.

(H) It will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of various special uses of all types on the immediate neighborhood, and the effect of the proposed type of conditional use upon the City as a whole.

- (I) It complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the granting of a variance.
- (J) It will not jeopardize the public's health, safety, or general welfare.

**6. Sequence of Approval of Applications for Both a Conditional Use and a Variance.** Whenever the applicant indicates that a variance will be necessary in connection with the proposed conditional use (other than a planned unit development), the applicant shall at the time of filing for a conditional use, file an application for a variance with the Board of Adjustments and Appeals. The Board of Adjustments and Appeals shall not take any action on the application for a variance until the Planning Commission shall first act to recommend the granting of the Conditional Use Permit, granting the Conditional Use Permit subject to conditions, or denying the conditional use.

**7. Conditions of Conditional Uses.** The City Council, upon recommendation of the Planning Commission, may impose such conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purpose and objectives of this Chapter upon the premises benefited by a conditional use. In addition, the City Council may require a performance guarantee to be submitted to the City in order to ensure compliance with the terms of approval.

The conditions and limitations of approval may be more restrictive than standards outlined in this Chapter, but shall not be less restrictive. Such conditions and limitations may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the proposed property or on public facilities. Such conditions shall be expressly set forth in the resolution granting the conditional use permit. Violation of any such condition or limitation shall be a violation of this Chapter and shall constitute grounds for revocation of the conditional use permit pursuant to Section 41.

**8. No Presumption of Approval.** The listing of a conditional use within each zoning district does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis in order to determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed.

**9. Effect of Approval.** The approval of a proposed conditional use by the City Council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the City, including but not limited to a Building Permit and a Certificate of Occupancy.

**10. Limitations on Conditional Uses.** Subject to an extension of time granted by the City Council, no conditional use permit shall be valid for a period longer than twelve (12) months, unless a Building Permit is issued, or unless a Certificate of Occupancy is issued and the conditional use commenced within that period of time.

Except when otherwise provided in the resolution approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such lot.

**11. Fee.** An applicant for a conditional use permit shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

**SECTION 37 INTERIM USE PERMITS**

1. Authority. In accordance with the procedures and standards set forth in this Section, the City Council, as provided by Minn. Statute 462.3597, may grant interim use permits, including any conditions or restrictions added thereto. The City Council also reserves the right to review, modify, or terminate the approval of any interim use permit.

2. Purpose. The purpose of an Interim Use Permit is to allow a temporary use that is not designated as permitted or conditionally permitted but is acceptable for a limited period of time subject to conditions set forth in this section. An interim use is granted to a particular individual and does not accrue to the subject property. Because of its temporary nature, an interim permit shall not be renewed. Continuation of an interim use beyond the date or event included in the Interim Use Permit requires approval of a new Interim Use Permit.

3. Procedure. An application for an interim use permit shall be processed in accordance with the following procedures:

(A) Application. An application, and a non-refundable filing fee in accordance with a fee schedule as established, from time to time, by the City Council, for an Interim Use Permit shall be filed with the Zoning Administrator on a form provided and shall contain at least the following information:

- (1) The owner's name, address, and proof of interest in the property.
- (2) The street address and legal description of the property.
- (3) The zoning classification and present use of the subject property.
- (4) A general description of the proposed interim use.
- (5) The proposed date or event whereas the interim use would terminate.
- (6) A site plan conforming to the requirements of Section 34.
- (7) A signed consent agreement by the owner agreeing that:
  - a. the owner has no entitlement to future re-approval of the Interim Use Permit;
  - b. that the interim use will not impose additional cost on the public if it is necessary for the public to fully or partially take the property in the future; and . that the owner will abide by the conditions of approval that the City Council attached to the Interim Use Permit.
- (8) Such other information or documentation as the Zoning Administrator may deem to be necessary or appropriate for a full and proper consideration and disposition of the application.

(B) Action of Zoning Administrator. Upon receipt of a properly completed application for an interim use and accompanying site plan, the Zoning Administrator shall forthwith transmit to the Planning Commission, the application together with all other documents made part thereof.

(C) Public Hearing. Upon receipt of a properly completed application for an interim use, the Planning Commission of the City of Perham shall set a date for a public hearing.

(D) Notice. Notice of the public hearing shall be given in accordance with current state statute guidelines.

(E) Action of the Planning Commission. The Planning Commission shall either recommend the granting of the Interim Use Permit, granting the Interim Use Permit subject to conditions, or denying the interim use. When a request is tabled by the Planning Commission, said request shall not be forwarded to the Council until a recommendation to approve, approve with conditions, or deny has been adopted.

(F) Action of the City Council. The City Council, after receipt of the Planning Commission's recommendation shall either deny the Interim Use Permit, or grant the Interim Use Permit with or without conditions.

(G) Amended Interim Use Application. An amended interim use permit application shall be administered in a manner similar to that required for an interim use permit. Requests for an amendment to an interim use permit shall include the requested changes related to the interim use and information in support of the requested changes.

(H) Resubmittal. No application for an interim use permit shall be resubmitted for a period of six months from such order of denial.

(I) Limitations on Interim Uses. Subject to an extension of time granted by the City Council, no interim use permit shall be valid for a period longer than six (6) months, unless a Building Permit is issued, or unless a Certificate of Occupancy is issued and the interim use commenced within that period of time.

(J) Effect of Approval. The approval of a proposed interim use by the City Council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the City, including but not limited to a Building Permit and a Certificate of Occupancy.

4. Standards. In granting an Interim Use Permit, the Planning Commission and City Council shall consider the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding properties. The Planning Commission and City Council shall consider and make findings regarding the following factors:

(A) The proposed use meets the applicable zoning regulations;

(B) The proposed use will terminate upon a date or event that can be identified with certainty;

(C) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, or unsightliness and will not otherwise impact the health, safety, and welfare of the community;

- (D) The proposed use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
- (E) The proposed use will be subjected to, by agreement with the property owner, any conditions that the City Council deems appropriate for permission of the proposed interim use.

5. Conditions of Approval. In permitting a new interim use permit or amending an existing interim use permit, the Planning Commission may recommend and the City Council may impose, in addition to the standards and requirements expressly specified by this section, additional conditions which the Planning Commission or City Council consider necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to, the following:

- (A) Increasing the required lot size or yard dimension;
- (B) Limiting the height, size or location of buildings;
- (C) Controlling the location and number of vehicle access points;
- (D) Increasing the number of required off-street parking spaces;
- (E) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (F) Designation of open space;
- (G) An approved performance bond or letter of credit to ensure the restoration of the site and surrounding area after termination of the use.
- (H) Annual review and inspection, if deemed appropriate by the City Council.

Any change involving structural alterations, enlargement, intensification of use, or similar changes not specifically permitted by the interim use permit shall require an amended interim use permit and all procedures shall apply as if a new permit were being issued. The Zoning Administrator or their designee shall maintain a record of all interim use permits including information on the use, location and conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate.

6. Inspection. The City hereby reserves the right, upon approval of an interim use, to inspect the premises in which an interim use is being conducted to ensure compliance with the provisions of this section or any additional conditions imposed.

7. Violations. After two nuisance or code violation complaints have been made and verified with written notice to the holder of the interim use permit, a public hearing may be called within 60 (sixty) days of the last complaint to reconsider the interim use.

8. Termination. An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:

- (A) The date or event stated in the permit;
- (B) Upon violation of conditions under which the permit was issued or those listed in this Section;
- (C) The use has been discontinued for one year or upon the redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district;
- (D) Upon change in the City's zoning regulations where the use is no longer permitted; or
- (E) There is a change in ownership of the property for which the interim use permit was issued.

If it is believed that a violation of the conditions of approval has occurred, the Planning Commission and City Council may take action to revoke the interim use permit through the public hearing process, including at least a ten (10) day written notice to the permittee of the time and place of the hearing and shall state the nature of the violations.

**SECTION 38. PLANNED UNIT DEVELOPMENTS.**

**1. Authority.** The City Council may, in accordance with the procedures and standards set forth in this Section, and other standards and regulations applicable to the district in which the subject property is located, approve by ordinance, planned unit developments for uses as listed within each zoning district.

**2. Purpose.** A planned unit development is intended to encourage the efficient use of land and resources, to promote greater efficiency in public and utility services, and to encourage innovation in the planning and building of all types of development. A planned unit development may be approved by the City Council following a review and recommendation by the Planning Commission.

**3. Public Benefit.** The public benefits to the surrounding neighborhood and the City as a whole that are intended to be derived from the approval of a planned unit development include, but are not limited to:

- (A) Preservation and enhancement of desirable site characteristics and open space.
- (B) A pattern of development which preserves natural vegetation, topographic and geologic features.
- (C) Preservation and enhancement of historic and natural resources that significantly contribute to the character of the City.
- (D) Use of design, landscape, or architectural features to create a pleasing environment or other special development features.
- (E) Provision of a variety of housing types in accordance with the City's housing goals.
- (F) Elimination of blighted structures or incompatible uses through redevelopment or rehabilitation.
- (G) Business and commercial development to enhance the local economy and strengthen the tax base.
- (H) The efficient use of land resulting in more economic networks of utilities, streets, schools, public grounds, buildings, and other facilities.

**4. General Provisions.** The following general provisions shall govern the review, approval, and establishment of planned unit developments.

- (A) **Control of the Planned Development.** A planned unit development may be established for any parcel or tract of land under single ownership or control. The property included in the Planned Unit Development shall be planned and developed or redeveloped as a single unit and in a manner consistent with the intent and purpose for which a planned unit development may be permitted.
- (B) **Uses Allowed.** All permitted and conditional uses listed in a specific district are allowed as planned unit developments. Where residential units are provided as part of a planned unit development, regardless of the specific district, they may be of One Family attached, One Family detached, townhouse, or clustered or multiple-family type construction. Mixed use planned unit developments are permitted and encouraged provided they meet the intent and purpose for which a planned unit development is permitted. Uses not listed as permitted or conditional in a specific district shall not be allowed in a planned unit development

unless it is found that the use is complementary to the functionality of the development and the other uses found therein.

(C) **Authority to Modify Regulations.** The City Council shall have the authority in approving any planned unit development to change, alter, modify, or waive any provision of this Chapter or the subdivision regulations as they apply to the proposed planned unit development. No such change, alteration, modification or waiver shall be approved unless the City Council shall find that the proposed planned unit development:

- (1) Will achieve the purpose for which a planned unit development may be approved pursuant to this Section.
- (2) Will not violate the general purpose, goals, and objectives of this Chapter and of any plans adopted by the Planning Commission or the City Council.

(D) **Limitations.** No change, alteration, modification or waiver authorized by this Section shall authorize a change in uses allowed in any district or a modification with respect to any standard established by this Section, or a modification with respect to any standard in a zoning district made specifically applicable to a planned unit development, unless the regulation expressly authorizes such a change, alteration, modification or waiver.

## **5. Site Design.**

(A) The number of principal use structures which may be constructed within the planned unit development shall be determined by dividing the net acreage of the project acreage by the required lot area per unit that is required in the district in which the planned unit development is located. The net acreage shall be defined as the project area less the land area dedicated for public streets or other public purposes. The project area includes all the land within the planned unit development that is allocated for residential, institutional, commercial, or industrial uses, and for common open space as required.

(B) The development plan shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of permitted structures, accessory structures, and public facilities as may be necessary for the welfare of the planned unit development and the City.

(C) The common open space, and other common properties, individual properties, and all other elements of the planned unit development shall be so planned that they achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.

(D) Common open space within a planned unit development must be used for amenity or recreational purposes. Motor vehicle parking areas and traffic corridors shall not be considered an approved use of common open space. The uses authorized for the common open space must be approved to the scale and character of the planned unit development, and consider the planned unit development's size, density, topography, and number and type of structures to be provided.

(E) Common open space must be suitably improved for its intended use. Common open space containing natural features worthy of preservation may be left unimproved.

The development plan must coordinate the improvement of the common open space and the construction of the permitted structures within the planned unit development.

(F) Adequate access shall be provided for fire and emergency vehicles.

**6. Minimum Area.** A planned unit development proposed for any parcel or tract of land under single ownership or control shall have a minimum net site area for each zoning district as set forth below.

|   |                     |
|---|---------------------|
| <b>(A) Residential Districts</b>          | <b>Minimum Area</b> |
| R-1, One Family Dwelling District         | Two (2) acres       |
| R-2, One and Two Family Dwelling District | Two (2) acres       |
| R-4, One to Four Family Dwelling District | Two (2) acres       |
| R-M, Multiple-Family Dwelling District    | Two (2) acres       |
| <br>                                      |                     |
| <b>B. Commercial Districts</b>            | <b>Minimum Area</b> |
| D-C, Downtown Commercial District         | Four (4) acres      |
| S-C, Service Commercial District          | Four (4) acres      |
| H-C, Highway Commercial District          | Four (4) acres      |
| <br>                                      |                     |
| <b>D. Industrial Districts</b>            | <b>Minimum Area</b> |
| L-I, Light Industrial District            | Five (5) acres      |
| I, Industrial District                    | Five (5) acres      |

**7. Application Procedure.** An application for a planned unit development shall be processed in accordance with the following procedures:

(A) **Pre-Application Conference.** Prior to submitting a formal application for a planned unit development, an applicant shall participate in a pre-application conference with the Planning Director and Zoning Administrator. Representatives of other City departments and decision-making bodies may also be present where appropriate. The purpose of the pre-application conference is to enable the applicant to present the concept of the proposed planned unit development and to discuss the procedures and standards for planned unit development approval. The conference is intended to facilitate the filing and consideration of a formal planned unit development application. No representations made by any representatives of the City’s departments or decision-making bodies during the pre-application conference shall be binding upon the City with respect to a formal application subsequently submitted.

(B) **Information Needed for the Pre-Application Conference.** The applicant shall provide the following information at the time of the scheduling of the pre-application conference:

- (1) Concept site plan.
- (2) Narrative summary of the proposal.
- (3) Description of the land uses and neighboring characteristics.

(C) **Formal Application-Development Plan.** Formal applications for a planned unit development shall be filed with the Zoning Administrator on a form provided and accompanied by such number of copies as so

indicated. Upon receipt of a properly completed formal application for a planned unit development, the Zoning Administrator shall forthwith transmit to the Planning Commission the application together with all papers and plans attached thereto. All formal applications for a planned unit development shall include at least the following information:

- (1) General Information.
  - a. The applicant's name, address, telephone number, and interest in the property.
  - b. The owner's name, address, and telephone number, if different than the applicant, and the owner's signed consent to the filing of the application.
  - c. The street address and legal description of the property.
  - d. The zoning classification, zoning district boundaries, and present use of the property.
  - e. The proposed title of the project and the names, addresses, and telephone numbers of the architect, landscape architect, planner, or engineer on the project.
- (2) Preliminary Development Site Plan. A development site plan shall be drawn at a scale of twenty (20) feet to one (1) inch and shall contain at least the following, unless determined not applicable by the Zoning Administrator:
  - a. The location, dimensions, and total area of the site.
  - b. The location, dimensions, floor area, type of construction, and use of each proposed building or structure and setbacks from property lines.
  - c. The number, the size, and type of dwelling units in each building, and the overall dwelling unit density.
  - d. The proposed treatment of open spaces and the exterior surfaces of all structures, with sketches of proposed landscaping and structures, including typical elevations.
  - e. Architectural graphics, including typical floor plans and elevations, profiles, and cross-sections.
  - f. The number, location, and dimensions of parking spaces and loading docks, with means of ingress and egress.
  - g. The proposed traffic circulation pattern within the area of the development, including the location and description of public improvements to be installed, including any streets and access easements.
  - h. A vehicular traffic analysis.

- i. The location of all fire hydrants on the property and the location of all fire hydrants within one-hundred fifty (150) feet of the property.
  - j. The location and dimensions of all accesses for fire and emergency vehicles.
  - k. Statement of whether or not the building will be sprinkled and fire flow availability for the sprinkler system and fire hydrants.
  - l. The location and intensity of safety and security lighting.
  - m. The location and purpose of any existing or proposed dedication or easement.
  - n. The general drainage plan for the development tract.
  - o. The location and dimensions of adjacent properties, abutting public right-of-ways and easements, and utilities serving the site.
  - p. Significant topographical or physical features of the site, including existing trees.
  - q. Wetland delineation showing all wetlands present on the site.
  - r. The location and proposed treatment of any historical structure or other historical design element or feature.
- (3) Preliminary Plat of Survey. A preliminary plat of the property shall be submitted. The layout of the plat shall conform to the development plan.
- (4) Additional Information. The application shall also contain the following information and be accompanied by the following submissions, as well as such additional information, drawings, plans or documentation as may be requested by the Zoning Administrator or the Planning Commission, if determined necessary or appropriate for a full and proper consideration and disposition of the application.
- a. A certificate of disclosure of ownership interest.
  - b. When the proposed planned unit development includes provisions for common open space or recreational facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by an entity other than a government authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
  - c. Copies of any restrictive covenants that are to be recorded with respect to property in the proposed planned unit development.
  - d. When the planned unit development is to be constructed in stages, a schedule for the development of such stages shall be submitted stating the approximate beginning and completion time for each stage. When the development provides for common open space,

the total area of common open space provided at any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire development as the stages completed or under development bear to the entire development.

- e. A statement showing the relationship of the proposed planned unit development to any adopted general plan of the City.
- f. A statement showing why the proposed planned unit development is compatible with other property in the neighborhood.

(D) Review Procedure.

- (1) Action of Zoning Administrator. Upon review of the formal application, including the development site plan, the Zoning Administrator shall determine if the application is complete. If the application is determined not to be complete, the Zoning Administrator shall not transmit the application to the Planning Commission, but shall notify the applicant of any deficiencies and/or modifications necessary to perfect the application.
- (2) Public Hearing. Upon receipt of a properly completed application for a planned unit development, the City Council shall set a date for a public hearing.
- (3) Notice. Notice of the public hearing shall be given in accordance with current Minnesota State Statute Guidelines.
- (4) Action of the Planning Commission. The Planning Commission shall transmit its recommendation to the City Council. The Planning Commission shall either recommend the granting of the planned unit development, granting the planned unit development subject to modifications, or denying the planned unit development.
- (5) Action of the City Council. After receipt of the Planning Commission's recommendation, the City Council shall hold a public hearing and either deny the planned unit development, or grant the planned unit development with or without modifications and conditions.

**8. Standards.**

- (A) The Planning Commission shall not recommend approval of, nor shall the City Council approve, a planned unit development unless each shall first make written findings of fact that the planned unit development satisfies the intent of this ordinance and/or does not jeopardize the public health, safety, or welfare.
- (B) The development of the planned unit development shall conform to the approved development plan; including all proposed covenants, easements, conditions of approval, and other provisions relating to the bulk, location, and density of permitted structures, accessory structures, parking, and other public facilities.
- (C) All land shown on the approved development plan as common open space must be conveyed to trustees provided in the indenture establishing the association or similar organization for the maintenance of the planned unit development.

- (D) No common open space may be put to any use not specified in the approved development plan.

**9. Time Limit on Approved Planned Unit Development.** No planned unit development approval shall be valid for a period longer than one (1) year unless a Building Permit is issued. However, upon written request of the applicant, the one (1) year period may be extended by the Planning Commission for such time as it shall be determined and for good cause shown, without further hearing.

**10. Effect of Approval of a Planned Unit Development.** The approval of a proposed planned unit development by the City Council shall not authorize the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for such permits or approvals as may be required by the regulation of the City, including, but not limited to, a subdivider's agreement as required in the Perham City Code, Building Permit, and a Certificate of Occupancy.

**11. Regulations During and Following Completion of Development.** Following approval of the planned unit development, the development site plan, including any modifications thereof, shall constitute the use, parking, loading, sign, bulk, space, and yard regulations applicable to the property, and no use, building or development, other than home occupations and temporary uses not allowed by the development site plan, shall be permitted within the area of the planned unit development.

**12. Adjustments to the Development Site Plan.** Adjustments to the development site plan shall be in accordance with the requirement set forth below.

(A) **New Application Required.** No alteration or amendment shall be made in the construction, development, or use without a new application under the provisions of this Section. However, minor alterations may be made subject to written approval of the Zoning Administrator.

(B) **Minor Adjustments.** During build-out of the planned unit development, the Zoning Administrator may authorize minor adjustments to approved development site plans when such adjustments appear necessary in light of technical or engineering considerations. Such minor adjustments shall be limited to the following elements:

- (1) Adjusting the distance as shown on the approved development site plan between any one (1) structure or group of structures, and any other structure or group of structures, or any vehicle circulation element or any boundary of the site.
- (2) Adjusting the location of any open space.
- (3) Adjusting any final grade.
- (4) Altering the types of landscaping elements and their arrangement within the required landscaping buffer area.

Such minor adjustments shall be consistent with the intent and purpose of the Ordinance and development plans approved pursuant to this Section and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such adjustments would result in a violation of any standard or requirement of this Chapter.

(C) Major Adjustments. Any adjustments to the development site plan not authorized as a minor adjustment shall be considered a major adjustment and shall require a new application under the provisions of this Section.

**13. Fee.** All applications for a planned unit development shall be accompanied by a non-refundable filing fee in accordance with Section 36, Subd. 11.

**SECTION 39. VARIANCES.** Ord. #327 9/2011

**1. Authority.** In accordance with the procedures and standards set forth in this Section, the Board of Adjustments and Appeals, as provided by Minn. Statute 462.357, shall have the exclusive power to order the issuance of variances from the requirements of this Chapter, including restrictions placed on non conformities. A variance is a modification or variation of the provisions of this Chapter as applied to a specific piece of property.

**2. Purpose.** The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Chapter that create practical difficulties.

**3. Parties Entitled to Seek Variances.** Applications for variances may be filed by the owner of, or any person having contractual interest in, the property.

**4. Procedure.** An application for a variance shall be processed in accordance with the following procedures:

(A) Application. An application for a variance shall be filed with the Zoning Administrator and shall include, at least, the following information:

- (1) The applicant's name, address, and proof of interest in the property.
- (2) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
- (3) The names and addresses of all professional consultants advising the applicant with respect to the proposed development.
- (4) The street address and legal description of the property.
- (5) The present use of the subject property.
- (6) A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets and private right-of-ways bordering and adjacent to the site, the use, and location of all adjacent property.
- (7) The specific feature or features of the proposed use, construction, or development that require a variance.
- (8) The specific provisions of this Chapter from which a variance is sought and the precise variance there from being sought.
- (9) Statement of the characteristics of the property that prevent compliance with the provisions of this Chapter.

(B) Action of Zoning Administrator. Upon receipt of a properly completed application for an appeal, the Zoning Administrator shall forthwith transmit to the Planning Commission the application together with all papers and plans attached thereto.

(C) Public Hearing. Upon receipt of a properly completed application for a variance, the Planning Commission of the City of Perham shall set a date for a public hearing. **Ord. #301 7/2010**

(D) Notice. Notice of the public hearing shall be given in accordance with current Minnesota State Statute Guidelines.

(E) Action of the Planning Commission. The Planning Commission shall either recommend the granting of the variance, granting the variance subject to conditions, or denying the variance. When a request is tabled by the Planning Commission, said request shall not be forwarded to the Council until a recommendation to approve, approve with conditions, or deny has been adopted.

(F) Action of the City Council. The City Council after receipt of the Planning Commission's recommendation shall either deny the variance, or grant the variance with or without conditions. **Ord. #301 7/2010**

**5. Standards.** In considering an application for a variance, the Board of Adjustments and Appeals may approve such variance only upon the finding that the application complies with the standards set forth below.

(A) General Standard. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Chapter and when the variances are consistent with the Comprehensive Plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this Chapter. "Practical difficulties", as used in connection with the granting of a variance, means that 1) the property owner proposes to use the property in a reasonable manner not permitted by this Chapter, 2) the plight of the landowner is due to circumstances unique to the property not created by the landowner, and 3) the variance if granted, would not alter the essential character of the neighborhood.

(B) Unique Circumstance. Unique circumstance is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The unique circumstance shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot. Economic considerations alone do not constitute practical difficulties.

(C) Not Self-Created. The unique physical condition and practical difficulties shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Chapter.

(D) Variance Less Than Requested. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

(E) Essential Character of the Area. The variance would not result in a development on the lot that:

- (1) Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.
- (2) Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
- (3) Would substantially increase congestion in the public streets due to traffic or parking.
- (4) Would unduly increase the danger of flood or fire.
- (5) Would unduly tax public utilities and facilities in the area.
- (6) Would endanger the public health or safety.
- (7) Would not be in harmony with the general and specific purposes of this Chapter and the comprehensive planning policies and objectives of the City.

**6. Conditions on Variances.** The Board of Adjustments and Appeals may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this Chapter. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this Chapter and shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of this Chapter and shall constitute grounds for revocation of the variance pursuant to Section 41.

**7. Effect of Grant of Variance.** The approval of a proposed variance by the Board of Adjustments and Appeals shall not authorize the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the City, including, but not limited to, a Building Permit and a Certificate of Occupancy.

**8. Limitations on Variance.** Subject to an extension of time granted by the Board of Adjustments and Appeals, no variance shall be valid for a period longer than twelve (12) months unless a Building Permit is issued, or unless a Certificate of Occupancy is issued and a use commenced within that period of time.

**9. Prohibited Variances.** Notwithstanding any other provision in this Section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located.

**10. Fee.** An applicant for a variance shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

**SECTION 40. CERTIFICATE OF OCCUPANCY AND BUILDING PERMITS.**

**1. Authority.** The Zoning Administrator shall have the authority to review applications for Certificates of Occupancy and Building Permits in order to determine compliance with this Chapter.

**2. Purpose.** For the purposes of this Chapter, the Certificate of Occupancy, in part, provides a procedure for the inspection of completed premises to ensure their compliance with this Chapter and approved plans prior to commencement of the use or occupancy of such premises. The certificate also serves as evidence of compliance with other provisions of other codes or ordinances of the City. For the purposes of this Chapter, the Building Permit authorizes the development on a lot in conformance with applicable Sections of the Perham City Code and special approval conditions.

**3. Certificate Required.** Unless a Certificate of Occupancy shall have first been obtained certifying compliance with the provisions of this Chapter, no structure, or addition thereto, constructed, remodeled, altered, or moved shall be used for any purpose, and no vacant land shall be used or occupied for any purpose. Except for changes involving substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy without first obtaining a Certificate of Occupancy.

**4. Procedure.** The following procedures shall govern application for Certificates of Occupancy and Building Permits:

(A) **Application.** Applications for a Certificate of Occupancy and Building Permits shall be made to the Building Official. For the purpose of this Chapter, applications for a Building Permit shall include a site plan which conforms with the requirements of Section 34, Subd. 6.

(B) **Action on Application.** Within ten (10) days after the receipt of a completed application, the Building Official shall forward the application to the Zoning Administrator who shall review the application and inspect the subject structure or premises and shall take the following actions based on such inspection:

(1) If all construction has been completed and the structure and premises are in compliance, or the Building Permit application is complete and the accompanying plans depict a development that conforms with all the applicable provisions of this Chapter and special approval conditions, the Zoning Administrator shall approve the application for a Certificate of Occupancy or Building Permit.

(2) If, however, all work is not in compliance with all applicable requirements of this Chapter or the Building Permit application is incomplete and the accompanying plans depict a development that would not conform with all the applicable provisions of this Chapter, the Zoning Administrator shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of this Chapter, the particular items in the applicant's plans, or the applicable special approval conditions with respect to which compliance is lacking.

(C) **Contents of Certificate.** Every Certificate of Occupancy shall, at a minimum, state the specific use of the property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this Chapter.

(D) **Filing of Certificates.** Every Certificate of Occupancy issued pursuant to this Section shall be kept on file in the Building Official Department and shall be considered a public record, and shall be open for public inspection upon request.

(E) **Additional Inspection Cost.** The Zoning Administrator may, where necessary, require the services of a qualified testing laboratory to determine anticipated compliance with performance standards prior to issuance of a Building Permit or Certificate of Occupancy. The cost of employing the testing laboratory shall be paid by the applicant.

**5. Temporary Certificate of Occupancy.** Pending the issuance of a Certificate of Occupancy, the Building Official may approve a Temporary Certificate of Occupancy for a period not exceeding six (6) months, pending the completion of the development, including the erection or alteration of a structure. The temporary certificate shall state its temporary nature, and it shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately insure the safety of the occupants and abutting properties. The Zoning Administrator or Building Official may require the property owner to submit a performance guarantee to the Building Official. The performance guarantee shall be held by the Building Official for the duration of the Temporary Certificate of Occupancy. The amount of the performance guarantee shall be equal to an amount deemed necessary to cause the completion of the development, including the erection or alteration of a structure. The performance guarantee shall only be returned to the property owner upon the issuance of a Certificate of Occupancy. If the Temporary Certificate of Occupancy expires and the development is not completed per the approved site plan, conditions of approval, and approved building plans, the City reserves the right to use the performance guarantee to cause the completion of the development, including the erection or alteration of a structure.

**6. Certificate of Occupancy for Existing Uses.** The Zoning Administrator may approve a Certificate of Occupancy certifying the lawful existence and use of any existing structure or use, provided it is issued in the same manner and subject to the same requirements as described in this Section. The certificate shall evidence only that which is contained in the certificate with respect to any structure or use as of the date of its issue and shall remain effective only for that purpose for so long as neither the use or structure nor the applicable provisions of this Chapter are changed.

**7. Certificate of Occupancy for Legal Nonconforming Uses.** The Zoning Administrator may approve a Certificate of Occupancy certifying the lawful existence and use of any nonconforming use, structure, lot, sign, or fence, provided it is issued in the same manner and subject to the same requirements as described in this Section.

**8. Void Certificates of Occupancy and Building Permit.** Any Certificate of Occupancy or Building Permit issued in violation of the provisions of this Chapter, shall be void immediately upon issue and shall give rise to no rights whatsoever.

**SECTION 41. ENFORCEMENT.**

**1. Authority.** The Zoning Administrator is hereby authorized and directed to enforce all the provisions of this Chapter and shall perform the following duties:

(A) Inspections. The Zoning Administrator shall have the authority to periodically inspect buildings, structures, and uses of land to determine compliance with the provisions of this Chapter, or of any permit or approval granted pursuant to this Chapter, or of any condition imposed pursuant to this Chapter on any such permit or approval. In regard to performance standards, the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of the laboratory services shall be paid for by the person responsible for the violation if one is so determined.

(B) Procedure Upon Discovery of Violation. Upon finding the existence of any violation of this Chapter, the Zoning Administrator may take any or all of the following procedures:

(1) Stop and Cease-and Desist Orders. Upon finding the existence of any violation of this Chapter, the Zoning Administrator shall notify, in writing, the person responsible for such violation, indicating the violation and ordering the action necessary to correct it; specifically, the Zoning Administrator shall order the discontinuance of any illegal use of land or structures, the removal of illegal structures, additions, or alterations, and the discontinuance of illegal work being done.

(2) Legal Action. In the enforcement of this Chapter, the Zoning Administrator shall exercise all the powers authorized by the statutes of the State of Minnesota and City Codes and Ordinances to ensure compliance with, or to prevent or abate any violation of the provisions of this Chapter, and in particular shall, when necessary or appropriate, shall cause the City Attorney to initiate any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this Chapter.

(3) Revocation of Permits. The violation of any provision of this Chapter, or of any permit or approval granted pursuant to this Chapter, or of any condition imposed pursuant to this Chapter on any such permit or approval, shall be grounds for the revocation of any permit, variance, or approval granted pursuant to this Chapter. If the Zoning Administrator determines any such violation exists, the Zoning Administrator shall forward a report to the City Council regarding the violation. The City Council shall hold a public hearing regarding the violation, after which the Council shall either, revoke the permit or approval, modify the original conditions of the permit or approval, or affirm the compliance with the permit or approval.

(4) Fines and Penalties. In the enforcement of this Chapter, the Zoning Administrator shall, when necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this Chapter as authorized by State Law and this Chapter.

**SECTION 42. ADMINISTRATIVE INTERPRETATIONS.**

**1. Authority.** The Zoning Administrator, subject to the procedures, standards, and limitations herein, may, in written request, render interpretations, including use interpretations, of the provisions of this Chapter and of any rule or regulations issued pursuant to it.

**2. Purpose.** The interpretation authority established by this Chapter, is intended to recognize that the provisions of this Chapter, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have it be applied. Many such situations can be readily addressed by interpretation of the specific provisions of this Chapter in light of the general and specific purpose for which those provisions have been enacted. Because the interpretation authority established is administrative rather than legislative, it is not intended to add or change the essential content of this Chapter, but is intended only to allow authoritative applications of that content to specific cases.

**3. Parties Entitled to Seek Interpretations.** Requests for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation. Requests shall not be accepted when based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

**4. Procedure.** The following procedure shall govern requests for administrative interpretations:

(A) Requests. Requests for interpretations of this Chapter shall be filed with the Zoning Administrator, and shall contain at least the following information:

- (1) The property owner's name and address, and the owner's signed consent to the filing of the application.
- (2) The applicant's name and address, if different than the owner, and the applicant's interest in the subject property.
- (3) The specific provision or provisions of this Chapter for which an interpretation is sought.
- (4) The facts of the specific situation given rise to the request for an interpretation.
- (5) The precise interpretation claimed by the applicant to be correct.
- (6) In cases of use interpretations, the use permitted in the particular zoning classification that is claimed to be included, or be most similar to, the proposed use sought.
- (7) In cases of a use interpretation, documents, statements, and other evidence demonstrating that the proposed use will comply with all use limitations established for the district in which it is proposed to be located.

(B) Action On. Within thirty (30) days following the receipt of a properly filed request, the Zoning Administrator shall inform the applicant in writing of the interpretation, stating the reasons for the determination therein.

- (C) Records. A permanent record of all requests for interpretations shall be kept on file in the office of the Zoning Administrator.
- (D) Appeals. Appeals from interpretations rendered by the Zoning Administrator may be made to the Board of Adjustments and Appeals.

**5. Standards for Use Interpretations.** The following standards shall govern the Zoning Administrator, and the Board of Adjustments and Appeals when on appeal, in issuing use interpretations:

- (A) Any use defined in Section 2 of this Chapter shall be interpreted as therein defined.
- (B) No use interpretation shall permit any use in a particular district unless evidence shall be presented that demonstrates that it will comply with the general district regulations established for that particular district.
- (C) No use interpretation shall permit any use in a particular district unless such use is substantially similar to other uses permitted in that district and is more similar to such other uses permitted or conditionally permitted in a more restrictive district.
- (D) If the proposed use is most similar to a use permitted only as a conditional use in the district in which it is proposed to be located, then any use interpretation permitting such use shall be conditioned on the issuance of a conditional use permit for such use pursuant to Section 36.
- (E) No use interpretation shall permit the establishment of any use that would not be consistent with the statement of purpose of the district in question.

**6. Effect of Favorable Use Interpretations.** No use interpretation finding a particular use to be permitted or conditionally permitted in a particular district shall authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes or ordinances of the City, including but not limited to, a Building Permit, a Certificate of Occupancy, subdivision approval, and site plan approval.

**7. Limitations on Favorable Use Interpretations.** Subject to a possible extension of time granted by the Zoning Administrator, no use interpretation finding a use to be permitted or specially permitted in a particular district shall be valid for a period longer than six (6) months from date of issuance unless action has been taken by the applicant in the form of the use being established or a Building Permit and construction or a Certificate of Occupancy is obtained.

**SECTION 43. AMENDMENTS.**

**1. Authority.** The text of this Chapter and the Official Zoning Map may be amended from time to time by the passage of any ordinance duly adopted by the City Council in accordance with the procedures set forth herein.

**2. Purpose.** The purpose of this Section is to provide standards and procedures for making amendments to the text of this Chapter and the Zoning Map that are of general significance or application. The amendment process is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

**3. Parties Entitled to Initiate Amendments.** Amendments to the text of this Chapter and the Zoning Map may be initiated by written petition of any affected property owner, the City Council, or the Planning Commission, provided the petition meets the requirements set forth in this Section.

**4. Requirements for Amendment Petitions.** Petitions for amendments to this Chapter, shall be in such form and accompanied by such information as shall be prescribed, from time to time, by the Planning Commission and shall contain at least the following:

- (A) The petitioner's name, address, and interest in the petition and the name, address, and interest of every person, firm, corporation, or government agency represented by the petitioner in the petition.
- (B) The precise wording of the proposed amendment, together with concise explanation of its presumed effect.
- (C) A statement containing all the circumstances, factors, and arguments that the petitioner offers in support of the proposed amendment.
- (D) In the event that the proposed amendment would result in the rezoning of any property, the following shall be supplied:
  - (1) A statement specifying the names of the owners of the land proposed to be rezoned.
  - (2) A statement identifying the majority of owners of the land proposed to be rezoned and being parties to the petition.
  - (3) The street address and legal description of the land proposed to be rezoned.
  - (4) The present zoning classification and use of the land proposed to be rezoned.
  - (5) A preliminary plat if the property is not currently subdivided into lots and blocks in conformance with the Perham City Code.
  - (6) A concept development plan for the property if the property is vacant or is intended to be redeveloped.
  - (7) A statement of purpose explaining the reasons for the rezoning.

**5. Standards for Amendments.** In making their determination, the City Council shall consider the following:

- (A) Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan, as adopted and amended from time to time by the City Council.
- (B) Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the affected property.
- (C) Whether the proposed amendment will have an adverse effect on the value of adjacent properties.
- (D) The adequacy of public facilities and services.

**6. Procedure for Review and Decision of Proposed Amendments.** A petition to amend the text of this Chapter and the Official Zoning Map shall be processed in accordance with the following procedures:

- (A) **Public Hearing.** Upon receipt of a properly completed application for a proposed amendment, the Zoning Administrator shall set a date for a public hearing.
- (B) **Notice.** Notice of the public hearing shall be given in accordance with current Minnesota State Statute Guidelines.
- (C) **Planning Commission Action.** Upon receipt of the petition, including a copy of the proposed text or map changes, the Planning Commission shall hold a Public Hearing and either recommend the approval or denial of the proposed amendment, or the approval of the amendment with modifications, and shall then submit its written recommendation, together with the petition for the text or map change, to the City Council.
- (D) **City Council Action.** The City Council shall either adopt or reject the recommendation of the Planning Commission or adopt some modification of the recommendation of the Planning Commission. No amendment shall be adopted except by the affirmative vote of two-thirds (2/3) of all members of the City Council.

**7. Fees.** An applicant for an amendment shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

**SECTION 44. APPEALS.**

**1. Authority.** The Board of Adjustments and Appeals shall hear and decide appeals from any order or final decision of the Zoning Administrator by any person aggrieved by such order or final decision.

**2. Purpose.** The appeal process is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings, or intent of this Chapter or the rightful authority of the Zoning Administrator to enforce the requirements of this Chapter. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this Chapter and to the reasonable interpretations of that language by those charged with the administration of this Chapter.

**3. Stay of Proceedings.** The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustments and Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board of Adjustments and Appeals or by a court of record.

**4. Procedure.** An application for an appeal shall be processed in accordance with the following procedures:

(A) **Application.** An application for an appeal to the Board of Adjustments and Appeals shall be filed with the Zoning Administrator no later than forty-five (45) days after the action or decision being appealed.

(B) **Action of Zoning Administrator.** Upon receipt of properly completed application for an appeal, the Zoning Administrator shall forthwith transmit to the Board of Adjustments and Appeals the application together with all papers constituting the record upon which the action appealed from was taken.

(C) **Public Hearing.** Upon receipt of a properly completed application for an appeal, together with all papers constituting the record upon which the action appealed was taken, the Board of Adjustments and Appeals shall set a date for a public hearing. The hearing shall be held in accordance with the Board's adopted Rules of Procedures.

(D) **Notice.** Notice of the public hearing shall be given in accordance with current Minnesota State Statute Guidelines.

(E) **Board of Adjustments and Appeals Action.** The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order or final decision as in its option ought to be made in the premises, and to that end has all the powers of the officer from whom the appeal is taken.

**5. Right to Grant Variances in Deciding Appeals.** In any case where the application is accompanied by an application for a variance in accordance with Section 39 of this Chapter, the Board of Adjustments and Appeals shall have the authority to grant, as part of the relief, a variance, provided it is done so in strict compliance with the provisions of Section 39.

**6. Conditions and Limitations on Rights Granted by Appeal.** In any case where this Chapter imposes conditions and limitations upon any right, any such right granted by the Board of Adjustments and Appeals on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

**7. Fees.** An applicant, for an appeal, shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established from time to time by the City Council.

**adopted 7/29/2009**