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# CITY OF LITTLE FALLS

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## BOARD OF ADJUSTMENT/ PLANNING COMMISSION

May 8, 2017





**AGENDA**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 May 8, 2017, 6:30 p.m.

P	A	Member	P	A	Member
		Kleinschmidt, James			Schulte, Ray
		Esse, Robert			(Vacant Seat)
		Gosiak, Frank			Oleson, Ben (Zoning Administrator)
		Hanfler, Jeremy			Kimman, Greg (City Engineer)
		Schilling, Kara			

**CALL TO ORDER:** Planning Commission Chairperson

**ADOPT THE AGENDA:** April 10, 2017

**APPROVAL OF MINUTES:**

**PUBLIC HEARINGS:**

- 1) Conditional use permit to construct and operate a commercial daycare serving greater than 14 persons on a 2.5 acre parcel to be subdivided at the south end of the subject parcel, zoned PUD-CH (Planned Unit Development – Country Homes). Applicant: Andrew Ebert. Legal Description: 2.5 acres to be split from Outlot A, Sunrise Addition. Property Address: None (Prairie Drive). Parcel number(s): 48.2871.000.
- 2) Amendment to City Code, Chapter 11 (Land Use Regulations). The purpose of the hearing is to make a comprehensive review of proposed amendments throughout the entirety of Chapter 11, including but not limited to, amendments relating to regulations on: impervious coverage on residential zoned property; nonconforming lots, uses and structures; detached accessory buildings; fences; obstructions at street intersections; buildings or structures not subject to the Building Code that are regulated otherwise; criteria for the review of conditional use permit applications; parking requirements; planned unit developments; and lot size, setbacks and uses within each zoning district. Proposed amendments also include elimination of the B-1 and I-1 zoning districts and to amend the City’s Official Zoning Map. Applicant: City of Little Falls Planning Commission.

**OLD BUSINESS:**

**NEW BUSINESS:**

**NEXT REGULAR MEETING:** Monday, June 12, 2017

**ADJOURNMENT:**



**MINUTES**  
**PLANNING COMMISSION**  
 Conference Room, City Hall  
 April 10, 2017, 6:30 p.m.

P	A	Member	P	A	Member
X		Kleinschmidt, James	X		Schulte, Ray
X		Esse, Robert			(Vacant Seat)
	X	Gosiak, Frank	X		Oleson, Ben (Zoning Administrator)
X		Hanfler, Jeremy	X		Kimman, Greg (City Engineer)
	X	Schilling, Kara			

**CALL TO ORDER:** The meeting was called to order at 6:31pm

**ADOPT THE AGENDA:** Motion was made by Schulte, seconded by Esse to adopt the April 10, 2017 agenda. Motion passed.

**APPROVAL OF MINUTES:** None

**PUBLIC HEARINGS:**

- 1) Variance to construct a 30' x 40' detached garage 15 ft from a rear lot line (min. 30 ft required) in an R-1 One- and Two-Family Residential Zoning District. Conditional use to construct an accessory structure on a through lot. Applicant: Antoinette Wetzel. Legal Description: S ½ of Lot 3 and all of Lot 4, Block One, Riverview Addition and Lot 6, Block 1, 2nd Addition to Riverview. Property Address: 1114 Pine Tree Blvd. Parcel number(s): 48.2024.000.

Oleson explained the requested variance. Wetzel noted that there would not be a new driveway going back to the new garage and that it would have a similar setback to the road as other garages that have been permitted in the past on through lots in the immediate area. No public comments were received. After discussion by the Board of Adjustment, a motion was made by Schulte, seconded by Kleinschmidt, to approve the requested variance and conditional use permit. Findings of fact include that the use would be in harmony with the neighborhood and that it is a proper use of land in accordance with the City Code. Motion passed unanimously

**OLD BUSINESS:**

**NEW BUSINESS:**

- 1) Discussion – Ordinance Amendments (Chapter 11)

Oleson and Kimman explained the proposed changes regarding planned unit development regulations. After discussion by the Commission, the Commission directed Staff to finalize the ordinance amendments for all of Chapter 11 and present them at a public hearing at the May 8, 2017 meeting. Staff is also to create a proposed amended zoning map consistent with previous discussions and the proposed ordinance amendments for the May 8 hearing.

**NEXT REGULAR MEETING:** Monday, May 8, 2017

**ADJOURNMENT:** Motion was made by Schulte, seconded by Kleinschmidt, to adjourn the meeting at 7:59 pm.



## STAFF REPORT

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**Application:** Conditional use permit to operate a daycare facility serving greater than fourteen (14) persons.

**Applicant:** Andrew Ebert

**Property Owner:** Michael J. & Jodi L. Corrow/J&M Developers

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### **Background Information:**

- ) **Proposal:** The applicant would like to construct a new building to house a commercial daycare. Daycares serving up to 14 children are considered a permitted use within the PUD-CH zoning district. The application is to have greater than 14 children served by the daycare, which requires a conditional use as an other use “of the same general character as permitted or conditional uses...provided they are deemed fitting or compatible to the district by the City Council.”
- ) **Location:**
- o XXXX Prairie Drive
  - o Legal Description: Part of Outlot A, Sunrise Addition
  - o Parcel number(s): 48.2871.000
- ) **Zoning:** PUD-CH - Planned Unit Development - Country Homes
- 

### **Applicable Statutes/Ordinances:**

#### **Little Falls City Code**

#### 11.04: ADMINISTRATION AND ENFORCEMENT

#### D. Conditional Uses:

1. Purpose: In order to give the district use regulations of this chapter the flexibility necessary to achieve the objectives of the comprehensive guide plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required. The permit shall be issued for a particular use and not for a particular person or firm. The cancellation of a permit shall be considered equivalent to a rezoning, and the same requirements and procedures shall apply.
2. Application, Referral To Planning Commission, Planning Commission Recommendation And Council Action: Except as otherwise noted in this subsection, the application and presentation requirements for conditional permits shall be the same as those for variances as provided in subsection C of this section.

3. Revocation: A violation of any condition set forth in a conditional use permit shall be a violation of this chapter and automatically terminate the conditional use permit.
4. Use Of Permit: Upon the issuance of a conditional use permit by the council, said permit shall be in force on a temporary basis for a period not to exceed one year from the date of issuance. If, during said one year period, the conditional use authorized by said conditional use permit has not been completed, said conditional use permit shall lapse and become void unless, during said one year period, the city council extends the period of time to complete said authorized use.
5. Lapse Of Conditional Use Permit: A conditional use permit shall lapse and become void if the conditional use for which the conditional use permit has been granted is discontinued for a period of one year, or if the use for which a conditional use permit was granted is changed for a period of one year to a use for which no conditional use permit is required.
6. Cancellation: A conditional use permit may be cancelled by following the requirements and procedures for an amendment to the zoning ordinance. (Ord. 18, 3rd Series, eff. 9-29-1986)

#### 11.05: ZONING DISTRICTS AND MAP

##### D. R-1 One- and Two-Family Residential District:

###### 1. Permitted Uses:

- g. A daycare facility servicing fourteen (14) or fewer persons and licensed, if necessary, by the state department of human services.

###### 2. Conditional Uses:

- a. Public and private schools.
- b. Churches, parish houses and other structures located on the same site which are integral parts of the church proper.
- e. Hospitals, nursing homes, homes for the aged (including assisted living, memory care or similar) and medical clinics; provided, that no building shall be located within fifty feet (50') of any property line.
- l. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the Council shall consider factors related to the intensity of use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, and other factors that may be relevant to making a determination as to whether a

particular use is of the same general character as a permitted or conditional use.

E. R-1C Country Homes, One- And Two-Family Residential District:

1. Permitted Uses: Any use permitted in the R-1 one- and two-family residential district.
2. Conditional Uses: Any use permitted as a conditional use in the R-1 one- and two-family residential district.

O. Planned Unit Development - Country Homes, PUD-CH:

2. Uses Permitted: Within the planned unit development - country homes area, no structures or land shall be used, except for one or more of the following uses, which uses shall be permitted only by planned unit development procedures and subject to all stated procedures: permitted, conditional and accessory uses within country homes, one- and two-family residential, R-1C.

5.30: SIGN REGULATIONS:

E. Specific Regulations By Zoning District:

3. Permitted Nonresidential Uses In Residential Districts: Within any residential zoning district, where a property contains legal nonresidential uses, non-exempt signs are allowed as follows (whether or not a permit is required):

<b>Nonresidential Uses In Residential Zoning Districts</b>	<b>Maximum Sign Area Of Single Sign</b>	<b>Maximum Height</b>	<b>Cumulative Maximum Sign Area of All Non-Exempt Signs</b>
R-1, R-1C, R-1.M (150' frontage or less)	32 sq. ft. per surface	8'	32 sq. ft.
R-2, R-2.M (150' frontage or less)	32 sq. ft. per surface	8'	32 sq. ft.
R-3, R-3.M, R-4 (150' frontage or less)	40 sq. ft. per surface	8'	40 sq. ft.
R-1, R-1C, R-1.M (150' - 300' frontage)	32 sq. ft. per surface	8'	40 sq. ft.
R-2, R-2.M (150' - 300' frontage)	32 sq. ft. per surface	8'	40 sq. ft.

R-3, R-3.M, R-4 (150' - 300' frontage)	40 sq. ft. per surface	10'	40 sq. ft.
R-1, R-1C, R-1.M (greater than 300' frontage)	40 sq. ft. per surface	8'	40 sq. ft.
R-2, R-2.M (greater than 300' frontage)	40 sq. ft. per surface	8'	40 sq. ft.
R-3, R-3.M, R-4 (greater than 300' frontage)	48 sq. ft. per surface	15'	100 sq. ft.

**Findings of Fact:** The following findings of fact are presented by Staff for consideration by the Planning Commission/Board of Adjustment:

1) **Current Zoning:**

- Subject Property: Planned Unit Development - Country Homes, PUD-CH
- Surrounding Properties:
  - West: R-1C Country Homes, One- And Two-Family Residential District
  - South: Planned Unit Development - Country Homes, PUD-CH
  - North: Planned Unit Development - Country Homes, PUD-CH
  - East: Planned Unit Development - Country Homes, PUD-CH/B-3 Noncentral Business District

2) **Current Land Use:**

- Subject Property: Vacant property
- Surrounding Properties:
  - West: Single-family dwellings
  - South: Church property
  - North: Vacant property
  - East: City property/Church property

3) **Lot size:** Approximately 18.7 acres (proposed use would be on an approx. 3.25 acre split from the current property)

- Existing impervious surface: 0 sq. ft. (0%).
- Proposed net impervious surface: Approx. 25,250 sq. ft. (17-18%)

4) **Sewer/Water:** The property has City sewer/water available.

5) **Natural Features:**

Floodplain: The property is not within an identified floodplain

Bluff/Steep Slopes: The property does not contain any bluffs or steep slopes in the location of the proposed garage. The site is flat.

Wetlands: There are not any wetlands on the property that would impact the proposed use.

6) **Will the granting of the conditional use be in harmony with the general purposes and intent of the Zoning and/or Subdivision Ordinance?**

**Needs discussion.** The primary question with this application is whether a commercial daycare serving more than 14 persons is of the same general character as other permitted or conditional uses in the PUD-CH district. Such uses that are allowed as conditional uses in the PUD-CH district include churches, schools and nursing homes.

7) **Will the granting of the conditional use be consistent with the City of Little Falls' Comprehensive Plan?**

The Comprehensive Plan does not directly address applications such as these. The property is subject to an existing master plan for the Sunrise Addition PUD. That master plan would need to be revised before any permit could be issued for the proposed use. A subdivision of land is also anticipated prior to any issuance of permits. Both the master plan revision and the subdivision would be subject to review by the Planning Commission and City Council at a future meeting.

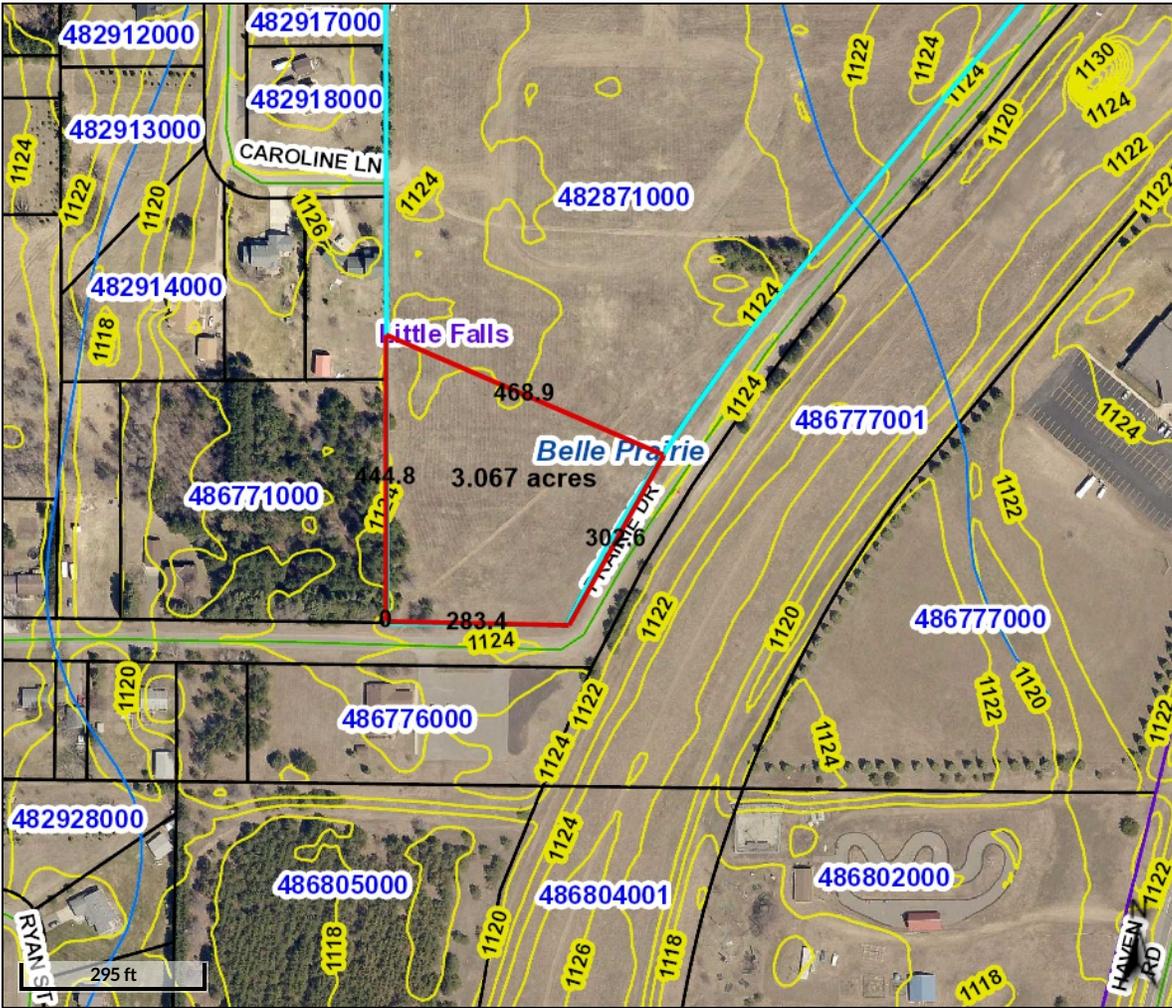
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**Planning Commission/Board of Adjustment Direction:** The Planning Commission may recommend to the Council approval of the conditional use request, denial of the request, or tabling of the request if the Commission/Board should need additional information from the applicant. If the Commission/Board should approve or deny the request, the Commission/Board should state the findings which support either of these actions.

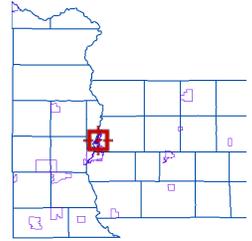
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**Staff Comments:** As the Planning Commission/Board of Adjustment considers this application, Staff would make the following comments:

1. Staff has not received any comments from the public regarding this application at the writing of this report. Any received before the meeting will be presented to the Planning Commission/Board of Adjustment at the hearing.
2. Any signage for the property is subject to the City's sign regulations. These include limits of 40 sq ft of total signage on the property with a maximum 8 ft sign height.



**Overview**



**Legend**

-  Corporate Limits
-  Political Township
-  Parcels
-  Road Centerlines
-  Elevation Contour:
- Streams**
-  <all other values>
-  Protected Stream
-  Protected Stream/County Ditch
-  Original Path
-  County Ditch
-  Protected Ditch
-  Protected Ditch/County Ditch

Parcel ID	482871000	Alternate ID	n/a	Owner Address	MICHAEL J & JODIL CORROW
Sec/Twp/Rng	n/a	Class	2ANHGA-Agricultural Non-homestead - Non HGA		14936 RIDGEWAY DR
Property Address		Acreage	n/a		FORT RIPLEY MN 56449
District	LITTLE FALLS EAST-#482-HRA				
Brief Tax Description	SUNRISE ADDITION OUTLOTA				

(Note: Not to be used on legal documents)

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Date created: 5/2/2017  
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Phone: 320-616-5500  
Fax: 320-616-5505

Fee Paid 325<sup>00</sup>

Date Filed 19 APR 2017

Receipt Number 84216

**Application For: REZONING, VARIANCE AND CONDITIONAL USE**

Have you reviewed Chapter 11, Section 11.04 of the City Code dealing with zoning laws of the City of Little Falls? (available online: www.cityoflittlefalls.com)

Yes X No \_\_\_\_\_

Street Address of Property XX PRINCE DRIVE

Legal Description of Property APPROXIMATELY 2.5 ACRES OF SOUTHERNMOST SECTION OF OUTLOT A, LOCATED IN THE CITY OF LITTLE FALLS IN THE COUNTY OF MORRISON IN THE STATE OF MINNESOTA.

Parcel Identification Number 2871

Owner - Name JERRY THOMAS Phone 320-360-9926  
Address 16787 MISSISSIPPI BLVD  
City LITTLE FALLS State MN Zip 56345

Applicant (if other than owner) -

Name ANDREW EBERT Phone 320-360-1814  
Address 14602 RYAN ST  
City LITTLE FALLS State MN Zip 56345

Type of Request - Rezoning \_\_\_\_\_ Variance \_\_\_\_\_ Conditional Use X Other \_\_\_\_\_

Description of Request CONDITIONAL USE REQUEST TO OPERATE DAYCARE FACILITY SERVICING GREATER THAN FOURTEEN (14) PERSONS.

Reason for Request LOCATION IS DESIRED FOR ACCESS TO CITY UTILITIES, LAND AVAILABLE, AND IS MARKETABLE LOCATION TO SUPPORT FULL-TIME EMPLOYEES OF CAMP RIPLEY AND SURROUNDING LITTLE FALLS COMMUNITY.

Present Zoning Classification [REDACTED] PUD-CH

Existing Use of Property VACANT LAND

Existing Use and Zoning of the Surrounding Area (two blocks) WEST: R1-C EAST: B-3 SOUTH: PUD-CH  
( PARK ) ( CHURCH )

Has a request for a variance, special use permit, or rezoning on the subject site - or any part thereof - been previously sought?

Yes X No \_\_\_\_\_ When 2003: JIM AREA MASTERPLAN

Signature of Applicant/s [Signature]

Date 19 APRIL 2017

I am the legal fee owner of the property described on this application and I consent to this application

Signature of owner/s Jerry Thomas J & M Developers

Approved \_\_\_\_\_ Denied \_\_\_\_\_ by the Planning Commission on \_\_\_\_\_ Date

Approved \_\_\_\_\_ Denied \_\_\_\_\_ by the City Council on \_\_\_\_\_ Date

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: 8280 SF. BUILDING

Landscaping: PLANT TREES ON NORTH BOUNDARY

Parking/Signs: PAVED STAFF; DROP-OFF PARKING; ONE (1) BUSINESS SIGN IN FRONT

2. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses? \_\_\_\_\_

SEE ATTACHED.

3. Describe the impact on the character of the neighborhood in which the property is located. \_\_\_\_\_

SEE ATTACHED

4. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal? \_\_\_\_\_

SEE ATTACHED

5. What part of the City Zoning Ordinance creates a practical difficulty to the property in question? What is the practical difficulty that prevents the land to be used in a reasonable way? \_\_\_\_\_

SEE ATTACHED

Use other side of page if necessary.

Mailing Address: City of Little Falls, P.O. Box 244, Little Falls, MN 56345

2. Describe the character of the area and the existing patterns and use of development in the area. How is the proposal consistent with those patterns and uses?

**Location is outlot to J&M residential masterplan, currently unimproved. Park and church are adjacent properties. Service provided directly supports patterns and use of surrounding community.**

3. Describe the impact on the character of the neighborhood in which the property is located.

**Neighborhood is diverse with residential, commercial use, and special use. Church, park, and homes in area. Minimal to no impact with character to area with childcare services being provided.**

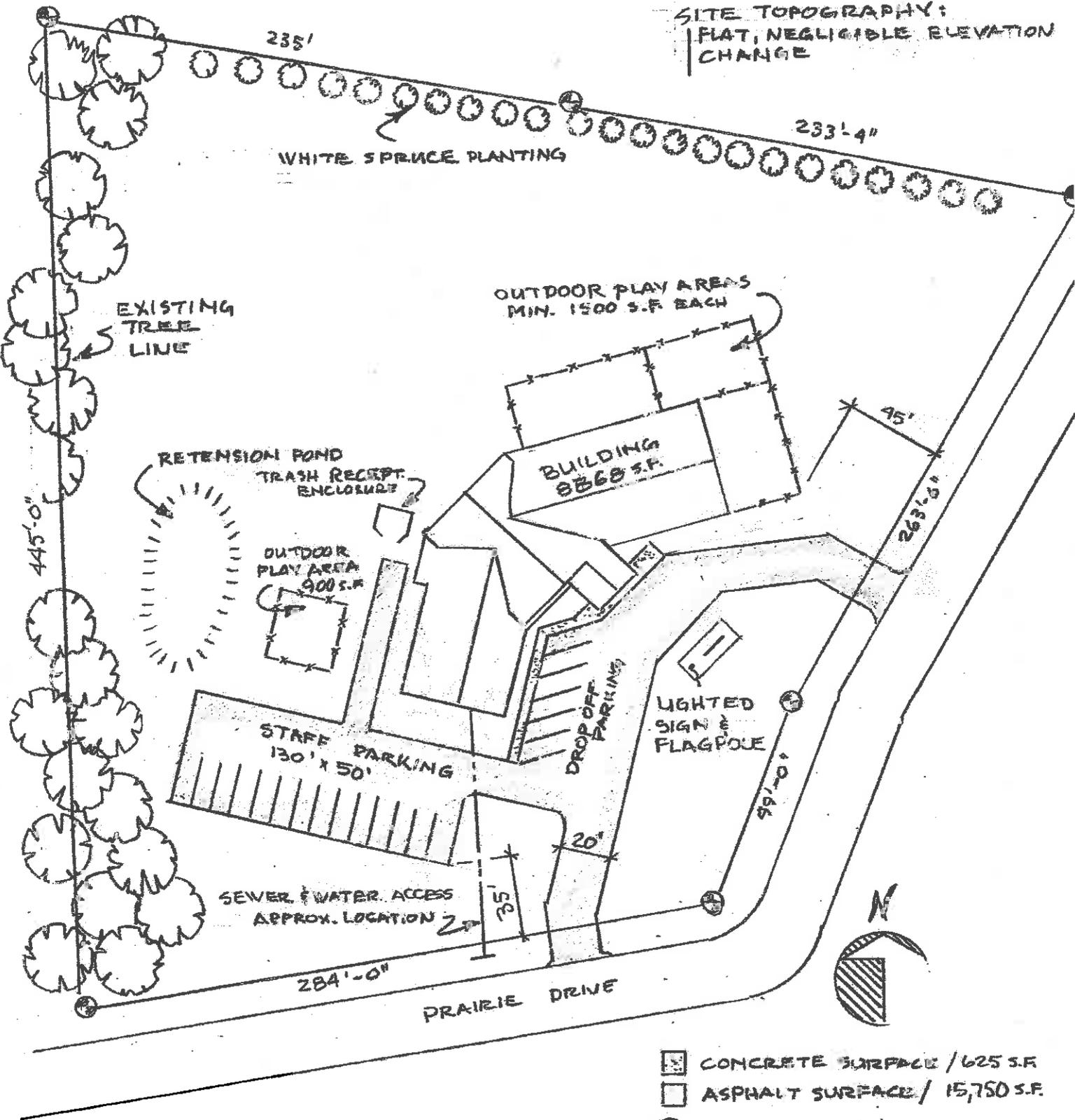
4. Describe the impact to the traffic on roads and highways in the vicinity, and the expected traffic generated by the proposed use. Is there adequate off-street parking available to accommodate the proposal?

**There would be additional traffic to area but access from Haven Rd. currently allows minimal to no impact on neighborhood. This would estimate between 25-35 vehicles during mornings and evenings as peak drop-off and pick-up times. Parking lot accommodations with drive thru access is part of facility design. Existing church and park at that site already validate feasible traffic patterns in that area.**

5. What part of the City Zoning Ordinance creates a practical difficulty to the property in question? What is the practical difficulty that prevents the land to be used in a reasonable way?

**11.05 D.1 (g) - A daycare facility servicing fourteen (14) or fewer persons and licensed, if necessary, by the state department of human services. Request is for conditional use to operate daycare facility greater than fourteen (14) persons. Licensing is through the state department of human services.**

SITE TOPOGRAPHY:  
 FLAT, NEGLIGIBLE ELEVATION  
 CHANGE



-  CONCRETE SURFACE / 625 S.F.
-  ASPHALT SURFACE / 15,750 S.F.
-  IRON MONUMENT

CHILD DAYCARE LITTLE FALLS MINNESOTA	DATE: 4/18/17
SITE PLAN	SCALE: 1" = 60'-0"

87'-6

57'-4

181'-0  
50'-0

73'-8

ROOF LINE

ACTIVITY / LUNCH RM  
1960 S.F.

STOR

REST RM

REST RM

SCHOOL BARE  
800 SF

KITCHEN  
450 SF

STAFF RP

STOR

INFANT  
620 SF

CAB'S

TRANSITION  
466 SF

MECH

CONF  
165 SF

OFFICE  
165 SF

LOBBY

LOCKERS

TODDLERS  
710 SF

46'-0

CRIB ROOM  
324 SF

40'-0

ROOF LINE

VESTIBULE

STOR

PRE SCHOOL  
870 SF

REST ROOM

STOR

34'-8

50'-0

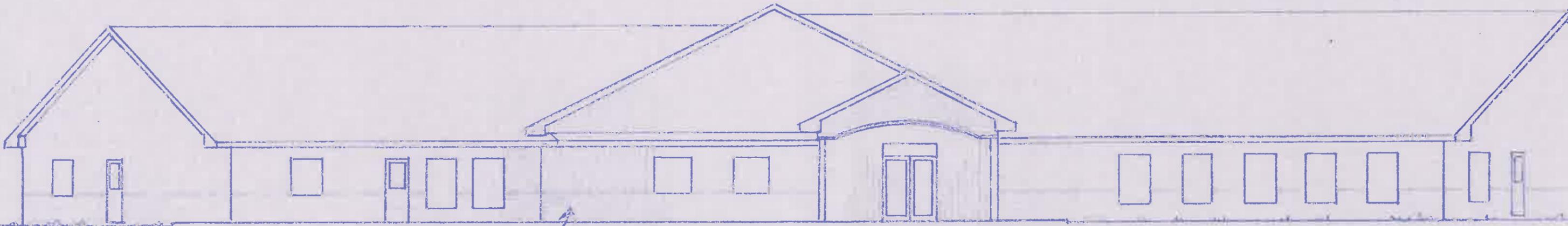
48'-8

COVERED ENTRY

TOTAL SQ FT = 8868

SCALE: 3/32" = 1'-0"

STEEL ROOFING PAINTED  
6/12 PITCH



STEEL SIDING  
12" B+D UPPER  
4" LAP LOWER

CHILD DAYCARE  
LITTLE FALLS  
MINNESOTA  
FRONT ELEVATION

DATE: 4/18  
SCALE: 3/32" = 1'



## STAFF REPORT

**Application:** Public Hearing – Ordinance Amendments, Chapter 11 (Zoning)

**Applicant:** City of Little Falls Planning Commission

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**Background Information:** Since late 2016, the Planning Commission has been discussing changes to Section 11 (Zoning) in an attempt to address outdated and sometimes conflicting ordinances as well as to amend how certain land uses are regulated. The amendments presented tonight represent the complete list of amendments that are now proposed for adoption.

The proposed amendments also include changes to the City’s official zoning map, necessitated both by the fact that two zoning districts have been proposed for elimination from Chapter 11 (the current B-1 and I-1 zoning districts) as well as to better reflect both what is currently on certain properties vs. what is anticipated as the future use.

A summary of the amendments included in the attached includes:

1. Nonconforming uses and structures:
  - a. Eliminate a requirement that certain legal nonconforming uses and structures be ceased within a 36-month time period. This kind of a requirement is known as “amortization” and was a practice that largely became prohibited by state law in 1999 (the City has not been enforcing this provision since the change to state law, to the best of Staff’s knowledge).
  - b. Eliminate procedures and regulations that allow for certain additions to structures on nonconforming lots with a conditional use permit and replace with a requirement that any alterations or additions that are not specifically allowed by MN Statutes 462.357, Subd. 1e (which allows for replacement, but not expansion) will require a variance.
2. Accessory buildings on residential lots:
  - a. Replace the existing requirement that all detached accessory buildings combined on a lot be limited to a combined total floor area of 1,400 sq ft with a sliding scale based on lot size that allows for a maximum of 2,000 sq ft on lots larger than 1 acre in size.
  - b. Clarify that the above measurement is based on the outside dimensions of a building.
3. Small detached accessory buildings:
  - a. Modify a requirement that all detached accessory structures with factory painted or vinyl coated corrugated metal siding and/or roofing including boxed eaves so that it only applies to those buildings larger than 200 sq ft in total floor area.

- b. Allow for detached accessory buildings on a non-permanent foundation to be placed on otherwise empty lots (current ordinances do not allow any accessory buildings prior to a primary building being on a lot).
4. Setback/yard requirements:
- a. Expand the list of items that are not required to meet property line setback requirements to include items such as flag poles, sidewalks, wheelchair ramps, mailboxes, awnings and certain trees, shrubs or plants.
  - b. Reduce the street or avenue setback for terraces, steps, decks and other similar structures from 15 feet to 10 feet.
  - c. Reduce the required side yard setback for detached accessory structures 48 sq ft or less in size from 5 feet to 2 feet.
  - d. Amend how the maximum lot coverage is regulated on residential-zoned properties. Maximum coverage is currently 75% and would be replaced with a sliding scale based on lot size that would generally reduce the allowable lot coverage on such lots in an attempt to avoid drainage and flooding problems.
5. Fence regulations:
- a. For fences located in front yards at street intersections, the retain the current requirement that fences not obstruct views 25 ft back from the intersecting lot lines at the street corner for uncontrolled intersections;
  - b. For controlled intersections (2 or more stop signs/lights), reduce the distance noted above to 10 feet from the intersecting lot lines
  - c. For fences in front yards, increasing the maximum allowed height from 4 ft to 6 ft (unless located within the "sight triangle" as noted in 3a. and 3b. above.
  - d. To add a clarification that fences 30 inches in height or less do not require a permit.
6. New structures on nonconforming lots:
- a. Add a requirement that any such construction meet the impervious coverage limits elsewhere in the Code;
  - b. Eliminate a requirement that any such construction have impervious coverage equal to or less than the average impervious coverage of lots within 100 feet.
  - c. Add a requirement that impervious coverage be limited in residential zoning districts to 33 percent for small lots and a declining percentage as lot size increases (down from the current 75% limit).
7. Conditional use permit criteria:
- a. The addition of a specific list of criteria to be considered by the City in reviewing and acting on requests for conditional use permits.

- b. The addition of a list of special conditions that could be required when a conditional use permit is approved.
- 8. Revisions to zoning district regulations (Chapter 11.05):
  - a. Elimination of the B-1 and I-1 zoning districts so as to simplify the regulation of land uses.
  - b. Renaming of existing Commercial and Industrial zoning districts – the resulting Commercial zoning districts would be B-1 (Central business district) and B-2 (Non-central business district). These would be most similar to the current B-2 and B-3 zoning districts, respectively. Industrial zoning district would no longer be segmented into light and heavy industrial districts.
  - c. Changes to the permitted and conditional uses within each zoning district, so as to simplify the description of allowed uses and allow greater flexibility where appropriate.
  - d. Changes to certain setback requirements to eliminate conflicting regulations and make the ordinance more readable.
- 9. Amendments to the requirements for screening of parking and driveway areas in certain areas as well as off-street loading time restrictions.
- 10. Amendments relating to motor fuel stations regarding what can be stored outdoors, certain setbacks, and eliminating specific sign requirements (which were better addressed in the City’s sign ordinances).
- 11. Elimination of specific regulations for drive-in establishments. These were seen as outdated and unnecessary.
- 12. Planned unit developments would be changed to an “overlay” zoning district that could be applied “on top of” the regular, underlying zoning district. This is intended to ensure that each zoning district can have the flexibility that a planned unit development provides, but also requires that a landowner request the PUD overlay designation and goes through a rezoning process to allow for that to occur. The proposed amendments for PUDs include sections which detail the procedures that need to be followed in a PUD application. Generally speaking, the language would require a public hearing as a conditional use and, when subdivision of land is occurring, processing the same as any subdivision would be processed. Amendments also include detailing specific requirements for PUD design standards, setbacks from property lines, installation of utilities, stormwater management, etc. All previous sections of the ordinance referencing PUDs would be replaced with this new section.
- 13. The section regulating adult uses within the City is entirely replaced so as to ensure adherence to constitutional protections afforded to certain adult uses and past case law on these matters. Such uses would be regulated both in terms of their location in the city (zoning) as well as how their operations are regulated (licensing).
- 14. Other amendments:

- a. Other amendments to eliminate conflicting, confusing or unnecessary elements of the existing ordinances.
- b. Other amendments as may be discussed at the meeting or suggested by the public.

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**Planning Commission Action:** In advance of the April 10 meeting date, please review the enclosed draft amendments and identify/list any areas where you feel changes would be appropriate or where you have questions/concerns.

11

LAND USE REGULATIONS (ZONING)  

11.01: PURPOSE:

11.02: DEFINITIONS:

11.03: GENERAL PROVISIONS:

11.04: ADMINISTRATION AND ENFORCEMENT:

11.05: ZONING DISTRICTS AND MAP:

11.06: PERFORMANCE STANDARDS:

11.07: SPECIAL PROVISIONS:

11.08: MOBILE HOME REQUIREMENTS; GENERAL PROVISIONS:

11.09: REGULATION OF ADULT USES:

11.10: COMMUNICATIONS TOWERS:

11.11: WIND ENERGY CONVERSION SYSTEMS:

11.12 - 11.19: RESERVED:

11.20: STORMWATER MANAGEMENT:

11.21 - 11.49: RESERVED:

11.50: FLOODPLAIN MANAGEMENT:

11.51: STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE:

11.52: GENERAL PROVISIONS:

11.53: ESTABLISHMENT OF ZONING DISTRICTS:

11.54: FLOODWAY DISTRICT (FW):

11.55: FLOOD FRINGE DISTRICT (FF):

11.56: GENERAL FLOODPLAIN DISTRICT:

11.57: SUBDIVISIONS:

11.58: PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES:

11.59: MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES:

11.60: ADMINISTRATION:

**11.61: NONCONFORMING USES:**

**11.62: PENALTIES FOR VIOLATION:**

**11.63: AMENDMENTS:**

**11.64 - 11.98: RESERVED:**

**11.99: VIOLATION A MISDEMEANOR:**

**11.01: PURPOSE:**  

These zoning provisions are adopted for the purpose of: a) protecting the public health, safety, morals, comfort, convenience and general welfare; b) dividing the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land; c) promoting orderly development of the residential, business, industrial, recreational and public areas; d) providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the bulk of buildings in relation to surrounding properties; e) limiting congestion in the public rights of way; f) providing for the compatibility of different land uses and the most appropriate use of land throughout the city; g) providing for the administration of this chapter and amendments thereto; h) defining the powers and duties of the administrative officers and bodies as provided hereinafter; and i) prescribing penalties for the violation of the provisions of this chapter thereto. (Ord. 34, 2nd Series, eff. 3-15-1979)

**11.02: DEFINITIONS:**  

Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of this chapter, shall have the meanings and inclusions subjoined to them:

**ACCESSORY USE:** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

**ADMINISTRATOR:** The person appointed as zoning administrator by the council, as provided by this chapter.

~~**ADULT USES:** Adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas", which are capable of being seen by members of the public. Activities classified as~~

"obscene", as defined by Minnesota Statutes Annotated section 617.241, are not included.

**ADULT USES—PRINCIPAL:** The offering of goods and/or services which are classified as adult uses as a primary or major activity of a business or establishment and include, but are not limited to, the following:

**Adult Use—Body Painting Studio:** An establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

**Adult Use—Bookstore:** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape or motion picture film, if such building or portion of a building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Use—Cabaret:** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

**Adult Use—Companionship Establishment:** A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Adult Use—Conversation/Rap Parlor:** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Adult Use—Health/Sport Club:** A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Adult Use—Hotel Or Motel:** A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

**Adult Use—Massage Parlor, Health Club:** A massage parlor or health club which restricts minors by

reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Use—Mini-Motion Picture Theater: A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Use—Modeling Studio: An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" which being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

Adult Use—Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug operated, or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

Adult Use—Motion Picture Theater: A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material, if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Use—Novelty Business: A business which has as a principal activity the sale of devices which stimulate human genitals, or devices which are designed for sexual stimulation.

Adult Use—Sauna: A sauna which excludes minors by reason of age, or which provides a steam bath or heated bathing room used for the purpose of bathing, relaxation or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Use—Steam Room/Bathhouse Facility: A building or portion of a building used for providing a steam bath or heated bathing room used for the purpose of pleasure, bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age, or if the service provided by the steam room/bathhouse facilities is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members paying annual dues, use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises, providing adequate dining room space and kitchen facilities are available.

COMMERCIAL FEEDLOT: An area where fifteen (15) or more animals per acre are fed solely for purpose of wholesale or retail sale.

COMMERCIAL KENNEL: Any premises where three (3) or more dogs, at any one time, over six (6) months of age, are owned, boarded, bred or offered for sale.

COMMERCIAL RECREATION: Bowling alley, cart track, jump center, golf, pool hall, vehicle racing for amusement, dance hall, skating, tavern, theater, firearms range and similar uses.

COMMISSION: The planning commission of the city.

COMPREHENSIVE PLAN: Unless otherwise stated, the general plan for land use, transportation and community facilities prepared and maintained by the planning commission.

CONDITIONAL USE: The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning use district, which for their respective conduct, exercise or performance in such designated use districts may require reasonable but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modifications or regulations in such use districts for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the city, and therefor may be permitted in such use district only by a conditional use permit.

CONDITIONAL USE PERMIT: A permit specially and individually granted by the council after review and recommendation by the commission for any conditional use so permitted in any use district.

CONSTRUCTION OFFICE: The principal place of business used by a company or individual engaged in building or road construction, including on site fabrication of components, on site storage and maintenance of equipment.

CONTROLLED INTERSECTION: An intersection with two or more stop signs or traffic signals.

CURB LEVEL: The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this chapter.

attention shall be measured as a separate sign. However, only one side of double faced signs shall be measured in computing the gross area thereof.

SIGN, ILLUMINATED: Any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes.

SIGN, NAMEPLATE: Any sign which states the name or address, or both, of the business or occupation of the lot where the sign is placed, or may be a directory listing the names, address and business of occupants.

SIGNIFICANT CULTURAL SITE: Any archaeological or historic site, standing structure or any other property that: a) is listed on the National Register of Historic Places; b) is listed in the State Register of Historic Sites; c) is determined to meet the qualifications for listing on the National Register of Historic Places or the state Register of Historic Sites after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society; or d) is determined by the city council to be a significant local heritage preservation landmark.

~~SPECIAL USE PERMIT: A permit issued by the city of Little Falls with such limitations or conditions as are appropriate to achieve the purposes of this chapter, as adopted by the city council by resolution, or after a public hearing is held.~~

SPECIFIED ANATOMICAL AREAS: A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus or female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the text of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or

D. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or

E. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or

F. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

G. Human excretion, urination, menstruation, vaginal or anal irrigation.

STAIRWAYS: Any structure providing access up and down a slope.

STEEP SLOPE: Land where agricultural activity or development is not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports. Where specific information is not available, "steep slopes" are lands having average slopes over twelve percent (12%) or more, and that are not bluffs.

STORMWATER MANAGEMENT PLAN: The plan that a designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the site development grading plan; peak rates of runoff, flow duration, runoff volumes for various return frequencies; locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It is usually submitted to regulatory officials for their review for adoption.

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

STREET: A public right of way not less than fifty feet (50') in width which affords a primary means of access of abutting property, and shall also include avenue, highway or road, excepting existing public rights of way of lesser width.

STREET SIDE GROUND FLOOR DWELLING UNITS: A dwelling unit contained within a larger building structure which is designed or used for purposes of permanent or temporary residency and located within the general-central business district B-2B-1 whereby any part of the exterior wall of the dwelling unit is adjacent to any street, avenue or alley.

STRUCTURE: Anything erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground. This shall include signs.

TRUCK STOP: A motor fuel station devoted principally to the needs of tractor trailer units and trucks, and which shall include eating and/or sleeping facilities.

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

**VEGETATIVE BUFFER:** A strip of well rooted, natural, chemically untreated vegetation, the width of which is set forth in this chapter, consisting of a mixture of grasses, shrubs and trees, immediately adjacent to the ordinary high water level.

**VETERINARY:** Those uses concerned with the diagnosis, treatment and care of animals, including animal or pet hospitals.

**WAREHOUSING:** The storage of materials or equipment within an enclosed building as a principal use.

**WETLANDS:** Lands in transition between terrestrial and aquatic systems where the water table is at or near the surface or the land is covered by shallow water. "Wetlands" are characterized by hydric soils, saturated or inundated with surface water, have a frequency or duration of hydrophytic vegetation, or support a prevalence of such vegetation under normal circumstances. Wetlands may be counted toward green space in a planned unit development.

**WHOLESALE:** The selling of goods, equipment and materials by bulk to another business that in turn sells to the final customer.

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

**ZONING DISTRICT:** An area or areas within the limits of the zoning jurisdiction for which the regulations and requirements governing use are uniform. (Ord. 801, eff. 6-3-1974; amd. Ord. 34, 2nd Series, eff. 3-15-1979; Ord. 132, 2nd Series, eff. 10-29-1984; Ord. 48, 3rd Series, eff. 4-18-1988; Ord. 58, 3rd Series, eff. 12-12-1988; Ord. 61, 3rd Series, eff. 12-5-1988; Ord. 52, 4th Series, eff. 2-13-1995; Ord. 125, 4th Series, eff. 9-14-1998; Ord. 126, 4th Series, eff. 5-17-1999; Ord. 141, 4th Series, eff. 7-12-1999; Ord. 22, 5th Series, eff. 11-6-2000; Ord. 38, 5th Series, eff. 12-3-2001; Ord. 123, 5th Series, eff. 7-10-2006; Ord. 22, 6th Series, eff. 4-5-2010; Ord. 49, 6th Series, eff. 9-16-2013; Ord. 56, 6th Series, eff. 5-5-2014; Ord. 69, 6th Series, eff. 1-5-2015)

### **11.03: GENERAL PROVISIONS:**

A. Application: 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, morals and welfare. Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall prevail. No structure shall be erected, converted, enlarged, reconstructed or altered, and no

structure or land shall be used for any purpose, nor in any manner, which is not in conformity with the provisions of this chapter.

B. Nonconforming Uses And Structures:

1. Any structure or use lawfully existing upon the effective date hereof may be continued at the size and in a manner of operation existing upon such date, except as hereinafter specified.
2. Nothing in this chapter shall prevent the placing of a structure in safe condition when such structure is declared unsafe by the building inspector. (Ord. 801, eff. 6-3-1974)
3. When any unlawful nonconforming structure, or use of any structure or land, in any district, is discontinued for a period of more than one year, or is changed to a conforming use, any future use of said structure or land shall be in conformity with the provisions of this chapter.
4. When any nonconforming structure is destroyed by fire or other peril, such as collapse, explosion, public enemy, act of war or act of God to the extent of greater than fifty percent (50%) of its market value, is in need of replacement or substantial remodeling, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged, in this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. (Ord. 124, 5th Series, eff. 7-17-2006)

~~5. Any lawful nonconforming use of land not involving a structure and any lawful nonconforming use involving a structure with an assessor's market valuation upon the effective date hereof of one thousand dollars (\$1,000.00), or less, may be continued for a period of thirty six (36) months after the effective date hereof, whereupon such nonconforming use shall cease. All nonconforming signs that are in existence upon the effective date hereof may remain as a nonconforming use. After this date, no existing sign shall be relocated, reconstructed or altered, except in accordance with the provisions of this chapter and sign regulations in the construction chapter of this code.~~

~~65.~~ Any structure which will, under this chapter, become nonconforming but for which a building permit has been lawfully granted prior to the effective date hereof, or of amendments thereto, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date hereof, or amendment thereof, and continues to completion within one year. Such structure shall thereafter be a legally existing nonconforming structure. (Ord. 801, eff. 6-3-1974)

~~76.~~ A lawful nonconforming use of a structure or parcel of land may be changed to a similar nonconforming use or to a less intense nonconforming use. (Ord. 124, 5th Series, eff. 7-17-2006)

~~87.~~ Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use. (Ord. 801, eff. 6-3-1974)

~~98.~~ ~~As of the date of adoption hereof, onetime~~Any alterations and additions ~~may be~~ made to a nonconforming structure or to a building located on a nonconforming lot that contains lawful residential

~~units which are not specifically allowed by MN Statutes 462.357, Subd. 1e when it will improve the livability thereof. A conditional use permit may be issued, provided the alterations/additions meet all of the following items, and the property owner applies for and is granted a conditional use permit: shall require a variance.~~

~~a. No other owner has previously used the onetime addition. Nonconforming structures are only allowed one occasion to expand during the lifetime of the structure and not one occasion per owner.~~

~~b. Any alteration or addition must meet the setback requirements of the zoning district that the nonconforming lot is located in.~~

~~c. The nonimpervious surface percentage must be equal to or greater than the abutting property's nonimpervious surface percentage average after the completion of the addition. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.~~

~~d. The size of the addition is less than fifty percent (50%) of the principal structure, as measured in square feet of the outside dimensions of the principal structure.~~

~~e. Any alteration or addition cannot create new nonconformities or increase the parking requirements.~~

~~10. In addition to the onetime addition or alteration of the principal structure, an accessory structure may be added. A conditional use permit may be issued, provided the accessory structure meets the following items and the property owner(s) applies for and is granted a conditional use permit:~~

~~a. Any accessory structure must meet the setback requirements of the zoning district that the nonconforming lot is in.~~

~~b. The nonimpervious surface percentage must be equal to or greater than the abutting properties' nonimpervious surface percentage average, after the completion of the accessory structure. Abutting properties are those properties that are zoned as residential and are within a one hundred foot (100') radius of the property in question.~~

~~c. The type of accessory structure must match the style, type and appearance of the principal structure located on the lot.~~

~~d. The enlargement or replacement does not create new nonconformities or increase in parking requirements. (Ord. 151, 5th Series, eff. 12-3-2007)~~

### C. Lot Provisions:

1. A lot of record existing upon the effective date hereof in any R residential district, which does not meet the requirements of this chapter as to area or width, may be utilized for single-family detached dwelling purposes, provided the measurements of such area and width are within seventy percent (70%) of the requirements of this chapter, but said lot of record shall not be more intensively developed unless

combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this chapter. (Ord. 801, eff. 6-3-1974)

2. Except in the case of planned unit developments as provided for herein, or in zoning district ~~B-3B-2~~ noncentral business district by conditional use permit, not more than one principal building shall be located on a zoning lot. (Ord. 117, 5th Series, eff. 2-13-2006)

D. Accessory Buildings:

1. No accessory building or structure exceeding 120 sq ft in footprint or which is on a permanent foundation shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

2. No accessory building shall exceed the height of the principal building or eighteen feet (18'), whichever is higher. ~~However, in no case shall such accessory building exceed eighteen feet (18') in height in any residential (R) district.~~

3. In all residential (R) districts ~~no accessory building or buildings shall exceed one thousand four hundred (1,400) square feet~~ the maximum of combined floor area size of detached accessory structures (individually or combined), as measured by the footprint of the structure, shall be no greater than as listed in the following table: except by conditional use permit:-

Lot Size:	Maximum <del>combined floor area</del> <u>footprint</u> :
0-12,000 square feet	1,400 sq ft
12,001 – 21,780 square feet (1/2 acre)	<del>1,800 sq ft</del> <u>1,600 sq ft</u>
21,781 – 43,560 square feet (1 acre)	<del>2,400 sq ft</del> <u>1,800 sq ft</u>
Greater than 43,560 square feet (1 acre)	<del>3,000 sq ft</del> <u>2,000 sq ft</u>

4. No detached garages or other accessory buildings shall be located other than within the principal or accessory setback within any residential (R) district.

~~5. All accessory buildings on through lots located in all residential (R) districts shall require a conditional use permit.~~

~~65.~~ No cellar, basement, tent, recreational vehicle, mobile home or accessory building shall at any time be used as an occupied dwelling, except mobile homes located in an approved mobile home park or as otherwise allowed by the City Code.

~~76.~~ Accessory buildings in the ~~limited business district~~ central business district B-1, ~~general business district B-2,~~ noncentral business district ~~B-3B-2~~, industrial district I-1-~~(light)~~ and industrial district I-2 ~~(heavy)~~, may be located any place to the rear of the principal building, subject to the building code and the fire zone regulations. Accessory buildings in the noncentral business district ~~B-3B-2~~ may be located beside or in front of the principal building by conditional use permit.

87. In all residential (R) districts accessory structures or buildings of a factory painted or vinyl coated corrugated metal siding and/or roofing are permitted, but shall include boxed eaves if they are greater than 200 square feet in total floor area.

E. Required Yards And Open Space:

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

2. No required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, other open space or minimum lot area requirement for any other building.

3. The following shall not be considered to be encroachments on yard requirements required elsewhere in this chapter:

a. Chimneys, flag poles, sidewalks up to 5' in width, wheelchair ramps, trees, shrubs, plants, mailboxes, awnings, open canopies, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters and the like, provided they do not extend more than two and one-half feet (2<sup>1</sup>/<sub>2</sub>'), and off street parking, except as hereinafter regulated.

b. Yard lights and nameplate signs for one- and two-family dwellings, lights for illuminating parking areas, loading areas or yards for safety and security purposes, provided the direct source of light is not visible from the public right of way or adjacent residential property, may be located to within five feet (5') of the front lot line. (Ord. 56, 6th Series, eff. 5-5-2014)

c. Terraces, steps, uncovered porches, decks, stoops or similar structures, which do not extend above the height of the ground floor level of the principal building and maintain a two foot (2') minimum side yard and ~~fifteen foot (15')~~ ten foot (10') street or avenue setback.

d. In side or rear yards only, bays not to exceed a depth of two feet (2') nor contain an area of more than twenty (20) square feet, fire escapes not to exceed a width of three feet (3') and open off street parking. (Ord. 67, 6th Series, eff. 11-17-2014)

e. ~~In R~~ rear yard only, balconies, accessory structures, except that no structure shall be closer than ten feet (10') from the rear lot line, breezeways, detached outdoor picnic shelters and recreational equipment, except as regulated hereinafter.

f. In side yards only, accessory structures, except that no accessory structure larger than 48 square feet shall be closer than five feet (5') from any interior side lot line and on a corner lot in all residential (R) districts, shall not be closer than fifteen feet (15') from a side lot line adjacent to a street or avenue. Accessory structures 48 square feet or smaller shall be no closer than two feet (2') from any interior or corner side lot line.

4. On a corner lot, nothing shall be placed or allowed to grow in such a manner as ~~materially~~ to materially impede vision between a height of two and one-half feet (2<sup>1</sup>/<sub>2</sub>') and ten feet (10') above the centerline grades of the intersecting streets. For uncontrolled intersections, the regulated area shall extend to the triangle created by connecting the end points of the lines within twenty five feet (25') of the street intersecting right of way lines and for controlled intersections within ten feet (10') of the street intersecting right of way lines.

5. In no event shall off street parking spaces, driveways, structures of any type, buildings or other impervious features in any residential district where the use of the lot is for between one and four (1-4) residential units cover more than ~~seventy five percent (75%)~~thirty-three percent (33%) of up to the first 12,000 sq ft of lot area and an additional fifteen percent (15%) of any square footage above 12,000 sq ft.~~resulting in less than twenty five percent (25%) landscaped area in residential districts.~~ For all other uses, impervious coverage shall be limited to seventy five percent (75%) provided that all requirements of Section 11.20 of the City Code are met.

~~6. In rear yards, recreational and laundry drying equipment, picnic tables, open arbors and trellises, balconies, breezeways, porches, detached outdoor living rooms and outdoor eating facilities provided these are not less than two feet (2') from any lot line.~~

7. Height limitations shall not apply to barns, silos and other structures on farms, to church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public facilities and public utility facilities, transmission towers of commercial and private radio broadcasting stations, television antennas, and parapet walls extending not more than four feet (4') above the limiting height of the building, except as hereinafter provided. (Ord. 56, 6th Series, eff. 5-5-2014)

F. Annexed Territory: No annexation petition shall be ~~considered approved~~ unless and until a hearing has been petitioned for placing the annexed territory in a zoning district or districts. In the event of an involuntary annexation, the council or the planning commission shall commence proceedings for placing the annexed territory in a zoning district or districts before the annexation becomes final, and call for a hearing thereon. In the event of an orderly annexation agreement, the council may zone the entire designated area subject to the orderly annexation after execution of said agreement and a zoning public hearing is held on the same. No building permits shall be issued in annexed territory until such hearing has been held and the territory assigned in a zoning district or districts. (Ord. 75, 5th Series, eff. 7-21-2003)

G. Farming Operations: All farm operations ~~currently~~ in existence on or before June 3, 1974 will be permitted to continue operation, subject to the following conditions:

1. Agriculture, excepting commercial animal farms, fur farms, kennels and poultry farms, but including truck gardening and other horticultural uses, is a permitted use in the district in which an existing

operation is located; provided, that any new private stable or other new building in which farm animals are kept shall be a distance of sixty feet (60') or more from any other lot in an R district.

2. Limited sales of products produced may be conducted on the premises from a roadside stand, but such stand shall not exceed twelve feet (12') in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than forty feet (40') from any street line.

3. The council may require any farm operation to secure a conditional use permit to continue said operation in the event the farming operations are so intensive as to constitute a feedlot or an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade; and further, that such operations may tend to become permanent industrial type operations that cannot be terminated as can a normal farming operation.

H. Land Reclamation: Under this chapter, land reclamation is the reclaiming of land by depositing of material so as to elevate the grade. Land reclamation shall be permitted only by conditional use permit in all districts. Any lot or parcel upon which four hundred (400) cubic yards or more of fill is to be deposited shall be land reclamation. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land, and as conditions thereof shall regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, controls of vehicular ingress and egress, and for control of materials disbursed by wind or hauling of materials to or from the site.

I. Mining: The extraction of sand, gravel or other material from the land in the amount of four hundred (400) cubic yards or more and removal thereof from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include as a condition thereof, a plan for a finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted and the route of trucks moving to and from the sites.

J. Soil Processing: The processing of sand, gravel or other material mined from the land shall be permitted only by conditional use permit. Such conditional permit shall include a site plan where the processing is to be done, showing the route of trucks moving to and from the site in removing processed material from the site, the condition in which the site shall be left upon completion, and such permit shall not be granted for a period of longer than twelve (12) months.

K. Vacated Streets: Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such processing.

L. Dwelling Units Prohibited: No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building, shall at any time be used as a dwelling unit, except trailers located in an approved mobile home park. The basement portion of a finished home or apartment building may be used for normal eating and sleeping purposes, provided it is properly dampproofed, has suitable fire protection and exits, and is otherwise approved by the building inspector.

A recreational vehicle shall not be considered a dwelling unit if it is located on a property that contains a primary dwelling (or where a dwelling is under active construction) for fourteen (14) days or less and is road ready and currently licensed. This time frame may be extended up to 180 days between April 1 and October 31 upon approval by the Zoning Administrator after a written request by the property owner has been made.

M. Relocated Structures: Before any house or other structure is moved onto a vacant lot, the zoning administrator shall report to the council whether the structure will be compatible with other development in the area. If the council concurs with the decision of the zoning administrator that a structure would depreciate the area into which it is to be moved, it may withhold issuance of a permit for such relocation. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located, together with adjacent lots and structures. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for eighteen (18) months or less. (Ord. 801, eff. 6-3-1974)

~~N. Planned Unit Developments: Planned developments shall include all developments having two (2) or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivision submitted under "density zoning" provisions, multi-use structures such as an apartment building with retail at ground floor level, all development located within the planned unit development district (PUD district) and similar projects. Such developments may be excluded from certain requirements of this chapter, provided the development meets the requirements of subsection 11.07D of this chapter.~~

~~1. A complete detailed plan is submitted to the zoning administrator showing the location of all proposed structures, driveways, landscaping, parking, screening, sidewalks, access drives, land uses and such other information as may be requested. It is the intent of this subsection to provide a means to allow design flexibility by substantial variances from the provisions of this chapter, including uses, setbacks, height and similar regulations, but not including parking requirements, off street loading, necessary screening and the like. Variances may be granted for planned unit developments (PUDs) provided:~~

~~a. Certain regulations contained in this chapter do not realistically apply to the proposed development due to the unique nature of the proposed development.~~

~~b. The variances, if granted, would be fully consistent with the general intent and purpose of this chapter.~~

~~c. The planned unit development (PUD) would produce urban development and an urban environment of equal or superior quality to that which would result from strict adherence to the provisions of this chapter.~~

~~d. The variances will not constitute a threat to the property values, safety, health or general welfare of the owners or occupants of adjacent or nearby land nor be detrimental to the health, safety, morals or general welfare of the people. The proposed development is of such a unique nature as to require consideration under conditions of a planned unit development (PUD). It shall be determined that the variances are required for reasonable and practicable physical development according to a plan and are not required solely on the basis of financial consideration.~~

~~2. The council, upon review and recommendations of the planning commission, shall find that the proposed development is fully consistent with the purposes of this chapter and in conformity to the comprehensive plan.~~

~~3. A special use permit is granted. (Ord. 116, 3rd Series, eff. 3-23-1992)~~

O. Townhouses: Townhouses are attached dwelling units each with a separate entrance to front and rear yards. Townhouses may be permitted in any ~~R-3~~residential district; provided, that each dwelling unit has at least three thousand six hundred (3,600) square feet of lot area; and provided, that the following minimum specifications are met:

~~1. Front yard setback of thirty feet (30');~~

~~2. Rear yard setback of thirty feet (30');~~

~~3. Interior side yard setback of zero feet (0');~~

~~4. Corner side yard setback of fifteen feet (15');~~

~~5. Exterior side yard setback of five feet (5'); All setbacks are met consistent with the zoning district in which the property lies;~~

~~6. Floor area per unit of eight hundred sixteen (816) square feet; and~~

~~7. Lot width of twenty four feet (24'). (Ord. 72, 2nd Series, eff. 1-24-1983)~~

~~P. Single-Family Homes: Single-family homes may be excluded from lot area and setback requirements, provided a special use permit is issued under terms of the "planned development" provisions of this chapter. Density zoning shall be interpreted to mean the permission of lower density (lot area) standards under conditions whereby the number of dwelling units permitted is not greater than permitted by the application of the regular provision of the district, but with all land excluded from the~~

~~lot area requirements added onto public open space (park, playground, school site, walkway or other approved open green space). (Ord. 801, eff. 6-3-1974)~~

Q. Fences: Fences shall be permitted in all yards, subject to the following:

1. Fences in residential districts must comply with the height and setback requirements as listed below:

FENCE HEIGHT IN RESIDENTIAL DISTRICTS

Location	Maximum Height (As Measured From 6" Above The Adjacent Ground Level)	Distance From Lot Line <u>(does not apply to a lot line which is also a public right-of-way)</u>
Front yard	<del>6'</del> 4' (perpendicular to street) <del>4'</del> (parallel to street)	2', unless fence can be maintained entirely from 1 side, then 0'
Interior or street side yard	6'	2', unless fence can be maintained entirely from 1 side, then 0'
Rear yard (nonshoreland)	<del>6', unless the rear yard is common with the front yard of an abutting lot, then 4'</del>	2', unless fence can be maintained entirely from 1 side, then 0'. If the property abuts an alley, then 8'
Shoreland	6' (perpendicular to shore) 4' (parallel to shore) Not allowed (in floodplain)	No setback required to riverbank, except that fences shall not <del>all</del> be allowed within a floodplain, unless they are farm fences which do not obstruct debris or water
Buildable area	8'	Not applicable
Any property line adjoining a business or industrial zoned property	6', unless otherwise allowed by conditional use permit	2', unless fence can be maintained entirely from 1 side, then 0'

2. Fences in business and industrial districts must comply with the height and setback requirements as listed below:

## FENCE HEIGHT IN BUSINESS AND INDUSTRIAL DISTRICTS

Location	Maximum Height (As Measured From 6" Above The Adjacent Ground Level)	Distance From Lot Line
Any lot line	6', unless otherwise allowed by conditional use	2', unless fence can be maintained entirely from 1 side, then 0'

3. Fences over thirty (30) inches in height shall require a permit approved by the zoning administrator regardless of where on a property they are located, except that temporary fencing not exceeding six feet (6') in height may be installed to secure the perimeter of a construction site, provided that any such fencing is removed upon completion of the construction project. Such fencing shall not be limited to the approved fencing materials noted below.

4. Approved fencing materials include stone, brick, finished wood, rigid plastic, chainlink, split rail fences or other materials commonly used for fencing. Other materials may only be approved by conditional use permit, except that the following types of fences are prohibited unless specifically allowed otherwise: barbed wire, electrical fencing, razor wire, creosote lumber, chicken wire (unless used for the enclosure of gardens), concrete block or poured concrete, plastic webbing, plywood or pressed wood.

Notwithstanding the above prohibitions, commercially available snow fencing may be allowed between November 1 and March 15 of each calendar year.

5. No fence may be erected on either street side of a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic, subject to the provisions of subsection E4 of this section.

6. No fence shall be erected where it will impede, in the opinion of the city engineer or their designee, the flow of water across or through a drainageway, drainage easement, wetland or a required stormwater management facility (i.e., water quality/detention pond, rain garden, etc.).

7. Notwithstanding height limitations elsewhere in this subsection Q, fences enclosing or adjacent to sport courts or fields, in any zoning district, may be up to twelve feet (12') in height with a minimum ten foot (10') setback from any property line. Such fences shall not exceed twenty five percent (25%) opacity.

8. Prior to issuance of a fence permit, a certificate of survey may be required by the zoning administrator for all fences, except for hedges and plantings, or walls to be constructed on a property line or when the fence is not clearly entirely on the subject property. This requirement for a certificate of survey may be waived if: a) stakes from a previously completed survey are in place and marked and the property line can be reasonably determined from those stakes; or b) if a signed, written statement from the neighboring property owner is submitted indicating that they do not dispute the location of the fence.

9. That side of the fence considered to be the face, the side not attached to the primary structural supports, shall face the abutting property or street right of way.

10. Both sides of any fence or wall shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.

11. No barbed wire shall be used for fencing, except that it may be used on security fences on business or industrial zoned properties which are at least six feet (6') high, exclusive of the barbed wire or in the maintenance of existing barbed wire fences presently used in farming operations. All other barbed wire fences shall be removed before April 1, 1982.

12. Fence height shall be determined by the body of the fence, starting no greater than six inches (6") above the natural grade. Fence posts may extend a maximum of twelve inches (12") above the body of the fence. (Ord. 67, 6th Series, eff. 11-17-2014)

R. Bulk Storage (Liquid): All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a special conditional use permit in order that the council may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. ~~All existing aboveground liquid storage tanks having a capacity in excess of two hundred (200) gallons shall secure a special use permit within twelve (12) months following enactment of this chapter; t~~The governing body may require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity. ~~Any existing storage tank that, in the opinion of the council, constitutes a hazard to the public safety, shall discontinue operations within five (5) years following enactment of this chapter.~~

S. Zoning And Comprehensive Plan: Any change in zoning granted by the council shall automatically amend the comprehensive plan in accordance with said zoning change.

~~T. Apartments: In recommending the granting of special use permits for structures containing three (3) or more dwelling units, the council shall find that the proposed development plan is in substantial compliance with the apartment policy statements on file with the planning commission as approved. (Ord. 801, eff. 6-3-1974)~~

U. (Rep. by Ord. 47B, 2nd Series, eff. 4-7-1980)

V. Residential Structures: Unless located in a mobile home park, all habitable dwellings shall have a minimum width and length of twenty four feet (24') and a permanent foundation meeting the latest edition of the Minnesota state building code. All habitable apartment or other multi-family housing units may have lesser width or length than 24 feet, but shall have a minimum floor space of 576 square feet. all residential dwelling structures used for living purposes shall be at least twenty four feet (24') in width and at least thirty feet (30') long, and placed on a permanent foundation. (Ord. 132, 2nd Series, eff. 10-29-1984)

W. Building Numbers: One principal building on each property shall display numbers on the street or avenue side of the building according to their address and shall be readable from the street or avenue by emergency vehicles. Numbers shall be a minimum of four inches (4") in height. (Ord. 22, 5th Series, eff. 11-6-2000)

#### **11.04: ADMINISTRATION AND ENFORCEMENT:**

A. Administrator: Zoning provisions of this chapter shall be administered and enforced by the zoning administrator, who shall be appointed by the council, and may have other municipal duties. His duties, among others, shall be to:

1. Determine that all building permits comply with the terms of this chapter.
2. Conduct inspections of buildings and use of land to determine compliance with the terms of this chapter.
3. Maintain permanent and current records of this chapter, including, but not limited to, all maps, amendments and special conditional uses, variances, appeals and applications therefor.
4. Receive, file and forward all applications for appeals, variances, special conditional uses or other matters to the designated official bodies.
5. Serve as an ex officio nonvoting member of the planning commission.

B. Appeals:

1. The planning commission is constituted the board of zoning appeals and shall determine, in harmony with the general purpose of this chapter and the comprehensive guide plan, by resolution, all appeals from any order, requirement, permit or decision made by the zoning administrator under this chapter, and from any interpretation of the text of this chapter, or any determination by the zoning administrator as to the location of the boundary of a zoning district as shown on the zoning map.
2. At any time within ninety (90) days after the decision of the zoning administrator under the provisions of this chapter, except in connection with prosecutions for violations thereof, the applicant or other

person or officers of the city affected thereby may appeal to the planning commission by filing a written notice stating the grounds appealed from and stating the specific grounds upon which the appeal is made.

3. The planning commission, as the board of appeals, may conduct such hearings as it may deem advisable and shall prescribe what notice, if any, shall be given of such hearing.

4. The council may review and revise any decision of the board of zoning appeals. In reviewing such decisions, the council shall set a date for hearing thereon, not earlier than seven (7) days after nor more than thirty (30) days after the decision is made by the board of zoning appeals.

5. Notice of the hearing before the council shall be mailed to all appellants. In all cases involving determination of district boundary lines, or interpretation of district boundary lines, or interpretation of the text of this chapter, ten (10) days' published notice of hearing in the official newspaper shall be given. (Ord. 801, eff. 6-3-1974)

#### C. Variances:

1. Times Lines For Requests: The time lines for variance requests shall be governed by Minnesota statutes [15.99](#), as amended.

2. Processing: The processing of variances shall be governed by Minnesota statutes [462.357](#), as amended.

3. Erection Or Alteration Of Building: The erection or alteration of a building pursuant to a granted variance shall be completed within six (6) months of the date the variance was granted, unless a building permit has been issued and the construction actually has begun within the six (6) month period, and is thereafter diligently pursued. Failure to comply will leave the variance subject to revocation as set forth herein.

4. Revocation: A variance may be revoked, suspended, or amended by following the requirements and procedures in subsection H of this section.

#### D. Conditional Uses:

1. Purpose: In order to give the district use regulations of this chapter the flexibility necessary to achieve the objectives of the comprehensive guide plan, in certain districts conditional uses are permitted, subject to the granting of a use permit. Conditional uses include those uses generally not suitable in a particular zoning district, but which may, under some circumstances, be suitable. When such circumstances exist, a conditional use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit may be required.

2. Application, Referral To Planning Commission, Planning Commission Recommendation And Council Action: Except as otherwise noted in this subsection, the application and presentation requirements for conditional permits shall be the same as those for variances as provided in subsection C of this section.

3. Review Criteria: In reviewing an application for a conditional use permit

a. The following must be met:

- 1) The use or development is an appropriate conditional use in the land use zone.
- 2) The use or development, with conditions, conforms to the comprehensive land use plan.
- 3) The use with condition is compatible with the existing neighborhood.
- 4) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.

b. The following must be considered:

- 1) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair property values in the immediate vicinity.
- 2) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- 3) Adequate utilities, access roads, drainage and other necessary facilities are in place or will be provided.
- 4) The conditional use will not incur public cost for public facilities and services that would be detrimental to the economic welfare of the community.
- 5) The conditional use will not create unusual traffic congestion on nearby public thoroughfares.
- 6) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- 7) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance or danger and to control lights and signs in such a manner that no disturbance to neighboring properties will result.
- 8) The conditional use will not result in the unnecessary destruction, loss or damage of a natural, scenic or historical feature of major significance.
- 8) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

4. Additional Conditions: In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose, in addition to those standards and requirements expressly specified in this chapter, additional conditions which it considers 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 street width;

e. Increasing the number of required off-street parking spaces;

f. Limiting the number, size, location or lighting of signs;

g. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;

h. Designating sites for open space or preservation of natural features;

i. Imposition of operational controls, sureties, or deed restrictions; or

j. Limitations on future expansions to buildings, structures or land uses associated with the conditional use.

35. Future Additions/Expansions: Future additions and/or expansions to buildings, structures, land uses or other improvements to a property may be allowed by the Planning Commission without need for a new public hearing provided that the Planning Commission finds that the additions or expansions fwould not create the need for additional parking, increase traffic or materially change the existing/permitted use of the property beyond what had been approved by a previous conditional use permit.

6. Revocation: A conditional use permit may be revoked, suspended, or amended by following the requirements and procedures in subsection H of this section.

47. Use Of Permit: If the conditional use authorized by said conditional use permit has not been completed, or the use granted has been discontinued for a continuous one year period after grant of the permit, then the conditional use permit shall be subject to revocation, suspension, or amendment as set forth in subsection H of this section. (Ord. 59, 6th Series, eff. 7-21-2014)

E. Amendments:

1. Amended According To City Charter: This chapter may be amended according to the provisions of the city charter.

2. Initiation: Proceedings for amendment of this chapter shall be initiated by: a) a petition of the owner or owners of the actual property, the zoning of which is proposed to be changed; b) a recommendation of the planning commission; or c) by action of the council.

3. Application: All applications for amendment which are initiated by the petition of the owners of property shall be filed in the office of the zoning administrator and shall be accompanied by six (6) copies of a set of plans and graphics containing the following information and folded, where necessary, to the size of eight and one-half inches by eleven inches (8<sup>1</sup>/<sub>2</sub>" x 11"):

- a. A generalized location map showing the location of the proposed site in relation to the city.
- b. A scaled plot plan, with north indicated, of the proposed site showing all site dimensions.
- c. All types of proposed uses.
- d. Location of all buildings and structures on and within three hundred feet (300') of the proposed site.
- e. Elevation drawings or illustrations indicating the architectural treatment of all proposed buildings and structures.
- f. Any plans for the modification of standards set by this chapter or any other provisions of this code.
- g. Location and size of all required parking spaces.
- h. Landscaping plan, including location, size and type of all proposed planting materials.
- i. General floor plans of all proposed buildings and structures.
- j. Indication of location, size and type of storage facilities for the storage of trash and waste materials.
- k. Design layout and size of all proposed signs.
- l. Drainage plan of the proposed site and location and size of existing and proposed utilities.

4. Action By Planning Commission: Within sixty (60) days after the date of receipt of the petition by the zoning administrator, the planning commission shall make a written report to the council stating its findings and recommendations, unless the applicant, in writing, requests an extension of time.

5. Action By Council: On receipt of the written report from the planning commission, the council shall hold a hearing within thirty (30) days after the receipt of the report and recommendations from the planning commission. If the planning commission fails to make a report within sixty (60) days after receipt of the application, then the council shall hold a public hearing within thirty (30) days after the expiration of said sixty (60) day period, unless the applicant, in writing, requests an extension of time. Failure to receive a report from the planning commission as herein provided shall not invalidate the proceedings or actions of the council. The council shall give not less than ten (10) days' nor more than thirty (30) days' notice of time and place of such hearing published in the designated legal newspaper, and such notice shall contain a description of the land and the proposed change in zoning. At least ten (10) days before the hearing, the council shall order the zoning administrator to mail an identical notice to the owner and to each of the property owners within three hundred feet (300') of the outside

boundaries of the land proposed to be rezoned. Failure to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings. At the time of hearing, the council may take final action upon the application or it may continue the hearing from time to time for further investigation and hearing. The council may also request further information and report from the planning commission.

6. Referral To Planning Commission: The council shall not rezone any land or area in any zoning district or make any other proposed amendment to this chapter without having first referred it to the planning commission for their consideration and recommendation.

7. Effect Of Denial: Rezoning applications may be denied by motion of the council and such motion shall constitute a finding and determination that the proposed rezoning is not in the best interest for the physical development of the city. No application which has been denied wholly or in part shall be resubmitted for a period of six (6) months from the date of said order of denial, except on grounds of new evidence or proof of change of conditions found to be valid by the planning commission. (Ord. 801, eff. 6-3-1974)

F. Fees: The fees for each application shall be adopted by resolution of the council, which may be amended from time to time. Fees shall be payable at the time applications are filed with the zoning administrator and are not refundable unless application is withdrawn prior to referral to the planning commission. There shall be no fee in the case of application filed in the public interest by the council or by the planning commission. (Ord. 132, 2nd Series, eff. 10-29-1984)

G. Conditional Use Permits And Variances Recorded: A certified copy of every conditional use permit and variance granted shall be recorded with the county recorder.

H. Revocation, Suspension Or Amendment Of Previously Approved Variances And Conditional Use Permits:

1. Jurisdiction: Upon obtaining information that indicates a basis for revocation, suspension or amendment, the zoning administrator or his/her designee may initiate proceedings for revocation, suspension, or amendment if a warning or other corrective action is deemed to be inappropriate or ineffective. If so, the matter shall be heard by the authority that originally granted the applicable variance or permit. A decision on whether to revoke, suspend or amend a permit that was originally issued by the zoning administrator shall be made by the zoning administrator. All other revocations, suspensions or amendments shall be submitted for hearing as indicated herein.

2. Hearing: The issuing authority shall establish a time, date and location for a hearing for revocation, suspension, or amendment, at the request of the zoning administrator or the administrator's designee. The administrator or designee shall serve notice of the date of the hearing to the permit or variance

holder no less than ten (10) days prior to the date of the hearing using the same process as is required for civil actions at law. Other interested parties may be notified by first class mail or other appropriate means. At the hearing, the issuing entity will take such evidence as it deems appropriate. In all cases, the holder shall be entitled to present such evidence as that party deems appropriate either personally or through an attorney. Should the holder fail to appear in person or through counsel, the issuing entity shall still have the authority to take evidence and make a decision upon the request for revocation, suspension or amendment.

3. Findings At Hearing: Should the issuing authority find, by a preponderance of the evidence, that the holder has failed to comply with the conditions set forth on the variance or permit, the issuing party shall make that finding and state the reasons for its determination.

4. Remedies: Upon finding that the holder has failed to comply with the conditions set forth in the variance, conditional use permit or other permit, the issuing entity may then determine appropriate sanctions, if any, to impose. Sanctions may include, but not be limited to, revocation, suspension or amendment to the previously imposed conditions. A variance, conditional use permit or other permit may be suspended until such time as the holder comes into compliance with the terms of their original approval. The criteria for determining the appropriate sanctions shall include, but are not limited to, the length of time of the violation, the severity of the violation, and risk to the health, welfare, and safety of the neighboring residents and/or community as a whole. (Ord. 59, 6th Series, eff. 7-21-2014)

I. Setbacks Required: Regardless of whether a building permit is required under Chapter 5.02 or any other section of the City Code, and unless specifically stated otherwise, all buildings and other structures over 30 inches in height shall meet any and all setbacks required under Chapter 11.

## 11.05: ZONING DISTRICTS AND MAP:

A. Districts: For the purpose of this chapter, the city is hereby divided into the following use districts and groups of use districts:

### 1. Residential Districts:

R-1 One- and two-family residential district

R-1C Country homes, one- and two-family residential district

R-2 One- and two-family residential district

R-3 Multiple-family residential district

R-4 Mobile homes residential district (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

### 2. Business Districts:

B-1 ~~Limited business district~~ Central business district

~~B-2 General business district~~

~~B-3B-2~~ Noncentral business district (Ord. 801, eff. 6-3-1974; amd. Ord. 57, 3rd Series, eff. 6-12-1989)

3. Industrial Districts:

I-1 Industrial district (~~light~~)

~~I-2 Industrial district (heavy) (Ord. 801, eff. 6-3-1974)~~

4. PUD District: Planned unit development district (PUD district). (Ord. 116, 3rd Series, eff. 3-23-1992)

5. R-1.M District: Mississippi headwaters corridor; one- and two-family residential district, R-1.M.

6. R-2.M District: Mississippi headwaters corridor; one- and two-family residential district, R-2.M.

7. R-3.M District: Mississippi headwaters corridor; multiple-family residential district, R-3.M.

8. PUD.M District: Mississippi headwaters corridor; planned unit development district, PUD.M. (Ord. 126, 4th Series, eff. 5-17-1999)

9. PUD-CH District: Planned unit development; country homes, PUD-CH. (Ord. 80, 5th Series, eff. 8-18-2003)

B. Map: The boundaries of the zoning districts are hereby established as shown on that certain map entitled "zoning districts of the city of Little Falls", dated May 1989, which map is properly approved and filed, hereinafter referred to as the "zoning map". Said map, and all of the notations, references and other information shown thereon, shall have the same force and effect as if fully set down herein and are hereby incorporated by reference and made a part of this chapter. All amendments to the zoning map are on file in the city office. (Ord. 57, 3rd Series, eff. 6-12-1989)

C. Boundaries: Where any uncertainty exists as to the exact location of a boundary line, as shown on said zoning map, the location of such line shall be determined by the council. District boundary lines as indicated on said map follow lot lines, the centerline of streets or alleys, the centerlines of streets or alleys projected, the center of watercourses or the corporate limit lines, all as they exist upon the effective date hereof. If district boundary lines do not follow any of the above described lines, the district boundary lines are established as drawn on the zoning map. (Ord. 801, eff. 6-3-1974)

D. R-1 One- And Two-Family Residential District:

1. Permitted Uses Within Any R-1 One- And Two-Family Residential District: No structure or land shall be used, except for one or more of the following uses:

a. One- and two-family dwellings.

b. Rural and urban agriculture, market gardens, nurseries or greenhouses, including the sale of products raised on the premises; provided, that no products are exhibited for sale within fifteen feet (15') of any street right of way line.

c. Public and private parks, playgrounds, athletic fields and other recreational uses of a supporting nature to such parks and playgrounds.

d. Essential services, buildings and structures.

e. ~~The renting of rooms by a resident family for lodging purposes only, and for not more than two rooms in a one-family dwelling. The renting of rooms or the furnishing of table board in a dwelling occupied as a private residence when in compliance with the building code and approved by permit from the zoning administrator.~~

f. ~~Residential and nonresidential programs as regulated by MN Statutes 245A.11 and 245A.14, as amended, except where such programs are considered a multifamily residential use by said statutes. A residential facility serving six (6) or fewer persons and licensed by the state department of human services.~~

g. ~~A daycare facility servicing fourteen (14) or fewer persons and licensed, if necessary, by the state department of human services.~~

h. A home occupation upon issuance of a home occupation permit. All home occupation permits must meet the following criteria:

(1) The home occupation shall be engaged in only by persons residing within the dwelling or building within which the home occupation is conducted;

(2) The home occupation shall be conducted within the principal residence, within a designated area, not comprising more than ten percent (10%), or one room, of the total floor area of the residence;

(3) There shall be no evidence of the home occupation, other than signs permitted within residential or historic districts, visible outside the structures;

(4) The home occupation shall not include over the counter, retail sales of merchandise produced off the property;

(5) No more than three (3) parking spaces shall be used by the persons conducting the home occupation and customers at any one time;

(6) The home occupation shall not generate additional motor vehicle or pedestrian traffic beyond normal residential use;

(7) No equipment or process shall be used in the home occupation which generates noise, vibration, glare, dust, fumes, odors, or creates visual or electrical interference with radio or television reception outside the home;

(8) No materials, supplies or stock in trade will be stored outside of the area designated for the home occupation;

(9) The occupation shall not involve materials or mechanical equipment which are not part of normal residential use;

(10) The home occupation shall not involve commercial delivery service other than parcel service and U.S. mail;

(11) The home occupation shall not involve the use of explosives or highly combustible materials or the storage of hazardous materials;

(12) Home occupation permits are not transferable;

(13) No home occupation shall be operated from an accessory structure or garage, except by conditional use;

(14) Home occupation permits are subject to review for compliance with this chapter. Should a violation occur, the permit is subject to revocation. (Ord. 801, eff. 6-3-1974; amd. Ord. 58, 3rd Series, eff. 12-12-1988; Ord. 125, 4th Series, eff. 9-14-1998)

2. Conditional Uses In Any R-1 One- And Two-Family Residential District: No structure or land shall be used for the following uses, except by conditional use permit:

a. Public and private schools.

b. Churches, parish houses and other structures located on the same site which are integral parts of the church proper.

c. Commercial daycares.

d. Buildings used exclusively for government purposes, whether city, county, state or federal, provided that no vehicle or equipment storage or repair shall be permitted.

~~e~~. Home occupations by conditional use permit, including licensed non-residential programs considered a permitted multi-family use by MN Statutes 245A.14;

(1) A home occupation which does not meet the criteria in subsection D1h of this section may be conducted following the issuance of a conditional use permit for a home occupation.

(2) In reviewing an application for a conditional use permit for a home occupation, the city shall consider the impact of the proposed home occupation on the character of the neighborhood, and shall impose such conditions as shall limit or eliminate such impact. In reviewing the impact of the proposed home occupation, the city shall consider such issues as the amount of space devoted to the occupation, the number of individuals participating in the occupation, the noise, glare and/or odor produced by the occupation, the street and/or pedestrian traffic generated by the occupation, and any other factors which impact on the residential character of the neighborhood. In the event that the city determines that the adverse impact cannot be limited or eliminated, the city shall deny the conditional use permit.

(3) Conditional use permits for home occupations are not transferable and are subject to revocation in the event that the permit holder conducts the home occupation contrary to the conditions placed on it in the conditional use permit.

**ef.** Hospitals, nursing homes, homes for the aged (including assisted living, memory care or similar) and medical clinics along with associated accessory uses including heliports; provided, that no building shall be located within fifty feet (50') of any property line.

**fg.** Multiple dwellings; provided, however, that the building to be used for such conditional use had prior thereto been used for a public school, a private school, a church or other church purpose, excluding parish houses, an exclusive city, state or federal government purpose, a hospital, a nursing home, or a medical clinic.

**gh.** Professional offices and offices or services of a general nature, including, but not limited to, doctors, dentists, lawyers, architects, engineers, accountants, insurance, real estate, government and nonprofit organizations, but not including operations involving more than ancillary retail sales related to the primary use, wholesale sales or warehousing; provided, however, that the building to be used for such conditional use had prior thereto been legally used for a business, a public school, a private school, a church or other church purpose, excluding parish houses, an exclusive city, state or federal government purpose, a hospital, a nursing home, or a medical clinic and that the offices or services are housed within the same gross floor area as had existed when the building was last used for the above-mentioned purposes.

**hi.** Conditional agricultural, rural.

**ij.** Golf course and country club, including buildings for clubhouses, pro shop, vehicle storage, equipment storage or repair shall be permitted on parcels of forty (40) acres or more. (Ord. 48, 3rd Series, eff. 4-18-1988; amd. Ord. 103, 3rd Series, eff. 3-11-1991; Ord. 125, 4th Series, eff. 9-14-1998)

**jk.** Bed and breakfasts are allowed by conditional use permit in an R-1 zoning district as regulated in this section, subject to the following conditions:

(1) Parking must meet the requirements of section [11.07](#) of this chapter.

(2) All guestrooms must be contained in the principal building.

(3) Dining facilities are not open to the public but limited to residents, employees and registered guests.

(4) The facility must be licensed by Morrison County public health and/or the Minnesota department of health.

(5) Bed and breakfast uses in residential areas must be located at least six hundred feet (600') apart (approximately 2 blocks).

(6) The facility must be inspected by the state fire marshal and the city building inspector every three (3) years at the time of license renewal by the Minnesota department of health.

(7) The facility, if located in a residential zone district, shall appear outwardly to be a single-family dwelling, giving no appearance of a business use and is allowed a maximum of eight (8) square feet of signage.

(8) The conditional use permit shall be transferable with the property pursuant to subsection [11.04D](#) of this chapter.

~~k~~. Bed and breakfasts with additional food service are allowed by conditional use permit in an R-1 zoning district as regulated in this section, subject to the following conditions:

(1) Parking must meet the requirements of section [11.07](#) of this chapter. In addition must provide off street parking for all dining guests.

(2) All guestrooms must be contained in the principal building.

(3) Dining facilities are not open to the public but limited to residents, employees and registered guests or dining guests by appointment only.

(4) Hours for dining by appointment will be limited to eight o'clock (8:00) A.M. to four o'clock (4:00) P.M.

(5) Dining will be limited to ten (10) persons or less.

(6) The facility must be licensed by Morrison County public health and/or the Minnesota department of health.

(7) Bed and breakfast uses in residential areas must be located at least six hundred feet (600') apart (approximately 2 blocks).

(8) The facility must be inspected by the state fire marshal and the city building inspector every three (3) years at the time of license renewal by the Minnesota department of health.

(9) The facility, if located in a residential zone district, shall appear outwardly to be a single-family dwelling, giving no appearance of a business use and is allowed a maximum of eight (8) square feet of signage.

(10) The conditional use permit shall be transferable with the property pursuant to subsection [11.04D](#) of this chapter. (Ord. 49, 6th Series, eff. 9-16-2013)

m. Multiple dwellings containing not more than four (4) dwelling units; provided, however, that the building to be used was in existence on the effective date hereof, and will provide a gross floor area of at least five hundred (500) square feet per dwelling unit and the City Council finds that by reason of its size and design or lack of demand, it cannot be beneficially used for any of the purposes for which buildings may lawfully be used under the provisions of this subsection and that when altered, in order to adopt it to the new use, the building will conform in character and type to other residences in the immediate neighborhood; and further provided, that the house to be converted is located on a lot with an area of at least nine thousand (9,000) square feet, plus six hundred fifty (650) square feet for each dwelling unit.

n. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the Council shall consider factors related to the intensity of use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, and other factors that may be relevant to making a determination as to whether a particular use is of the same general character as a permitted or conditional use.

3. Permitted Accessory Uses In Any R-1 One- And Two-Family Residential District: No accessory structure or use of land shall be permitted, except for one or more of the following:

- a. Private garages and parking spaces.
- b. Signs as regulated in [chapter 5](#) of this code.
- c. Private swimming pool, tennis court or other recreational activity intended for the private use of the occupants of the dwellings located on the same site as the recreational use.
- d. Buildings temporarily located for the purpose of construction on the premises for a period not to exceed the time necessary for completion of said construction.
- e. Any other use customarily considered to be accessory to the foregoing permitted uses. (Ord. 801, eff. 6-3-1974; amd. Ord. 46, 5th Series, eff. 3-11-2002)

4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements:

- a. No structure or building shall exceed three (3) stories or forty feet (40') in height, except as provided for in this chapter.
- b. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>11,000 sq ft</u>	<u>12,000 sq ft</u>	<u>80 feet</u>	<u>80 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>
<u>Principal structure</u>	<u>30 feet</u>	<u>35 feet</u>	<u>10 feet</u>	<u>15 feet</u>
<u>Accessory structure</u>	<u>30 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>15 feet</u>

<u>Lot Size–</u>	<u>Lot Width–</u>			<u>Side Yard–</u>
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<del>Interior</del>	<del>Corner</del>	<del>Interior</del>	<del>Corner</del>	<del>Front Yard</del>	<del>Rear Yard</del>	<del>Interior</del>	<del>Corner</del>
<del>11,000 square feet</del>	<del>12,000 square feet</del>	<del>80 feet</del>	<del>80 feet</del>	<del>30 feet</del>	<del>35 feet</del>	<del>10 feet</del>	<del>15 feet</del>

Minimum gross floor area for single-family dwelling: One thousand (1,000) square feet.

Minimum gross floor area for two-family dwelling: One thousand six hundred (1,600) square feet.

~~c. All habitable dwellings shall have a minimum width and length of twenty four feet (24') and a permanent foundation meeting latest edition of the Minnesota state building code. (Ord. 78, 2nd Series, eff. 1-24-1983)~~

E. R-1C Country Homes, One- And Two-Family Residential District:

1. Permitted Uses: Any use permitted in the R-1 one- and two-family residential district.
2. Conditional Uses: Any use permitted as a conditional use in the R-1 one- and two-family residential district.
3. Permitted Accessory Uses: Any accessory use permitted in the R-1 one- and two-family residential district.
4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements:
  - a. No structure or building shall exceed three (3) stories or forty feet (40') in height, except as provided for in this chapter.
  - b. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>16,000 sq ft</u>	<u>16,000 sq ft</u>	<u>100 feet</u>	<u>100 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>
<u>Principal structure</u>	<u>20 feet</u>	<u>10 feet</u>	<u>15 feet</u>	<u>15 feet</u>
<u>Accessory structure</u>	<u>20 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>15 feet</u>

<del>Lot Size</del>	<del>Lot Width</del>	<del>Front Yard</del>	<del>Rear Yard</del>	<del>Side Yard Interior</del>
<del>16,000 square feet</del>	<del>100 feet</del>	<del>20 feet</del>	<del>10 feet</del>	<del>15 feet</del>

c. Minimum floor area for single-family dwelling:

- (1) One-story, single-family dwelling: One thousand (1,000) square feet.
- (2) One-story, two-family dwelling: One thousand six hundred (1,600) square feet.
- (3) Split level or two-story dwellings: Eight hundred sixty four (864) square feet per level.

~~d. All habitable buildings shall have a minimum width and length of twenty four feet (24') and permanent foundations meeting the latest edition of the Minnesota state building code at the time of construction.~~

e. Notwithstanding the foregoing, a lot shall be considered conforming, provided:

- (1) The lot is at least twelve thousand (12,000) square feet in area; and
- (2) The lot was a recorded lot of record in separate ownership on or before September 1, 2003, or with its incorporation into the city; and
- (3) The lot was in compliance with applicable zoning ordinances at the time of its creation; and
- (4) Any new structures will meet applicable setbacks. (Ord. 80, 5th Series, eff. 8-18-2003)

F. R-2 One- And Two-Family Residential District:

1. Permitted Uses:

a. Any use permitted in the R-1 district. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

2. Conditional Uses:

a. Any use permitted as conditional in the R-1 district.

b. Multiple dwellings containing not more than four (4) dwelling units; provided, however, that the building to be used was in existence on the effective date hereof, and will provide a gross floor area of at least five hundred (500) square feet per dwelling unit and the City Council finds that by reason of its size and design or lack of demand, it cannot be beneficially used for any of the purposes for which buildings may lawfully be used under the provisions of this subsection and that when altered, in order to adopt it to the new use, the building will conform in character and type to other residences in the

immediate neighborhood; and further provided, that the house to be converted is located on a lot with an area of at least nine thousand (9,000) square feet, plus six hundred fifty (650) square feet for each dwelling unit.

c. Heliports. (Ord. 801, eff. 6-3-1974; amd. Ord. 68, 3rd Series, eff. 7-10-1989; Ord. 80, 5th Series, eff. 8-18-2003)

d. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.

3. Permitted Accessory Uses:

a. Any use permitted as accessory in the R-1 district.

4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements: All uses in the R-2 district shall comply with the requirements of the R-1 district of this section, except as hereinafter modified:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>9,000 sq ft</u>	<u>9,000 sq ft</u>	<u>60 feet</u>	<u>60 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>
<u>Principal structure</u>	<u>30 feet</u>	<u>30 feet</u>	<u>5 feet</u>	<u>15 feet</u>
<u>Accessory structure</u>	<u>30 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>15 feet</u>

<u>Lot Size</u>	<u>Lot Width</u>	<u>Front Yard</u>	<u>Rear Yard</u>	<u>Side Yard</u>	
				<u>Interior</u>	<u>Corner</u>
<u>One and two-family 9,000 square feet</u>	<u>60 feet</u>	<u>30 feet</u>	<u>30 feet</u>	<u>5 feet</u>	<u>15 feet</u>

(Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

~~a. Floor area per dwelling unit shall be as follows: for one-story dwellings, at least one thousand (1,000) square feet; for split level dwellings, minimum floor area per floor shall be eight hundred sixty four (864) square feet; for two-story dwellings, at least eight hundred sixty four (864) square feet. For two-family dwellings, the minimum floor area per dwelling unit shall be eight hundred (800) square feet. (Ord. 22, 5th Series, eff. 11-6-2000; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

#### G. R-3 Multiple-Family Residential District:

##### 1. Permitted Uses:

- a. Any use permitted in the R-~~2~~1 district.
- b. Multiple dwellings. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

##### 2. Conditional Uses:

- a. Any use permitted as conditional in the R-~~2~~1 district.
- b. Commercial, retail and service facilities of an ancillary nature, housed within a multiple dwelling complex (including day care facilities), hospital, nursing home, or home for the aged (including assisted living, memory care or similar) .

##### ~~c. Motels:~~

~~d. Residential and nonresidential programs as regulated by MN Statutes 245A.11 and 245A.14, as amended, including programs considered a multifamily residential use by said statutes. A residential facility serving seven (7) through sixteen (16) persons and licensed by the state department of human services.~~

~~e. A daycare facility serving fifteen (15) through twenty five (25) persons and licensed by the state department of human services. (Ord. 801, eff. 6-3-1974; amd. Ord. 58, 3rd Series, eff. 12-12-1988; Ord. 80, 5th Series, eff. 8-18-2003) Commercial daycare facilities.~~

f. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.

##### 3. Permitted Accessory Uses:

- a. Any use permitted as accessory in the R-2 district. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

##### 4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements:

a. There shall be no height restriction on buildings in the R-3 district, except that any structure exceeding three (3) stories or forty five feet (45') shall be set back from the nearest property line a distance equal to one-half ( $\frac{1}{2}$ ) the building height.

~~b. A side yard abutting a street shall not be less than thirty feet (30') in width.~~

c. The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this chapter:

	<u>Lot size</u>		<u>Lot width</u>	
	<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>One- and Two-Family structures</u>	<u>9,000 sq ft</u>	<u>9,000 sq ft</u>	<u>60 feet</u>	<u>60 feet</u>
<u>Three- and Four-Family structures</u>	<u>12,000 sq ft</u>	<u>12,000 sq ft</u>	<u>60 feet</u>	<u>60 feet</u>
<u>Five and higher family structure</u>	<u>15,000 sq ft</u>	<u>15,000 sq ft</u>	<u>60 feet</u>	<u>60 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>
<u>Principal structure – One- and Two-Family Structures</u>	<u>30 feet</u>	<u>30 feet</u>	<u>5 feet</u>	<u>15 feet</u>
<u>Principal structure – Three- and Four-Family Structures</u>	<u>30 feet</u>	<u>30 feet</u>	<u>10 feet</u>	<u>15 feet</u>
<u>Principal structure – Five and higher family structure</u>	<u>30 feet</u>	<u>30 feet</u>	<u>15 feet</u>	<u>15 feet</u>
<u>Accessory structure</u>	<u>30 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>15 feet</u>

-	<u>Minimum Yard-</u>
<u>Lot Area Per Dwelling Unit:-</u>	
<u>One-family structure-</u>	<u>9,000 square feet-</u>
<u>Two-family structure-</u>	<u>4,600 square feet-</u>

Three-family structure-	4,000 square feet-
Four-family structure-	3,000 square feet-
Multiple Dwellings With 5 Or More Units:-	
Efficiency units-	1,500 square feet-
1 bedroom units-	2,000 square feet-
2 bedroom units-	2,500 square feet-

For each parking space provided within or under a multiple dwelling structure, subtract three hundred twenty five (325) square feet per unit from the minimum lot area requirements.

Floor Area Per Dwelling Unit:-	
One family structure-	1,000 square feet-
Two family structure-	600 square feet-
Three family or more structures:-	-
Efficiency units-	500 square feet-
1 bedroom units-	600 square feet-
2 bedroom units-	750 square feet-
Lot width at front setback line-	60 feet-
Front yard setback-	30 feet-
Side yard setback-interior-	5 feet-

<del>Side yard setback—corner—</del>	<del>15 feet—</del>
<del>Rear yard setback—</del>	<del>30 feet—</del>

~~d. All habitable dwellings shall have a minimum width and length of twenty four feet (24') and a permanent foundation meeting the latest edition of the Minnesota state building code. (Ord. 49, 3rd Series, eff. 5-30-1988; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

#### H. R-4 Mobile Homes Residential District:

##### 1. Permitted Uses:

- a. Any use permitted in the R-3 district.
- b. "Mobile homes", as defined in section [11.02](#) of this chapter.
- c. Motels. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

##### 2. Conditional Uses:

- a. Recreational vehicles and mobile home sales.
- b. Retail or service outlets intended to serve occupants of the permitted uses.
- c. Any use permitted as conditional in the R-3 district. (Ord. 801, eff. 6-3-1974; amd. Ord. 72, 3rd Series, eff. 9-11-1989; Ord. 80, 5th Series, eff. 8-18-2003)

##### 3. Permitted Accessory Uses:

- a. Administrative offices, recreation buildings and facilities, laundry and other uses of a supporting nature to a mobile home park.
- b. Temporary parking of recreational vehicles for occupancy; provided, that recreational vehicles shall be parked in a designated recreational camping area as defined in Minnesota Statutes Annotated 327.14, subdivision 8.
- c. Signs as regulated in [chapter 5](#) of this code. (Ord. 801, eff. 6-3-1974; amd. Ord. 46, 5th Series, eff. 3-11-2002; Ord. 80, 5th Series, eff. 8-18-2003)

##### 4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements:

- a. No structure or building shall exceed two (2) stories or thirty feet (30') in height, except as provided in this chapter.
- b. The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this chapter:

(1) Minnesota health department mobile home and recreational camping area law, chapter 327, sections 327.10-327.28.

(2) Minnesota health department regulations no. 152 governing mobile home parks and recreational camping areas.

~~I. B-1 Limited Business District:~~

~~1. Permitted Uses:~~

~~a. Any uses permitted in the R-3 district.~~

~~b. Municipal buildings, essential services, buildings and structures.~~

~~c. Professional offices, including, but not limited to, doctors, dentists, lawyers, architects, engineers and accountants.~~

~~d. Offices of a general nature where the employment within the building does not exceed fifty (50) persons and the operations do not include retail sales or warehousing from the site.~~

~~e. Clinics for human care.~~

~~f. Colleges, universities and professional and vocational institutes, schools, churches.~~

~~g. Research centers.~~

~~h. Antique or gift shop, appliances store, art and school supply store, auto accessory store, bakery goods sales and baking of goods for retail sales on premises, bank, barbershop, beauty shop, bicycle sales and repair, book office supply and stationery store, business office, candy, ice cream, popcorn, nuts, frozen dessert and soft drink shop but not of the drive-in type, camera and photographic supply and processing store, delicatessen and/or dairy store, department store, dry cleaning and laundry pick up station, including incidental pressing and repair, dry goods store, five and ten store, florist, furniture, gift or novelty store, grocery, fruit or vegetable store, hardware store, hobby store including handicraft classes, interior decorating, jewelry sales and repair store, laundromat of the self-service type, library, locksmith, meat market, but not including processing for a locker, music store, newsstand, paint, wallpaper sales, photographic studio, physical culture or dance studio, pipe and tobacco shop, post office, record shop, restaurant, cafe, tearoom, shoe sales and repair, small appliance repair shop, sporting goods store, variety store, wearing apparel shop, radio and television studio, art studio, interior decorating studio, photographic studio, music studio, and other businesses of similar nature or uses.~~

~~2. Conditional Uses:~~

~~a. Any use permitted as conditional in the R-3 district.~~

~~b. Nursing homes, rest homes or retirement homes.~~

~~c. Funeral homes and mortuaries, theaters.~~

~~d. Private clubs and lodges.~~

~~e. Multiple dwellings as permitted and regulated herein.~~

~~f. Tavern or liquor store.~~

~~g. Theaters, but not of the drive-in type. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~h. A residential facility serving seventeen (17) persons or more and licensed by the state department of services.~~

~~i. A daycare facility serving twenty five (25) persons or more and licensed by the state department of human services. (Ord. 58, 3rd Series, eff. 12-12-1988; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~j. Construction offices.~~

~~k. Exterior storage of functional equipment, components or inventory used in the trade or business of any permitted or conditional use. (Ord. 61, 3rd Series, eff. 12-5-1988; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~l. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.~~

### ~~3. Permitted Accessory Uses:~~

~~a. Private garages, off street parking and loading spaces as regulated in this chapter.~~

~~b. Signs as regulated in chapter 5 of this code.~~

~~c. Buildings temporarily located for purpose of construction on the premises for a period not to exceed time necessary to complete said construction.~~

~~d. Decorative landscape features.~~

~~e. Any incidental repair or processing necessary to conduct a permitted principal use.~~

~~f. Public telephone booths. (Ord. 801, eff. 6-3-1974; amd. Ord. 46, 5th Series, 3-11-2002; Ord. 80, 5th Series, eff. 8-18-2003)~~

### ~~4. Lot Area, Floor Area, Height, Lot Width And Yard Requirements:~~

~~a. There shall be no height restrictions on buildings in the B-1 district, except that any structure exceeding three (3) stories or forty five feet (45') shall be set back from the nearest property line a~~

distance equal to one half ( $\frac{1}{2}$ ) the building height. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

b. Multiple dwellings in the B-1 district shall conform to the requirements set forth in the R-3 district. (Ord. 22, 5th Series, eff. 11-6-2000; amd. Ord. 80, 5th Series, eff. 8-18-2003)

c. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter:

<del>Lot Area</del>	<del>Lot Width</del>	<del>Front Yard</del>	<del>Rear Yard</del>	<del>Side Yard Interior</del>	<del>Side Yard Corner</del>	<del>Side Yard Adjacent To R</del>
<del>10,000 square feet</del>	<del>75 feet</del>	<del>30 feet</del>	<del>30 feet</del>	<del>10 feet</del>	<del>30 feet</del>	<del>25 feet</del>

(Ord. 64, 4th Series, eff. 10-23-1995; amd. Ord. 80, 5th Series, eff. 8-18-2003)

J. ~~B-2-1 General Central~~ Business District:

1. Permitted Uses:

a. Any permitted or conditional use in the ~~B-1R-1, R-1C or R-3~~ district, except as limited in this section.

b. Food trucks, for periods of time not exceeding 12 hours on any calendar day, provided that it is located on the same lot as an operating business.

c. Any business or commercial establishment that is not specifically prohibited and as otherwise limited in this section, including retail establishments, food service establishments, on- and/or off-sale liquor establishments, personal services, professional services, equipment and auto repair services, entertainment and amusement services, lodging services including hotels and motels.

~~Automobile and truck sales, auto repair, boats and marine equipment sales, building material and lumberyards, commercial greenhouses, garden supply stores, motels, motor hotels and hotels, newspaper printing and publishing, other printing and publishing, furniture and home furnishing stores, farm equipment sales, wholesale businesses including warehousing, retail shipping centers.~~

~~ed. Public and semi-public buildings, including post office, fire hall and city hall. Electrical service, heating, plumbing, appliance, upholstery, or air condition service shop. (Ord. 57, 3rd Series, eff. 6-12-1989; amd. Ord. 115, 3rd Series, eff. 11-11-1991; Ord. 80, 5th Series, eff. 8-18-2003)~~

e. Private clubs.

2. Conditional Uses:

- ~~a. Any use that provides more than 50 parking spaces, or is required to provide more than 50 parking spaces. Armories, convention halls, sport arenas and stadiums.~~
- ~~b. Any use where outdoor storage will exceed 500 sq ft or where outdoor storage within 50 feet of a residentially-used or -zoned property is not entirely screened from said residential property and public streets or alleys within 50 feet of said residential property. Bowling alleys, billiard and pool rooms, drive-in theaters, skating rinks, dance halls, gymnasiums, YMCA, YWCA, nightclubs, liquor stores, fraternal organizations and similar uses.~~
- ~~c. Bus terminals. Any use where a drive-thru or drive-up window is within 50 feet of a residentially-used or -zoned property.~~
- ~~d. Business or trade school when conducted entirely within a building.~~
- ~~e. Drive-in business.~~
- ~~f. Stone and monument sales.~~
- ~~g. Animal hospital or clinic, kennel.~~
- ~~h. Accessory structure or uses other than those listed as permitted.~~
- ~~i. Motor fuel stations.~~
- ~~j. Open sales or storage lots.~~
- ~~k. Commercial uses on lots under one-half ( $\frac{1}{2}$ ) acre in size if parking requirements cannot be met on the lot itself, or if a change in use, if the required number of parking spaces would increase over the previous use by more than four (4) spaces.~~

~~le.~~ Light assembly or light manufacturing. (Ord. 57, 3rd Series, eff. 6-12-1989; amd. Ord. 115, 3rd Series, eff. 11-11-1991; Ord. 22, 5th Series, eff. 11-6-2000; Ord. 80, 5th Series, eff. 8-18-2003)

~~mf.~~ Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use. er uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the Planning Commission.

### 3. Permitted Accessory Uses:

a. Any use permitted as accessory in the B-1 district as regulated herein.

4. Lot Area, Height, Lot Width And Yard Requirements: The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this chapter:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>2,000 sq ft</u>	<u>3,000 sq ft</u>	<u>25 feet</u>	<u>25 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>
<u>Principal structure</u>	<u>0 feet</u>	<u>10 feet</u>	<u>0 feet</u>	<u>0 feet</u>
<u>Accessory structure</u>	<u>0 feet</u>	<u>10 feet</u>	<u>0 feet</u>	<u>0 feet</u>

~~a. No front or side yard setback or height restrictions shall be required. c. Maximum height – 40 feet, except as allowed by conditional use permit.~~

~~b. All development uses in the B-2 district shall be architecturally designed so as to be as compatible as possible with the general architectural intent of the area in which it is located.~~

K. ~~B-3~~B-2-2 Noncentral Business District:

1. Permitted Uses:

a. Any permitted use in the B-~~2~~1 district, except as limited herein.

b. Light assembly or light manufacturing.

2. Conditional Uses:

~~a. Any conditional use in the B-2 district, except as limited herein.~~

a. Any use where outdoor storage will exceed 10,000 sq ft or where outdoor storage within 50 feet of a residentially-used or -zoned property is not entirely screened from said residential property and public streets or alleys within 50 feet of said residential property.

b. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.

3. Permitted Accessory Uses:

a. Any use permitted as accessory in the B-~~2~~1 district as regulated herein.

4. Lot Area, Height, Lot Width And Area Requirements:

a. Minimum Requirements: The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter. (Ord. 57, 3rd Series, 6-12-1989; amd. Ord. 80, 5th Series, eff. 8-18-2003)

The following minimum requirements shall be observed, subject to additional requirements, exceptions and modifications contained in this chapter:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>10,000 sq ft</u>	<u>10,000 sq ft</u>	<u>75 feet</u>	<u>75 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – exterior lot</u>	<u>Side yard setback – adjacent to residential zoned property</u>
<u>Principal structure</u>	<u>30 feet</u>	<u>30 feet</u>	<u>10 feet</u>	<u>30 feet</u>	<u>25 feet</u>
<u>Accessory structure</u>	<u>30 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>5 feet</u>	<u>5 feet</u>

~~b. Requirements Of Uses:~~

~~(1) Commercial uses shall be governed by the following setbacks and lot areas, unless a conditional use permit is issued:~~

<del>Lot Area</del>	<del>Lot Width</del>	<del>Front Yard</del>	<del>Rear Yard</del>	<del>Side Yard Interior</del>	<del>Side Yard Corner</del>	<del>Side Yard Adjacent To R District Or Existing Residential Use</del>
<del>1 acre, excluding road right of way</del>	<del>150 feet</del>	<del>50 feet</del>	<del>40 feet</del>	<del>10 feet</del>	<del>50 feet</del>	<del>40 feet</del>

~~(Ord. 64, 4th Series, eff. 10-23-1995; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

(2) Residential uses shall be governed by lot size and setback requirements as provided in R-2 districts. (Ord. 57, 3rd Series, eff. 6-12-1989; amd. Ord. 80, 5th Series, eff. 8-18-2003)

(3) Businesses within a ~~B-3B-2-2~~ district may construct an overhead canopy or structure for weather protection, attached or freestanding, as long as the structure maintains a ten foot (10') setback from the street right of way line and a twenty foot (20') setback from an adjacent property line. (Ord. 22, 5th Series, eff. 11-6-2000; amd. Ord. 80, 5th Series, eff. 8-18-2003)

c. Height Restrictions: There shall be no height restrictions on buildings in the ~~B-3B-2-2~~ district, except that for every foot that a building exceeds thirty feet (30'), an additional foot of setback shall be provided from ~~the nearest each~~ property line.

~~d. Architectural Design: All development uses in the B-3B-2 district shall be architecturally designed so as to be compatible as possible with the general architectural intent of the area in which it is located.~~

e. Landscaping For Commercial Uses:

(1) Each site shall have a front yard not less than twenty feet (20') in depth across the entire frontage; this yard shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed one-half ( $1/2$ ) the width of the site.

(2) A minimum of five feet (5') of the side yard setback shall be landscaped and maintained as green space along the total length of the side property lines.

(3) All areas shall be landscaped in accordance with a landscaping plan. (Ord. 57, 3rd Series, eff. 6-12-1989; amd. Ord. 80, 5th Series, eff. 8-18-2003)

~~L-1 Industrial District (Light):~~

~~1. Permitted Uses:~~

~~a. Conducting a process, fabrication, wholesale operation, manufacturing or providing a service, including any of the following or similar uses meeting the performance standards applicable to the L-1 district; provided, that all development uses in the L-1 district are conducted wholly within a building. Any uses permitted in the B-3B-2 district.~~

~~b. Machine shops.~~

~~c. Paper products from previously processed paper.~~

~~d. Radio and television studios.~~

~~e. Research laboratories.~~

~~f. Electronics assembly and testing.~~

~~g. Warehousing and wholesaling.~~

~~2. Conditional Uses:~~

~~a. Any use permitted as conditional in the B-3B-2 district.~~

~~b. Trucking and freight terminals.~~

~~c. Motor fuel stations.~~

~~d. Open sales lot, provided that all open storage be screened by a fence or compact evergreen hedge at least fifty percent (50%) opaque and at least six feet (6') high.~~

~~e. Any accessory structures or uses other than those listed as permitted. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~f. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.~~

~~3. Permitted Accessory Uses:~~

~~a. Off street parking and loading as regulated in this chapter.~~

~~b. Signs as regulated in chapter 5 of this code.~~

~~c. Residence for night watchman or other security personnel. (Ord. 801, eff. 6-3-1974; amd. Ord. 46, 5th Series, eff. 3-11-2002; Ord. 80, 5th Series, eff. 8-18-2003)~~

~~4. Lot Area, Height, Lot Width, And Yard Requirements:~~

~~a. The following minimum requirements shall be observed subject to minimum requirements, exceptions and modifications contained in this chapter:~~

<del>Lot Size</del>	<del>Lot Width</del>	<del>Front Yard</del>	<del>Rear Yard</del>	<del>Side Yard Interior</del>	<del>Side Yard Corner</del>	<del>Adjacent To R</del>
<del>24,000 square feet</del>	<del>100 feet</del>	<del>40 feet</del>	<del>30 feet</del>	<del>10 percent of lot width</del>	<del>40 feet</del>	<del>40 feet</del>

~~b. There shall be no height restrictions on buildings in the I-1 district, except that for every foot that a building exceeds thirty feet (30'), an additional foot of setback shall be provided from the nearest property line.~~

M. I-~~2~~1 Industrial District (~~Heavy~~):

1. Permitted Uses:

- a. Any use permitted in ~~the L-1a B district regulated herein.~~
- b. ~~Warehousing and Storage~~The manufacturing, compounding, assembly, packaging, treatment or storage of the following products or materials not likely to meet the performance standards outlined in this chapter.
- c. ~~Manufacturing~~ Brewing, fiberglass, cement, stonecutting, brick, glass, batteries, ceramic products, millworking, metal polishing and plating, paint (pigment manufacturing), boat manufacturing, vinegar works, rubber products, plastics, meatpacking, flour, feed and grain milling, vegetable canning and processing, lime, gypsum and plaster of Paris, and similar uses.
- d. Processing
- e. Wholesale
- f. Research laboratories/facilities

2. Conditional Uses:

- a. Coal, tar, creosote or asphalt processing or distillation.
- b. Acid manufacture.
- c. Storage, utilization or manufacture of material or products which could decompose by detonation, including, but not limited to, dynamite, trinitrotoluene (TNT), nitroglycerin, guncotton, blasting caps and cartridge primers.
- d. Auto wrecking or salvage yard, junkyard, used auto parts and similar uses; provided, that the use is screened by a fence or compact evergreen hedge which is at least fifty percent (50%) opaque and at least six feet (6') high.
- e. Incineration or reduction of waste material other than customarily incidental to a principal use.
- f. Kilns or other heat processes fired by means other than electricity.
- g. Commercial stockyards and slaughtering of animals.
- h. Crude oil, gasoline, liquid fertilizer or other liquid storage tanks containing hazardous, flammable or otherwise potentially dangerous liquids or gases.
- i. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.

3. Permitted Accessory Uses:

a. Any use permitted as accessory in the I-1 district as regulated herein.

4. Lot Area, Height, Lot Width And Yard Requirements:

a. The following minimum requirements shall be observed subject to additional requirements, exceptions and modifications contained in this chapter:

<u>Lot size</u>		<u>Lot width</u>	
<u>Interior lot</u>	<u>Corner lot</u>	<u>Interior lot</u>	<u>Corner lot</u>
<u>24,000 sq ft</u>	<u>24,000 sq ft</u>	<u>100 feet</u>	<u>100 feet</u>

	<u>Front yard setback</u>	<u>Rear yard setback</u>	<u>Side yard setback – interior lot</u>	<u>Side yard setback – corner lot</u>	<u>Side yard setback – adjacent to residential zoned property</u>
<u>Principal structure</u>	<u>40 feet</u>	<u>30 feet</u>	<u>30 feet</u>	<u>40 feet</u>	<u>40 feet</u>
<u>Accessory structure</u>	<u>30 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>5 feet</u>	<u>20 feet</u>

					<u>Interior–</u>	<u>Corner–</u>	
<u>1 acre–</u>	<u>150 feet–</u>	<u>40 feet–</u>	<u>30 feet–</u>	<u>70 feet–</u>	<u>10 percent of lot width–</u>	<u>40 feet–</u>	<u>70 feet–</u>

b. There shall be no height restriction on buildings in the ~~I-21-1~~ district. (Ord. 801, eff. 6-3-1974; amd. Ord. 80, 5th Series, eff. 8-18-2003)

~~N. Planned Unit Development District (PUD District):~~

~~1. Purpose: This mixed-use district is created specifically to protect existing landscape features, to preserve open space, to sensitively integrate development with the natural landscape, to appropriately space accesses to public street systems and to require the planning of an entire land ownership as a unit rather than permit piecemeal or scattered development on a lot by lot basis.~~

~~2. Uses Permitted By Planned Unit Development (PUD): Within the planned unit development district (PUD district), no structures or land shall be used except for one or more of the following uses, which uses shall be permitted only by planned unit development (PUD) procedures and subject to all stated conditions:~~

~~a. Golf courses which include the following customary accessory uses, activities and facilities:~~

~~(1) Commercial recreation.~~

~~(2) Food and drink concessions, etc.~~

~~(3) Maintenance, storage and equipment facilities.~~

~~(4) Off street parking.~~

~~(5) Private clubs.~~

~~(6) Signage. (Ord. 116, 3rd Series, eff. 3-23-1992; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~b. Clubs and lodges including fraternal organizations, YMCAs and YWCAs, health and athletic clubs. (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~c. Minor commercial recreation, including, but not limited to, the following:~~

~~(1) Bowling alleys.~~

~~(2) Miniature golf courses.~~

~~(3) Roller skating rinks.~~

~~(4) Ice skating rinks and hockey facilities.~~

~~(5) Campgrounds and recreational vehicle parks. (Ord. 116, 3rd Series, eff. 3-23-1992; amd. Ord. 80, 5th Series, eff. 8-18-2003)~~

~~d. Community park, recreation and open space uses which do not conflict with racetrack operations.~~

~~e. Essential services.~~

~~f. Horse care uses, including boarding, training, showing, grooming and veterinary clinic facilities.~~

~~g. Hotels, motels and conference centers, including such customary accessory uses as internalized retail and entertainment facilities, provided such uses:~~

~~(1) Are an integral part of the principal use;~~

~~(2) Have no entrance except from within the principal building;~~

~~(3) Display all internal signage on the ground floor level of the building; and~~

~~(4) Occupy not more than twenty five percent (25%) of the ground floor area.~~

~~h. Light industrial uses, but specifically limited to office showroom, corporate offices, research and development laboratories, warehousing and light assembly type maintenance.~~

~~i. Offices: business, corporate and professional.~~

~~j. Public buildings.~~

~~k. Public or private utility facilities, including, but not limited to, buildings, structures and equipment.~~

~~l. Restaurants, excluding fast food and drive-in restaurants.~~

m. Rural agriculture.

n. Signage as permitted by section 5.30 of this code. (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 80, 5th Series, eff. 8-18-2003)

o. Fairgrounds, including facilities for temporary amusement parks, exhibitions and contests. (Ord. 116, 3rd Series, eff. 3-23-1992; amd. Ord. 80, 5th Series, eff. 8-18-2003)

p. Other uses of the same general character as permitted or conditional uses listed above, provided they are deemed fitting or compatible to the district by the City Council. In making its determination, the City Council shall consider factors related to the intensity of the use, parking needs, level and type of traffic generated, hours of operation (including loading/unloading times), noise, odor, glare and other nuisance characteristics, pollution potential and other factors that may be relevant to making a determination as to whether a particular use is of the same general character a permitted or conditional use.

3. Lot Area, Width And Coverage; Building Height, Yard And Access Spacing Requirements:

Minimum lot size-	1 acre-
Minimum lot width-	300 feet-
Minimum yards:-	-
Front-	50 feet-
Side-	25 feet-
Rear-	30 feet (50 feet when abutting a residential zone)-
Maximum hard surface:-	-
Lot coverage-	80 percent-

(Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 80, 5th Series, eff. 8-18-2003)

4. Performance Standards:

a. Acceptable Building Materials: Exterior building materials should be incorporated into an architectural design which is consistent with the standards developed in the planned unit development district (PUD district). (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 116, 3rd Series, eff. 3-23-1992; Ord. 80, 5th Series, eff. 8-18-2003)

b. Minimum Landscape Requirements:

(1) Plantings shall be required in an amount equal to one caliper inch per five hundred (500) square feet of building gross floor area. Credit may be given for existing quality trees using the same formula.

(2) Landscape plans shall be required and shall be prepared by or under the supervision of a landscape architect. They shall show types, common and botanical names, sizes, number and location of all plant materials.

c. Screening: The following must be screened: 1) rooftop facilities; 2) parking areas; and 3) loading and service areas. One or any combination of the following elements may be used to meet the screening requirements: site design, building design, grade separation, berming, landscaping, fences, walls or other landscape features.

(1) Rooftop Facilities:

(A) All rooftop facilities shall be either:

(i) Totally screened from the eye level view from adjacent parcels and existing and planned public streets;

(ii) Painted to match or complement;

(iii) Incorporated into an architectural design which is aesthetically compatible with the principal structure.

(B) All materials used to screen rooftop facilities shall be aesthetically compatible with the exterior building materials of the principal structure.

(2) Parking Areas: All parking which occurs within the required front yard shall be screened to at least the height of the headlights of the parked vehicles or three feet (3').

(3) Loading And Service Areas: Loading and service areas shall not face directly on a public street. Maneuvering and truck loading areas shall be at least fifty percent (50%) screened, to a height of four feet (4') from the eye level from all roadways. (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 80, 5th Series, eff. 8-18-2003)

d. Existing Landscape Features: No live tree removal for site development of any kind shall be permitted in the planned unit development district (PUD district) until a final development plan has been approved by the city council. Grading shall be permitted only upon issuance of a grading or building permit by the building official. (Ord. 116, 3rd Series, eff. 3-23-1992; amd. Ord. 80, 5th Series, eff. 8-18-2003)

5. Variances: Variances may be negotiated within this district. Variances from subsection N4 of this section shall not be negotiated. (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 80, 5th Series, eff. 8-18-2003)

O. Planned Unit Development - Country Homes, PUD-CH:

1. Purpose: This mixed use district is a planned unit development district with specific performance standards. It is the intention of this zoning classification to protect existing landscape features, plan for integration of new development into existing neighborhoods and allow the integrated development of undeveloped areas with adjoining developed areas. Administration and development within an area zoned planned unit development - country homes, shall be as a planned unit development, subject to the specific performance standards set out herein. Any proposed development shall meet the general performance standards outlined in subsection N, "Planned Unit Development District (PUD District)", of this section, and such additional performance standards as the city may impose in the development and approval of a master plan for development.

2. Uses Permitted: Within the planned unit development - country homes area, no structures or land shall be used, except for one or more of the following uses, which uses shall be permitted only by planned unit development procedures and subject to all stated procedures: permitted, conditional and accessory uses within country homes, one- and two-family residential, R-1C.

3. Lot Area, Width And Coverage; Building Height, Yard And Access Spacing Requirements:

a. Except as provided by this chapter, or within the planned unit development - country homes' master plan, lot area, width and coverage, building height, yard and access requirements shall be as provided for country homes, one- and two-family residential, R-1C.

b. In order to assure integration into existing development, lot sizes shall be set according to their tier (row of lots) from existing development. The first tier of development is adjacent to existing development, even if separated by a street. The first tier shall be at least ninety percent (90%) of the size of adjoining platted lots, but need not exceed twenty thousand (20,000) square feet. Placement of lots shall be staggered wherever possible with existing homes. Minimum lot size permitted is sixteen thousand (16,000) square feet.

c. Lot sizes in subsequent tiers may be two thousand feet (2,000') smaller than the minimum lot size permitted in the preceding tier until the minimum lot size of sixteen thousand (16,000) square feet is reached.

4. Performance Standards:

a. All construction shall reflect previously existing development and shall be in character with the surrounding neighborhood as provided by the planned unit development - country homes' master plan.

b. Existing drainageways must be located and preserved. All development shall be placed in such a way as to not block or fill existing drainageways. Existing drainageways shall be shown on the master plan. Restrictions or easements to preserve drainageways shall be incorporated into the planned unit development - country homes' master plan.

c. The developer will be responsible for planting trees along the street or adjacent thereto every thirty feet (30'), selected from a list of trees approved by the city, excluding footage for perpendicular sidewalks and driveways.

d. All other performance standards shall be in accordance with country homes, one- and two-family residential district, R-1C.

5. Modification Of Performance Standards: The city council shall review proposals for development in accordance with the procedures for review of planned unit development generally. The council may vary performance standards if it finds that the purposes of this subsection are achieved by the proposed plat. (Ord. 83, 5th Series, eff. 9-22-2003)

P. Mississippi Headwaters Corridor Districts:

1. Purpose; Scope; Applicability:

a. This subsection is intended to control development along the Mississippi River in areas which, prior to their annexation, were subject to the Morrison County Mississippi headwaters ordinance. This subsection is intended to regulate the area of lot, length of lot, width of lot at the water line, setback of structures, sanitary waste treatment systems, structure height, and to protect the quality of the Mississippi River and shorelines, its vegetation, soils, water quality, floodplain areas and geology; and to regulate alterations of the shoreland vegetation and topography; maintain property values and prevent uncontrolled or poorly planned development; maintain property values and sustainable development; prevent pollution and overcrowding; protect and conserve the historic, recreational, archaeological, cultural, fish and wildlife resources of the Mississippi River and adjacent lands. This subsection is also intended to comply with Minnesota statutes section 103F.221, "Municipal Shoreland Management", and regulations promulgated pursuant thereto, and intended to comply with Minnesota statutes sections 103F.361 to 103F.377.

b. Property within the Mississippi headwaters corridor may be designated Mississippi headwaters corridor - one- and two-family residential district, R-1.M, or Mississippi headwaters corridor - one- and two-family residential district, R-2.M, or Mississippi headwaters corridor - multiple-family residential district, R-3.M, or Mississippi headwaters corridor - planned unit development district, PUD.M.

c. In any case where there is a conflict between the requirements of this subsection and the general zoning ordinances of the city, the most restrictive provision shall apply.

2. Compliance With Minnesota Laws And Regulations For Mississippi Headwaters Corridor: The use of lands within the Mississippi headwaters corridor, the size and shape of the lot, the type, dimensions and location of structures on the lot, the installation and maintenance of water supply and waste treatment facilities, the filling, grading, lagooning or dredging of any Mississippi River area, the cutting of shoreland vegetation and the subdivision of lots shall all be in full compliance with the terms of this subsection, Minnesota rules, parts 7080.0010 through 7080.0210, as promulgated by the Minnesota pollution control agency and Minnesota rules, chapter 4720, promulgated by the Minnesota department of

health, as presently adopted or hereafter amended. The use of shorelands shall be in substantial compliance with Minnesota rules, chapter 6120, as presently adopted and hereafter amended. These regulations are hereby adopted and made a part of this subsection by reference.

### 3. Permitted And Conditional Uses Within Mississippi Headwaters Corridor:

a. No structure or land shall be used within lands zoned Mississippi headwaters corridor - one- and two-family residential district, R-1.M, except those uses and accessory uses permitted within the one- and two-family residential district, R-1. No structure or land shall be used within lands zoned Mississippi headwaters corridor - one- and two-family residential district, R-2.M, except those uses and accessory uses permitted within the one- and two-family residential district, R-2. No structure or land shall be used within lands zoned Mississippi headwaters corridor - multiple-family district, R-3.M, except those uses and accessory uses permitted within multiple-family residential district, R-3. Conditional uses allowed within the R-1, R-2 and R-3 zoning districts shall be allowed within the corresponding Mississippi headwaters corridor zones, upon the issuance of a conditional use permit. Unless varied by this subsection, the setback and building standards for their zoning or use as set forth in the city code shall apply.

b. No structure or land shall be used within lands zoned Mississippi headwaters corridor - planned unit development district, PUD.M, except upon submission and approval of a planned unit development plan for a use permitted within: ~~limited business district~~ central business district, B-1; ~~general business district, B-2;~~ noncentral business district, ~~B-3~~ B-2; planned unit developments, PUD, within lands zoned Mississippi headwaters corridor - planned unit development district, PUD.M, and may include residential development.

### 4. Building Standards For Mississippi Headwaters Corridor For Lots Of Record In Office Of Morrison County Recorder As Of January 1, 1981, Which Are Less Than One Acre In Area:

#### a. Minimum Setbacks And Lot Widths For Lots Of Record In Office Of Morrison County Recorder As Of January 1, 1981, Within Any Zoning Classification In Mississippi Headwaters Corridor:

(1) Lot Size, Lot Width, Structure Setback And Other Requirements: Unless varied by the following table, minimum standards for lot size, lot width, structure setback and other requirements shall be as follows:

a) Mississippi headwaters corridor - one- and two-family residential district, R-1.M, shall be as established in the one- and two-family residential district, R-1; b) Mississippi headwaters corridor - one- and two-family residential district, R-2.M, shall be as established in one- and two-family residential district, R-2; c) Mississippi headwaters corridor - multiple-family district, R-3.M, shall be as established in multiple-family residential district, R-3. For structures within Mississippi headwaters corridor - planned unit development district, PUD.M, minimum standards not defined by the following table will be governed by the most restrictive minimum standards required in the zoning district such use would fall under, unless modified by the planned unit development.

(2) Structure Setback From Ordinary High Water Mark: One hundred feet (100').

(3) Structure Setback From Top Of Bluff: Thirty feet (30'), unless a greater setback is imposed by the Minnesota department of natural resources. (Ord. 126, 4th Series, eff. 5-17-1999; amd. Ord. 80, 5th Series, eff. 8-18-2003; Ord. 83, 5th Series, eff. 9-22-2003)

(4) Maximum Structure Height, Except For Churches: Thirty five feet (35'). (Ord. 129, 5th Series, eff. 9-11-2006)

(5) Lot Width Standards: The lot width standards for single, duplex, triplex, and quad residential developments are:

	No Municipal Sewer	Municipal Sewer
Single	150 feet	150 feet
Duplex	150 feet	150 feet
Triplex	200 feet	150 feet
Quad	250 feet	190 feet

(6) Annexed Property: Annexed property shall be serviced by municipal sewer as soon as practical.

(7) Conflict: Where there is a conflict between setbacks in this section, the most restrictive setback shall control.

b. Conditional Use Permits For Substandard Lots Of Record As Of January 1, 1981, In Any Zoning District In Mississippi Headwaters Corridor: Lots of record in the office of the Morrison County recorder as of January 1, 1981, which do not meet the requirements of this subsection, may be allowed as building sites: if the use is allowed within the zoning district; the lot has been in separate ownership from abutting lands at all times since January 1, 1981; was created compliant with official controls in effect at the time; and sewage treatment and setback requirements of shoreland control were met. If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this section, the lot must not be considered as a separate parcel of land for the purposes of development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this section. Additions to structures on substandard lots of record in the office of the Morrison County recorder as of January 1, 1981, may be permitted under a conditional use permit. Substandard lots may be used as a building site under a conditional use permit. In granting the conditional use permit, the city council shall consider whether any detrimental impacts to water quality and the environment can be mitigated. In considering mitigation, the council shall consider such factors as the direction of gutters to storm sewers or away from the river, limitation of direct drainage into the Mississippi River, side yard plantings, reduction of tree removal, correction of a failing individual sewage treatment system, preparation of a natural

landscape protection plan, preparation of a stormwater management plan, decrease in impervious area on site, shoreline maintenance pursuant to a plan approved by the department of natural resources or plantings approved by the department of natural resources to improve fish or wildlife habitat. In granting a conditional use permit, a primary consideration shall be maximization of structure setback from the ordinary high water mark and connection with municipal sewer and water service.

c. Minimum Standards For New Plats Or Subdivisions Of Existing Lots Of Record In Office Of Morrison County Recorder As Of January 1, 1981:

(1) Minimum Lot Size: The minimum lot size for a new plat or subdivision of an existing lot of record in the office of the Morrison County recorder as of January 1, 1981, other than for a planned unit development, shall be one acre, excluding wetlands.

(2) Clustering And Planned Unit Development: The minimum lot size for new construction planned unit development shall be one principal use allowed per 0.75 acre, consistent with the zoning district. Planned unit developments shall emphasize clustering of development and preservation of natural areas to preserve the quality of the Mississippi River.

(3) Setbacks, Lot Widths And Structure Heights:

(A) Structure Setback From Top Of Bluff: Thirty feet (30'), unless a greater setback is imposed by the Minnesota department of natural resources.

(B) Maximum Structure Height, Except For Churches: Twenty five feet (25').

(C) Lot Width Standards: The lot width standards for single, duplex, triplex, and quad residential developments are:

	Municipal Sewer
Single	150 feet
Duplex	150 feet
Triplex	150 feet
Quad	190 feet

(D) New developments: New developments shall be serviced by municipal sewer.

(E) Setback Conflicts: Where there is a conflict between setbacks in this section, the most restrictive setback shall control.

(4) Landscape Protection And Stormwater Management: A natural landscape protection plan and stormwater management plan must be prepared and approved in connection with any new development.

d. Minimum Standards For All Mississippi Headwaters Corridor Zoning Districts:

(1) Natural Landscape Protection Plan: Before issuing a permit for expansion of a structure or new construction, a natural landscape protection plan shall be submitted to and approved by the city in compliance with this subsection.

(2) Significant Cultural Sites:

(A) Unplatted Cemetery: No structure shall be placed nearer than fifty feet (50') from the boundary of an unplatted cemetery protected under Minnesota statutes section 307.08, unless approval is obtained from the city or from the state archaeologist office.

(B) Significant Cultural Sites: No structure shall be placed on a significant cultural site in a manner that affects the value of the site, unless adequate information about the site has been recovered and documented in a public repository as determined by the city.

(C) Review For Presence Of Significant Cultural Sites: All zoning actions within headwaters corridor districts will be reviewed for the presence of significant cultural sites.

(D) Notice Of Development Near Sites: Thirty (30) days' notice will be made to the state archaeologist office of pending development on or near significant cultural sites.

(3) Bluff Impact Zone: Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.

(4) Steep Slopes: Before issuing a permit for the construction of roads, driveways, structures or other improvements on steep slopes, the slope must be evaluated for possible soil erosion impacts and development visibility from public waters. If necessary, the city shall impose conditions to prevent erosion, preserve existing vegetative screening of structures, assuming summer, leaf-on vegetation. No excavation shall be made between the building line and the water.

(5) Stairways, Lifts And Landings:

(A) Stairway And Lift Width: Stairways and lifts shall not exceed four feet (4') in width on residential lots. Wider stairways may be used for resort properties, public open space, recreational properties and planned unit developments.

(B) Landing Area: Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area.

(C) Construction Requirements: Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(D) Visibility Minimized: Stairways, lifts and landings must be located to minimize visibility from the public water, assuming summer, leaf-on conditions.

(E) Canopies Or Roofs: Canopies or roofs are not allowed on stairways, lifts or landings.

(F) Access Facilities: Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas; provided, that dimensional and performance standards are complied with.

(6) Decks: Decks not meeting the minimum structure setback requirement existing on January 1, 1981, may be added to, provided the following criteria are met:

(A) The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing shoreline setback from the ordinary high water level, or does not encroach closer than thirty feet (30'), whichever is more restrictive; and

(B) The deck is constructed primarily of untreated wood and is not roofed or screened.

(7) Commercial And Industrial Uses:

(A) No new commercial, business or industrial uses shall be permitted within any Mississippi headwaters zoning district, except for home occupations permitted by conditional use permit, and congregate living or foster care homes permitted by law.

(B) Nonconforming commercial, business or industrial uses in existence prior to their incorporation into any Mississippi headwaters zoning district may be continued. No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity, except by conditional use permit. In granting the conditional use permit, the city council shall consider whether any detrimental impacts to water quality and the environment can be mitigated. In considering mitigation, the council shall consider such factors as the direction of gutters to storm sewers, limitation of direct drainage into the Mississippi River, side yard plantings, reduction of tree removal, correction of a failing individual sewage treatment system, decrease in impervious area on site, shoreline maintenance pursuant to a plan approved by the department of natural resources or plantings approved by the department of natural resources to improve fish or wildlife habitat.

(8) Municipal Services City Code Provisions: All lands within any Mississippi headwaters zoning district shall be subject to the city code provisions relating to the public water service and public sewerage service and shall be serviced by public water service and public sewerage service as soon as reasonably practical.

(9) Docks: Docks may be built in compliance with Minnesota department of natural resources regulations.

5. Natural Landscape Protection Plan:

a. Requirement: If necessary to protect water quality and prevent shoreline erosion and agreed to by the property owner, and the Morrison County soil and water conservation district office staff, a natural

landscape protection plan shall be completed and reviewed, consistent with the provisions of this subsection.

b. Purpose: The purpose of a natural landscape protection plan is to:

- (1) Retain or recreate original hydrologic conditions by minimizing use of pavements and impervious surfaces and retaining original runoff volume and velocities;
- (2) Confine development and construction activities to the least critical areas by avoiding critical areas such as long, steep slopes, erodible soils, and fragile vegetation;
- (3) Fit development to terrain;
- (4) Preserve and utilize the natural drainage system; and
- (5) Maintain a minimum twenty five foot (25') chemically untreated vegetative buffer zone at the water's edge, as required in this section.

Alteration of vegetation and topography should be limited to prevention of erosion into public waters, fixation of nutrients, stabilization of shorelines, preservation of historic, archeological or cultural values, prevention of bank slumping, protection of fish and wildlife habitat and conservation of natural resources.

The landscape plan should be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on site.

c. Issues To Be Addressed: In achieving its purpose, the natural landscape protection plan shall address the following issues:

- (1) Topography: A topographic map showing the existing contour elevations at intervals of ten feet (10') is the basis of the natural landscape protection plan. It is important to note slope steepness and slope length on this map. The longer and the steeper the slope, the greater the erosion potential;
- (2) Drainage Patterns: Locate and clearly mark all existing drainage swales and patterns on the topographic map. Consider where water will concentrate on the property. Natural drainage areas are overland flows, depressions, swales and natural watercourses. The natural drainage should be used to convey runoff on and off the site, but increase runoff should be limited so erosion does not occur;
- (3) Soils: Determine and show major soil types on the topographic map. Plot directly on the map at the same scale for ease of interpretation. Soil types should be evaluated for potential for flood hazard, natural drainage, depth to seasonal water table, permeability, shrink-swell potential, texture and erodibility;
- (4) Ground Cover: Show the existing vegetation on the topographic map. Features such as tree clusters, grassy areas and unique vegetation should be shown on the map. Any denuded or exposed soil areas

should also be shown on the topographic map. If at all possible, existing vegetation should be maintained to minimize erosion. If existing vegetation cannot be maintained, then construction should be staged (one site completed before the second is begun) to minimize erosion. Alternatives are temporary seeding, mulching or temporary structure controls, such as settling basins, silt fences or bale dams. A vegetative buffer of natural grasses, shrubs and trees should be maintained for at least twenty five feet (25') at the water's edge. This buffer zone helps protect water quality, provide habitat for wildlife and maintains the natural aesthetics of the shoreline; and

(5) Adjacent Areas: Delineate areas adjacent to the site on the topographic map. Such features as streams, roads, houses or other buildings and wooded areas should be shown. Streams which will receive runoff from the site should be noted. Consider the potential for increased runoff during the construction and where the runoff will go.

6. Accessory Uses Within Mississippi Headwaters Corridor: All accessory uses must meet or exceed structure setback standards. The term "accessory uses", as used herein, does not include stairways, lifts and docks. Each residential lot may have one water oriented accessory use if all of the following standards are met:

a. The structure or facility must not exceed ten feet (10') in height, exclusive of safety rails. The structure or facility cannot occupy an area greater than two hundred fifty (250) square feet, or, if used solely for watercraft storage, including storage of related boating and water oriented sporting equipment, may occupy an area up to four hundred (400) square feet, provided the maximum width of the structure is twenty feet (20') as measured parallel to the configuration of the shoreline. Detached decks must not exceed eight feet (8') above grade at any point.

b. The setback of the structure or facility from the ordinary high water mark shall not be less than the setback of the primary building, except by conditional use permit.

c. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means.

d. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

e. The accessory use must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

7. Stormwater Management Plans In Mississippi Headwaters Corridor:

a. Consideration: Proper stormwater management must be considered in all reviews, approvals and permits related to this section. A stormwater management plan shall be submitted with any application.

b. Review Provisions: The following provisions shall be considered in reviewing proper stormwater management:

(1) Natural Features To Be Used: Existing natural drainageways, wetlands and vegetated soils must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(2) **Constructed Facilities May Be Used:** When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and manmade materials and facilities.

(3) **Minimize Disturbance:** Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on site.

(4) **New Development Or Expanded Development:** New development must meet the following standards:

(A) Impervious surface coverage of the lot must not exceed twenty five percent (25%) of total area;

(B) Facilities constructed for stormwater management must be consistent with the field office technical guide of the Morrison County soil and water conservation district;

(C) Stormwater outfalls to the Mississippi River must provide for filtering or settling of suspended solids and skimming of surface debris before discharge; and

(D) A natural landscape protection site plan must be prepared to guide construction and lot development in accordance with this section.

#### 8. Shoreland Alteration Within Mississippi Headwaters Corridor:

a. **Purpose:** Alterations of vegetation and topography will be regulated to prevent erosion to public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, preserve a corridor for movement of wildlife, protect fish and wildlife habitat, conserve cultural resources, and to preserve the scenic and aesthetic character of the shoreland within the Mississippi headwaters corridor.

#### b. Vegetative Management Provisions:

(1) **Intensive Vegetation Clearing:** Intensive vegetation clearing within the setback and bluff impact zones and on steep slopes is not allowed.

(2) **Limited Clearing:** In setback areas and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways, landings and access paths; provided, that:

(A) The screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is maintained;

(B) Shading of water surfaces is maintained; and

(C) The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased, or pose safety hazards.

(3) Shoreland Alteration: Shoreland alteration should avoid negative impacts, such as use of steep slopes; increased soil erosion; development visibility; preservation of existing vegetative screening from the Mississippi River, assuming summer, leaf-on conditions; avoidance of wetlands; avoidance of excavation between the building line and the Mississippi River, avoidance of intensive vegetative clearing within the setback; shading of water surfaces should be maintained or enhanced; limitation of impermeable material to no more than twenty five percent (25%) of the building site; management of long lived species along the river front shall be directed toward promotion of large sized trees by using rotations based on biological age rather than economic age; cuttings shall be conducted in compliance with a natural landscape protection plan and best management practices.

#### 9. Grading, Filling, Alterations In Bed Of Public Waters Within Mississippi Headwaters Corridor:

a. Permit Required: Any grading or filling work done within the Mississippi headwaters corridor districts, controlled by this subsection, shall require a permit and shall comply with the following:

(1) Grading and filling of the natural topography which is not accessory to a permitted or conditional use may be permitted if consistent with the natural landscape protection plan;

(2) Grading and filling of the natural topography which is accessory to a permitted or conditional use shall not be conducted without a grading and filling permit. A grading and filling permit may be issued only if the following conditions of subsection P9b of this section are met. Grading and filling shall be performed in a manner which minimizes earthmoving, erosion, stormwater runoff, tree clearing and the destruction of natural amenities. Excavation on lots abutting the Mississippi River shall not be permitted between the building line and the ordinary high water mark.

b. Standards: Grading and filling of the natural topography shall also meet the following standards:

(1) The smallest amount of bare ground is exposed for as short a time as feasible;

(2) Temporary ground cover, such as mulch, is used until a permanent ground cover, such as sod, is planted;

(3) Methods to prevent erosion and to trap sediment are employed;

(4) Fill is stabilized to accepted engineering standards;

(5) Fill or excavated material is not placed in a manner that creates an unstable slope;

(6) Plans to place fill or excavated material on steep slopes is reviewed by a licensed engineer for continued slope stability and in no case may create finished slopes of thirty percent (30%) or greater;

(7) Fill or excavated materials are not placed in bluff impact zones;

(8) Disturbed areas are restored in the same building season.

c. Altering Current Or Cross Section Of Public Waters: Excavation of material from filling in construction of any permanent structures or navigational obstructions, or any work that will change or diminish the course, current or cross section of the Mississippi River is prohibited, unless authorized by a permit from the commissioner of natural resources or the army corps of engineers.

d. Drainage Or Filling Of Wetlands: Drainage or filling in of wetlands is not allowed within the Mississippi headwaters corridor under this section, except by conditional use permit, and upon notification to and approval by the soil and water conservation district. (Ord. 126, 4th Series, eff. 5-17-1999; amd. Ord. 80, 5th Series, eff. 8-18-2003; Ord. 83, 5th Series, eff. 9-22-2003)

Q. Performance Standards And Special Provisions: All permitted uses, conditional uses and accessory uses in the residential district, the business district and the industrial districts shall also meet all of the requirements of sections [11.06](#) and [11.07](#) of this chapter. (Ord. 33, 3rd Series, eff. 9-28-1987; amd. Ord. 126, 4th Series, eff. 5-17-1999; Ord. 80, 5th Series, eff. 8-18-2003; Ord. 83, 5th Series, eff. 9-22-2003)

#### **11.06: PERFORMANCE STANDARDS:**

A. Purpose: The guiding of urban development so as to develop a compatible relationship of uses depends upon certain standards being maintained. Uses permitted in the various districts, conditional uses and accessory uses shall conform to the following standards. These standards shall apply in all districts.

B. Glare Or Heat: Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located. Lighting in all instances shall be diffused or directed away from R districts and public streets.

C. Explosives: Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred feet (400') from any R district line; provided, that this subsection shall not apply to the storage or usage of liquified petroleum or natural gas for normal residential or business purposes.

D. Screening:

~~1. Screening shall be required in residential zones where: a) an off street parking area contains more than four (4) parking spaces and is within thirty feet (30') of an adjoining residential lot line; and b)~~

~~where the driveway to a parking area of more than six (6) parking spaces is within fifteen feet (15') of an adjoining residential lot line.~~

~~21.~~ Where any business or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the zoning administrator.

~~32.~~ The screening required herein shall consist of a solid fence or wall at least fifty percent (50%) opaque not less than five feet (5') nor more than six feet (6') in height, but shall not extend within fifteen feet (15') of any street or driveway opening onto a street. The screening shall be placed along the property lines, or in case of screening along a street, fifteen feet (15') from the street right of way, with landscaping (trees, shrubs, grass and other planting) between the screening and the pavement. A louvered fence shall be considered solid if it blocks direct vision. ~~Planting of a type approved by the planning commission may also be required in addition to or in lieu of fencing.~~

~~E. Maintenance: In all districts, all structures, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.~~

~~FE.~~ Exterior Storage: In all R districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used or intended for use on the premises and off street parking, except as otherwise regulated herein. Boats and unoccupied trailers, less than twenty feet (20') in length, are permissible if stored in the rear yard more than ten feet (10') distant from any property line. Existing uses shall comply with this provision within twelve (12) months following the effective date hereof.

~~GF.~~ Waste Material: Waste material shall not be washed into the public storm sewer system, nor the sanitary sewer system, without first having received a permit to do so from the city. If said permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from public view. In all districts, waste material, debris, refuse, garbage and materials not currently in use for construction or otherwise regulated herein shall be kept in an enclosed building or properly contained in a closed container for such purposes. The owner of vacant land shall be responsible for keeping such vacant land free of waste material and noxious weeds. Existing uses shall comply with this provision within six (6) months following the effective date hereof.

**HG.** Drainage: No land shall be developed and no use shall be permitted that results in water runoff causing flooding, or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility.

**HI.** Traffic Control: The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential areas. Traffic into and out of all business and industrial uses or areas shall in all cases be forward moving with no backing onto streets or pedestrianways. No access drive to any lot shall be located within twenty feet (20') of any two (2) intersecting minor or collector street right of way lines, nor within forty feet (40') of any two (2) intersecting major thoroughfare street right of way lines. (Ord. 801, eff. 6-3-1974)

**HI.** Off Street Loading: Off street parking shall be provided for delivery or distribution of materials in connection with construction of any building or structure. Off street parking so provided shall be in accordance with this chapter. ~~No deliveries or unloading of materials for construction shall occur between the hours of nine o'clock (9:00) P.M and six o'clock (6:00) A.M., if that noise is audible in a residential district.~~ Any variations from this standard shall be by conditional use. (Ord. 01, 5th Series, eff. 2-28-2000)

**KJ.** Radiation And Electrical Emissions: No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance adversely affecting the operation, at any point, of any equipment, including, but not limited to, radio and television reception, other than that of the creator of the disturbance.

**LK.** Other Nuisance Characteristics: No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property or violate any state statutes, codes or city ordinances. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety, nor will damage public waste transmission or disposal facilities. (Ord. 801, eff. 6-3-1974)

## **11.07: SPECIAL PROVISIONS:**

### **A. Off Street Parking And Loading Spaces:**

1. Purpose And Intent: Regulations of off street parking and loading spaces in this section are to alleviate or prevent congestion of the public right of way and to promote the safety and general welfare of the

public by establishing minimum requirements for off street parking, loading and unloading from motor vehicles in accordance with the utilization of various parcels of land and structures.

2. Requirements: The location, design and use of off street parking, driveways and loading spaces shall be in compliance with the following requirements:

a. Application Of Off Street Parking Regulations: The regulations and requirements set forth in this section shall apply to the required and nonrequired off street parking facilities in all zoning districts.

(1) Site Plan Drawing Necessary: Applications for a change of use, new construction or expansion in all zoning districts, except one- and two-family residential zoning districts, shall be accompanied by a site plan drawn to scale and dimensioned and indicating the location of off street parking, loading spaces, driveways, and curb cuts in compliance with the requirements set forth in this section.

(2) Exemptions For Parking Requirements: All uses located within the "1980 parking lot district" inside the ~~general-central~~ business district B-2B-1 zoning district shall be exempt from the following off street parking requirements of this section.

b. General Parking Provisions:

(1) Permits Prior To Effective Date: Structures or uses for which a building permit has been issued prior to the effective date hereof, but for which work has not been completed, shall be exempt from the hereinafter stated parking requirements, if the structure is completed within six (6) months after the effective date hereof.

(2) Reduction Of Existing Off Street Parking Space: Off street parking spaces and loading spaces existing upon the effective date hereof shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use. If further development requires the removal of the minimum number of parking stalls for an existing occupancy, replacement stalls must be provided to comply with the required off street parking provisions of this section. Should a nonconforming structure be damaged or destroyed, it may be reestablished if elsewhere permitted in these zoning regulations, except that in doing so, any off street parking or loading, which existed, shall be retained.

(3) Change Of Use Or Occupancy Of Buildings: Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.

(4) Use Of Parking Facilities: Off street parking facilities accessory to residential use shall be utilized solely for parking of passenger automobiles, recreational vehicles, and/or one truck not to exceed twelve thousand (12,000) pounds' gross weight rating for each dwelling. No commercially licensed trailer shall be parked or stored in any residentially zoned district, except when loading, unloading or rendering a service, except that one such vehicle with trailer may be parked off the street or avenue while maintaining all off street parking setbacks at the residence of the owner or operator of said vehicle. Required off street parking in the residential zoned districts shall be on the same lot as the principal building.

(5) Use Of Parking Area: Required off street parking space in all zoning districts shall not be utilized for open storage of goods, shipping containers or for the storage of vehicles, which are inoperable, for lease, rent or sale. Under no circumstances shall open parking facilities accessory to one- and two-family residential structures be used for ~~more than four (4) vehicles, open area storage of commercial vehicles, or for~~ open air parking of automobiles belonging to the employees, owners, tenants or customers of business or manufacturing establishments.

(6) Snow Removal: Within forty eight (48) hours after snow has ceased to fall, the owner, tenants or manager of any off street parking area shall clear said parking area of snow so that said parking area is available for parking the number of vehicles for which said parking area was designed.

(7) Accessible Parking: Accessible parking spaces for the disabled shall be provided as required by the state building code.

c. Calculating Space:

(1) Number Of Spaces: When determining the number of required off street parking spaces results in a fraction, each fraction of one-half ( $\frac{1}{2}$ ) or more shall constitute another space.

(2) Gross Floor Area: The term "gross floor area" for the purposes of calculating the number of off street parking spaces, shall be determined on the basis of the exterior floor dimensions of the building, structure, or use, times the number of floors, minus ten percent (10%).

(3) Benches Or Similar Accommodations In Places Of Public Assembly: In stadiums, bars, restaurants, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty two inches (22") of such seating facility shall be counted as one seat for the purpose of determining required parking.

(4) Buildings With Two Or More Uses: Except as provided for under "joint parking facilities", should a building contain two (2) or more types of use, each use shall be calculated separately for determining the total off street parking spaces required. Warehouse areas associated with retail uses shall have parking requirements calculated separately from the retail requirements.

d. Location Of Parking Facilities: Unless otherwise allowed subject to this ordinance, all off-street parking spaces shall be located on the same tax parcel as the use which they serve, unless otherwise approved by conditional use permit.

(1) Required off street parking in all zoning districts shall meet the following setback requirements:

(A) Within all residential zoned districts, all vehicles normally owned or kept by the occupants on the premises must have a garage stall or open parking space on the same lot as the principal use served. Garage stalls accessory to residential structures or open parking spaces may be located anywhere on the lot other than in the required yard setback area, except that such garages or open parking spaces may be located to within ten feet (10') of a rear lot line. ~~No accessory structure to a residential structure shall be located within the required yard area abutting a street.~~

~~(B) Within the limited business district B-1 and general business district B-2 zoned districts parking spaces and/or accessory structures shall be located in areas other than in the required yard setback area, except that accessory structures to the principal building or open parking spaces may be located in a rear yard to within ten feet (10') of the rear lot line and in a side yard to within five feet (5') of an interior lot line, except where a side lot line is abutting any residential zoned district; then off street parking shall not be less than ten feet (10') from said lot lines.~~

~~(CB)~~ Within the central business district B-1 and the noncentral business district B-3B-2 zoned district, off street parking spaces shall not be less than twenty feet (20') from a street right of way line nor less than five feet (5') from any interior side lot line, nor less than ten feet (10') from any rear lot line, except where a side lot line is abutting any residential zoned district, then off street parking shall not be less than ten feet (10') from said lot lines.

~~(DC)~~ Within any industrial ~~(light)~~ I-1 zoned district, parking spaces shall not be less than twenty feet (20') from any street right of way line, nor less than five feet (5') from any interior side lot or rear lot line, except when a side or rear lot line is abutting any residential zoned district, then off street parking shall be not less than ten feet (10') from said lot lines.

~~(ED)~~ Within any industrial ~~(heavy)~~ I-2I-1 zoned district, off street parking spaces shall be not less than ten feet (10') from any street right of way line, nor less than five feet (5') from any interior side or rear yard; except, where a front, side or rear yard is across the street from or abutting any residential zoned district, no parking shall be less than twenty feet (20') from the front lot line or lot line abutting a residential lot.

e. Joint Parking Facilities: The joint use of off street parking areas may be authorized by conditional use permit for the following uses or activities under the following conditions:

(1) The proposed joint parking space shall begin one hundred feet (100') from the principal use or building it serves and not more than four hundred feet (400') from principal use or building served, unless otherwise approved in the conditional use permit.

(2) The applicant shall show that there is no significant conflict overlap in the principal operating hours of the two (2) or more buildings or uses for which joint use of off street parking facilities is proposed. Where there are more than 2 hours of overlap between the daytime and nighttime uses of the parking facilities, a conditional use permit may be required.

~~(A) The joint use of off street parking for "nighttime" uses, such as theaters, bowling alleys, and bars or restaurants may be supplied by the parking area provided for "daytime" uses, such as banks, offices, retail and personal service establishments.~~

~~(B) Up to fifty percent (50%) of the off street parking for "daytime" uses may be supplied by the parking area provided for "nighttime" uses.~~

~~(C) Up to fifty percent (50%) of the parking for churches or auditoriums may be supplied by the parking area provided for "daytime" uses.~~

(D) When a side or rear lot line is abutting a one- and two-family residential R-1 zoned district, the joint parking facility shall be not less than ten feet (10') from said lot lines and include screening between the parking area and lot lines.

(E) The affected landowners or their duly authorized agents shall sign an agreement guaranteeing that joint parking will be available as long as the joint occupancies or businesses exist. All parties that lease parking spaces must provide evidence of control of required parking in the agreement. The city attorney must approve such agreement. Said agreement shall be filed and recorded in the office of the Morrison County recorder, and evidence of proper filing shall be submitted to the zoning administrator prior to the issuance of any permits or licenses.

f. Use Of Parking Areas For Storage: Use of parking areas or required off street parking spaces, in all zoning districts, shall not be used for open storage of goods or for storage of vehicles that are inoperable, for lease, rent or sale.

g. Design And Maintenance Of Off Street Parking Areas:

(1) Cars Backing Into Street/Avenue: All parking areas except those serving one- and two-family residential R-1 and R-2 zoned districts, on local streets shall be designed so that cars shall not be required to back into the street/avenue. If deemed necessary for traffic safety, the ~~city~~ City Engineer may require some one- and two-family residential R-1 and R-2 zoned districts to have turnaround areas on the property.

(2) Curb Cut, Driveway Access Location And Curb Cut Maximum: Access and parking areas shall be designed so as to provide an adequate means of access to a public alley or street. Said driveway access shall not exceed thirty feet (30') in width at the public street right of way line for all zoning districts except curb cut width may be increased to a maximum of fifty feet (50') for occupancies in industrial zoned districts. All driveway access locations shall be so limited so as to cause the least interference with the traffic movement. All public parking areas shall have access off driveways and not directly off a public street. All outside parking spaces shall be clearly marked on the pavement.

(3) Location: The distance from a driveway to the intersection of two (2) streets shall not be less than twenty feet (20') measured from the intersection of the property or street right of way lines to the nearest edge of the curb cut; provided however that if, in the opinion of the city administrator or designee, present or future traffic conditions warrant greater or lesser distances, such greater or lesser distances shall be required subject to approval by the city council.

(4) Curb Cut Setback: Curb cut openings for driveways shall be located at a minimum of ten feet (10') from the side yard interior lot lines measured at the property line in all zoning districts, except one- and two-family residential R-2 and multiple-family residential R-3 zoning districts, where curb cut openings shall be a minimum of five feet (5'). The minimum distance between driveways on the same property shall be twenty feet (20') measured along the property or street right of way; provided, however, that if

in the opinion of the city administrator or designee, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the city council.

(5) Joint Driveway: There shall be no setback requirements from a shared lot line for dwellings defined as zero foot (0') interior side yard setback for townhouses as described in section [11.03](#) of this chapter. Joint driveways for zero foot (0') interior side yard setback are permitted in all residential zoned districts if the joint driveway does not encroach within drainage and utility easements. Multiple properties in commercial, business, and industrial zoned districts may be allowed to share a driveway and the ten foot (10') setback required in this section may be reduced from each property line to zero, through a conditional use permit, provided:

(A) There is a reduction in the overall amount of allowed driveways for the properties served and the installation of a joint driveways and/or parking aisles will increase traffic safety.

(B) An access site plan for the areas to be served is provided to the city for review as part of the conditional use permit application.

(C) A legal instrument setting forth ownership, maintenance, etc., duly approved as to form by the city attorney, is executed and recorded by the party(ies) concerned and an attested copy filed with the city.

(D) The driveway or parking aisle meets all design standards set forth in this code or other design requirements as determined by the city administrator or designee.

(E) The design or resulting development shall not cause any conflict with safe and orderly traffic flow.

(F) Only one joint driveway or joint parking aisle shall serve any two (2) lots unless approved under a planned unit development.

(G) That for a joint parking aisle, there is no practical space for the parking aisle as determined by the city and the city determines the joint parking aisle is appropriate and was not proposed just to avoid compliance with the ten foot (10') parking setback from the property line.

(H) Joint driveways shall require a conditional use permit. Joint driveways in existence prior June 19, 2017 to the adoption hereof are classified as preexisting and will not be required to obtain a conditional use permit, provided evidence of a previously recorded agreement detailing the joint driveway is submitted to the city and determined adequate by the city attorney.

(6) Driveway Angle: The minimum driveway angle to the street shall be forty-seventy five degrees (4575°), unless otherwise recommended by the city administrator or designee and approved by the city council.

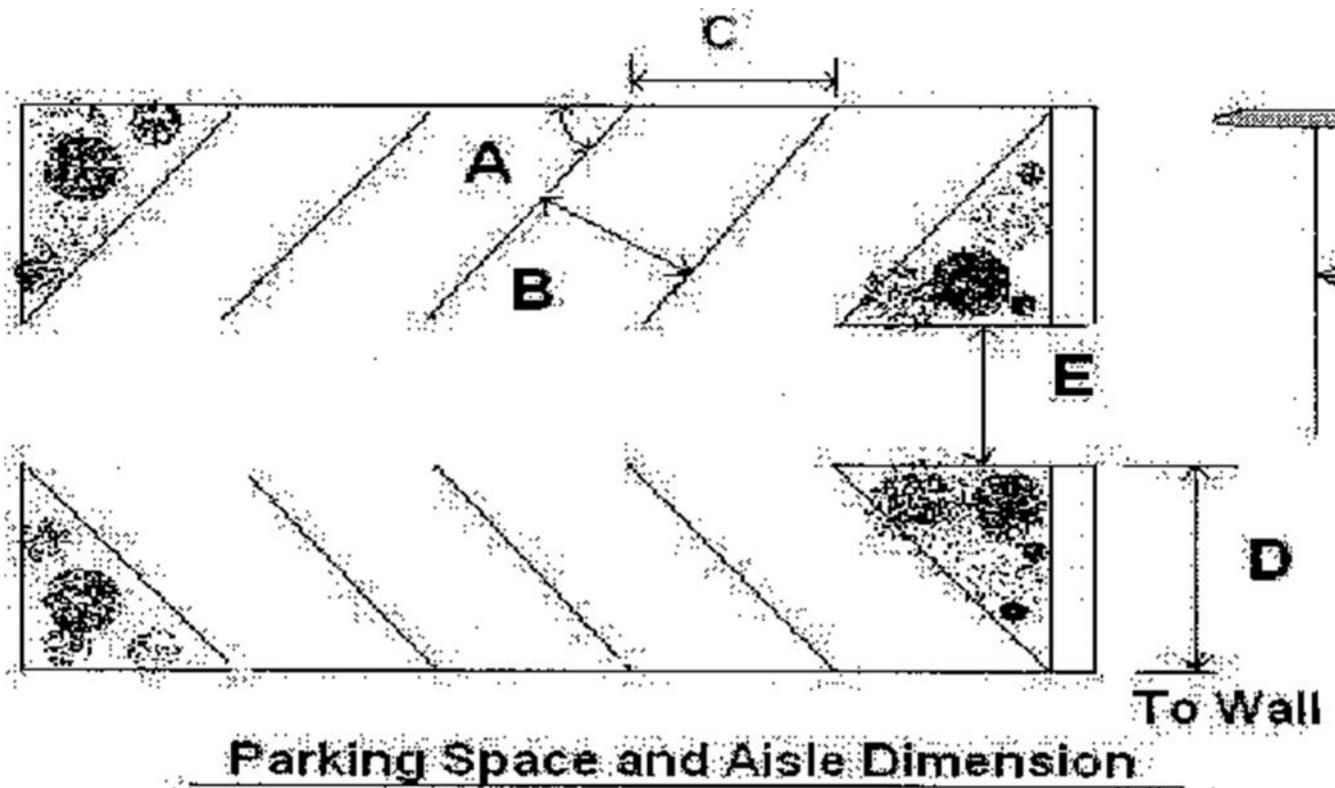
(7) Curbing: All open, off street parking areas designed to have head in parking along any lot line shall provide a tire bumper or curb of adequate height and properly located to ensure that no part of any car

will project beyond the required setbacks as established in this chapter. The tire bumper or curb will be designed so as not to damage the vehicle bumpers or tires and still allow pedestrian traffic.

(8) Size: The minimum dimensions for required parking spaces are shown in table 8-1 of this section. Minimum dimensions are exclusive of access drives or aisles, ramps or columns. In no case shall any part of the public right of way contribute toward required stall size. Ninety degree (90°) parking spaces that use a curb overhang over a landscaped area or a minimum seven foot (7') wide sidewalk may be reduced to eighteen feet (18') in depth. Parking stall dimensions are to be reviewed and approved by the city administrator or designee prior to the approval of a building permit.

TABLE 8-1  
MINIMUM PARKING SPACE AND AISLE  
DIMENSIONS GUIDELINES

Angle (A)	Width (B)	Curb Length (C)	Stall Depth (D)	One-Way Aisle Width (E)	Two-Way Aisle Width (F)
0° parallel	9'	20'	9'	12'	24'
45°	9'	12'8"	17'6"	12'	24'
60°	9'	10'5"	19'	16'	24'
90°	9'	9'	18'6"	26'	26'



~~(9) Signs: Signs located in any parking area necessary for orderly operation of traffic movement shall be in addition to accessory signs permitted in other sections of this chapter. No sign shall be so located as to restrict the sightlines and orderly operation and movement within any parking lot.~~

~~(109) Surfacing: All of the area intended to be utilized for parking space and driveways shall be hard surfaced with a material to control dust and drainage, and subject to approval of the city administrator or designee, except parking areas for less than four (4) vehicles. This requirement also applies to open sales lots. Parking areas and driveways shall be kept free of dirt, dust, and debris and the pavement shall be maintained in good condition.~~

(A) All commercial and industrial off street parking areas, all access drives leading to such parking areas and all other areas upon which motor vehicles may be located shall be surfaced with a dustless all

weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds.

(B) Acceptable surfacing materials shall include asphalt, concrete brick, cement pavers or similar material installed and maintained per industry standards.

(C) Crushed rock shall not be considered an acceptable surfacing material on any public or employee off street parking areas, or access drives leading to such parking areas or garages, except as provided for elsewhere in this section.

(D) Within all industrial zoned districts, internal yard areas and/or loading areas are allowed to have class II (100 percent crushed) aggregate surface. Such internal yard areas shall be located to the side or rear of the principal building. The internal yard area shall be clearly separated from public areas by fencing or other acceptable means. Access drives that serve loading areas shall be hard surfaced with either bituminous or concrete within the required front or corner side building setback. A dust control plan shall be submitted and approved by the city.

~~(1110)~~ Lighting: Exterior lighting shall not be directed upon adjacent lands or the public right of way.

~~(1211)~~ Required Spaces: Parking shall be provided according to the following schedule:

<b>Principal Use Or Structure Served</b>	<b>Required Number Of Parking Spaces (Open Or Enclosed)</b>
Auto sales building, auto repair, bus terminals, taxi terminals, recreational vehicle sales, garden supply stores, building materials sales	1 space for each 300 square feet of gross floor area. 2 spaces per service bay (the service bay is not a parking space). 1 space per each 2,000 square feet of gross outdoor sales area
Banks or savings institutions	1 space per 250 square feet of gross floor area
Barbershop/beauty salon	2 spaces per station plus 2 per 3 employees
Bed and breakfast	At least 1 parking space per rental room, plus 2 for the owner or manager if resident on the premises
Boarding house	1 space per boarder plus 2 for owner or manager if resident on premises

Bowling alleys	5 spaces for each alley plus additional spaces as may be required herein for additional uses plus 1 space per 2 employees
Car wash	2 spaces per facility plus adequate stacking
Colleges and universities	1 space per 2 students based on the design capacity plus 1 space for each employee plus 1 space for each classroom; auditorium or event space shall be subject to separate additional calculations
Community center, post office, public and private clubs, pool halls, libraries, private clubs, lodges, museums, art galleries	1 space for each 300 square feet of gross floor area in the principal structure plus additional spaces as may be required for separate types of uses or event spaces in the primary structure
Day nurseries, commercial daycare	1 space per teacher on the largest shift plus 1 space per 10 students based on the maximum capacity of facility
Drive-in establishments	1 space per 2 seats, plus 1 space per 2 employees on largest shift
Dwelling, multi-family	2 spaces per dwelling unit
Dwelling, one- and two-family	2 spaces per dwelling unit
Efficiency units	1 space per unit
Elderly (senior citizen) housing, retirement homes, assisted living facilities	1 space per each bedroom, plus 1 space per 2 employees on largest shift
Food service, bakeries and other takeout food store	1 space per 100 square feet of customer area
Furniture store, household appliances	1 space per 400 square feet of gross sales area

Golf courses, disc golf courses, miniature golf	2 spaces per golf hole, plus additional spaces as may be required herein for related uses such as a restaurant, club rooms, bar or event spaces
Health clubs	1 space per 2 exercise stations plus 1 space per employee on largest shift
Hospitals	1 space per 2 patient beds (excluding bassinets) plus 1 space per 2 employees on largest shift including visiting doctors, plus designated parking for hospital vehicles. Loading and unloading spaces for ambulances or similar vehicles are not included in these parking requirements
Hotel, motels, tourist homes and cabins	1 space for each rental room/suite plus 1 space for each 8 units and 1 space per employee on largest shift
Liquor store, off-sale	1 space per 300 square feet of gross floor area
Manufacturing, fabrication or processing of a product or material	1 space per 12 employees on the largest shift plus 1 truck space per 7,500 square feet of gross floor area in the principal structure
Mobile home park	2 spaces per mobile home unit
Motor fuel stations and convenience stores	At least 4 spaces plus 1 space for each employee on the largest shift plus additional spaces as may be required herein for related uses such as retail sales
Nursing homes, rest home, convalescent home, memory care facility	1 space per 4 residents or patients plus 1 space per 2 employees plus 1 space for emergency vehicles
Office buildings, animal hospitals and clinics, professional offices and medical clinics	1 space per 300 square feet of gross area plus 1 space per employee on largest shift
Open sales lot	3 spaces for each 5,000 square feet of the open sales lot

Places of worship, civic centers, auditoriums, mortuaries, theaters, stadiums, sport arenas or similar uses	At least 1 parking space for each 4 seats based on design capacity of main assembly area, plus 1 space per 2 employees
Restaurants, cafes, bars, taverns and nightclubs	1 space per 3 seats plus 1 space for each 2 seats in bar area plus 1 space per employee on largest shift
Restaurants, fast food	15 spaces per 1,000 square feet of gross floor area
Retail sales	1 space per 300 square feet of gross floor area excluding public plazas, malls, pedestrian walkways for commercial structures 10,000 square feet in size or less. Structures larger than 10,000 square feet shall have 1 space per 250 square feet of floor area excluding public plazas, malls, and pedestrian walkways
Schools	Elementary and junior high, 2 spaces per classroom; high school, 1 space per teacher and staff members on largest shift, plus 1 space per 5 students
Shopping centers	6 spaces per 1,000 square feet of gross leasable floor area (exclusive of common areas)
Skating rinks and dance halls	100 spaces plus 1 per 200 square feet of gross floor area in the principal building
Swimming pool	1 space per 100 square feet of pool area
Warehousing and wholesaling	1 space per employee on largest shift plus 1 truck space per 7,500 square feet of gross principal structure
Special uses not covered above	In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses computed separately in accordance with this section. Parking facilities for 1 use shall not be considered as providing the required parking facilities for any other use except that the city administrator or designee may consider the joint use of a

	parking area (other than residential) where it is known that because of a time element, the parking facilities will not be needed by more than 1 of the uses thereof at 1 time
Other structures or uses	For any and all uses or structures not specifically provided for in the foregoing, such parking spaces as the city administrator or designee shall determine to be necessary, considering all the parking generating factors involved

h. Purpose Of Off Street Loading And Unloading Regulations: The regulations and requirements set forth in this section are to alleviate or prevent congestion of the public right of way so as to promote the safety and welfare of the public. This section applies to loading and unloading facilities in all districts. If, in the application of the requirements of this section, a fractional number is obtained, one loading space shall be provided for a fraction of one-half ( $\frac{1}{2}$ ) or more, and no loading space shall be required for a fraction of less than one-half ( $\frac{1}{2}$ ).

(1) Location: All loading berths shall be located on the same lot as the building or use to be served. A loading berth shall be located twenty five feet (25') or more from the intersection of two (2) street right of way lines and at least twenty five feet (25') from any property line in which the abutting property is a residential use. Loading berths shall not occupy any yard requirement bordering a street.

(2) Size: Unless otherwise specified, a required loading berth shall not be less than twelve feet (12') in width and twenty five feet (25') in length. All loading berths shall maintain a height of fourteen feet (14') or more.

(3) Access: Each loading berth shall be located with ~~approximate adequate~~ means of access to a public street or alleys in a manner, which will least interfere with traffic.

(4) Surfacing: All loading berths and accessways shall be improved with a durable material to control dust and drainage.

(5) Accessory Uses: Any area allocated as a required loading berth or access drive so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles nor be included as a part of the area necessary to meet the off street parking area.

i. Number Of Required Loading Berths: The ~~city administrator or his/her designee~~ City Engineer, shall determine the number of loading spaces, if any, required for each business or structure. The following criteria shall be used to make this determination:

(1) The size of both the building and parking areas.

(2) The volume of materials delivered to the building.

(3) The requirement that no delivery trucks shall need to back into or park in a public street or near pedestrian walkway or entrance.

(4) The traffic flow both on site and in respect to adjacent public streets. (Ord. 24, 6th Series, eff. 4-4-2011)

B. Motor Fuel Stations: Motor fuel stations in all districts shall be subject to the following standards:

1. The setback of any overhead canopy or weather protection, freestanding or projecting from the station structure, shall be not less than ten feet (10') from the street right of way line, nor less than twenty feet (20') from an adjacent property line.

2. Open dead storage of motor vehicles, other than motor vehicles for rent, shall not be permitted for a period of more than seven (7) days, unless screened from public view.

3. No sales of motor vehicles or trailers or campers shall be permitted.

~~4. All goods for sale by a motor fuel station convenience store other than those generally required for the operation and maintenance of motor vehicles shall be displayed within the principal motor fuel station structure.~~

~~54.~~ Each motor fuel station shall be architecturally designed so as to be as compatible as possible with the general architectural intent of the area in which it is located.

~~65.~~ For the purpose of architectural appropriateness, each and every side of a motor fuel station shall be considered as a front face.

~~76.~~ The entire motor fuel station site, other than that part devoted to landscaping and structures, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage, and such surfaces shall be designed to meet the requirements of a minimum four (4) ton axle load.

~~87.~~ Wherever a motor fuel station abuts an R district, a fence or compact evergreen hedge not less than fifty percent (50%) opaque, nor less than six feet (6') high, shall be erected and maintained along the side and rear property line that abuts the R district. Application of this provision shall not require a fence within fifteen feet (15') of any street right of way line.

~~98.~~ All trash, waste materials and obsolete automobile parts shall be stored within a separate enclosure near the principal structure of the motor fuel station. Trash or recycling receptacles located between fuel pumps shall be allowed.

~~109.~~ All interior curbs shall be constructed within the property lines to separate driving and parking areas from landscaped area. Such curbing shall be constructed of concrete and shall be of six inch (6") nonsurmountable design, except where allowed otherwise by the City Engineer.

~~1110.~~ All rental campers, trailers or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street. Said rentals shall not be stored within the front yard setback, nor the side yard adjacent to the street. (Ord. 801, eff. 6-3-1974)

~~1211.~~ All outdoor illumination shall be provided with lenses, reflectors or shades which will concentrate the light upon the premises so as to prevent any undue glare or rays of light therefrom being directly visible upon any adjacent street, roadway or private property occupied for residential purposes.

~~13.~~ Notwithstanding anything to the contrary in other sections of this chapter, the following requirements shall be observed for signs for motor fuel stations:

~~a.~~ Motor fuel stations shall have no more than one pedestal type business identification sign not to exceed twenty six feet (26') in height erected within any yard, except that no part of said sign shall be less than six feet (6') from a property line measured as a horizontal distance. No part of said sign surface shall be less than sixteen feet (16') vertical distance from the grade of the nearest driveway or parking area. The pedestal shall not be less than five feet (5') from a driveway at its nearest point. Said sign shall have no more than three (3) faces and shall not exceed more than one hundred (100) square feet per face.

~~b.~~ A motor fuel station may have two (2) additional signs. Said signs shall be not more than two (2) faces and shall not exceed more than thirty (30) square feet per face. The top of said sign shall not be more than twenty feet (20') in height.

~~1412.~~ Notwithstanding anything to the contrary in other sections of this chapter, the following minimum requirements shall be observed for yards and setbacks for motor fuel stations:

	Lot Width	Front Yard	Side Yard		Rear Yard	Pump Setback
			Adjacent To Another Lot	Adjacent To Street		
Motor fuel station	150 feet	60 feet	30 feet	60 feet	30 feet	25 feet
Truck stop	200 feet	80 feet	60 feet	80 feet	60 feet	30 feet

(Ord. 801, eff. 6-3-1974; amd. Ord. 22, 5th Series, eff. 11-6-2000)

~~C.~~ Drive-In Establishments: Drive-in establishments in all districts shall be subject to the following performance standards:

~~1.~~ A screening fence not over six feet (6') in height nor less than four feet (4') which is at least fifty percent (50%) opaque throughout its height shall be constructed along the property line, or a planting

~~strip not less than fifteen feet (15') in width is reserved and planted along the property line, shall be developed according to a submitted planting plan that meets the approval of the planning commission.~~

~~2. The outside lighting, if installed, shall be in accord with a plan approved by the council.~~

~~3. The entire area shall have a drainage system approved by the city engineer.~~

~~4. The entire area other than that occupied by structure or planting shall be surfaced with a material which will control dust and drainage.~~

~~5. A box curb at least six inches (6") above grade shall separate the public walk area from the lot, except at approved entrance or exit drives.~~

~~6. Should the use be a drive-in theater, a solid fence not less than eight feet (8') in height and extending at least to within two feet (2') of the ground shall be constructed around the property.~~

~~7. The lighting shall be accomplished in such a way as to have no direct source of light visible from the public right of way or adjacent land in residential use.~~

#### DC. Planned Unit Development:

##### 1. Purpose and Intent. The purposes of a Planned Unit Development (PUD) are:

a. To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan and preserving the health, safety, and welfare of the citizens of Little Falls.

b. To allow for a mixture of residential units in an integrated and well-planned area.

c. To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.

d. Facilitate the economical provision of streets and public utilities.

e. An efficient use of land resulting in smaller networks of utilities and streets thereby lowering development costs and public investments.

f. Promotion of a desirable and creative environment that might be prevented through the strict application on zoning and subdivision regulations of the City.

##### 2. General Requirements. The City may approve a Planned Unit Development (PUD) only if it is found that the development satisfies all of the following standards:

a. The proposed Planned Unit Development (PUD) is in conformance with the Comprehensive Plan. At a minimum, the City shall find that the Planned Unit Development (PUD) does not conflict with the Comprehensive Plan with regard to the following:

(1.) The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities, which serve or are proposed to serve the area.

(2.) The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.

(3.) The Planned Unit Development (PUD) is an effective and unified treatment of the development possibilities on the project site and the development plans provide for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas where feasible and appropriate, as determined by the City.

(4.) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to surrounding uses.

b. The Planned Unit Development (PUD) meets or exceeds the following development criteria:

(1.) A minimum of two (2) or more principal structures is proposed.

(2.) The tract is at least two (2) acres in size.

c. The uses within the PUD shall not be inconsistent with the uses allowed in the underlying zoning district.

d. The Planned Unit Development (PUD) can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.

e. Each phase of the proposed development is of sufficient size, composition, and arrangement so that it's construction, marketing, and operation are feasible as a complete unit, and that provision for and construction of dwelling units and common open space are balanced and coordinated. In addition, the total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

f. Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the Planned Unit Development (PUD). To evidence this finding, a written statement of financial feasibility, which is accepted by the City, shall be submitted by the applicant.

g. An individual or legal entity has been designated by the property owner(s) to be in control of the development.

h. The Planned Unit Development (PUD) provides for architectural diversity by way of varied building types and exterior building design.

i. Underground Utilities. In any Planned Unit Development (PUD), all utilities, including, but not limited to, telephone, electricity, gas and cable television shall be installed underground.

k. Roadways, Private.

(1.) Single Ownership. Private roadways shall only be allowed within a planned unit development if the property remains under the ownership of a single person, persons or other legal entity; they shall not be allowed where the PUD involves individual lots that can be owned by different parties or where a homeowners association owns the parcel containing the roadway.

(2.) Design. Private roadways within the project shall have an improved surface to twenty-eight (28) feet or more in width and shall be so designed as to permit the City fire trucks to provide protection to each building.

(3.) Parking. No portion of the required private road system may be used in calculating required off-street parking space or be used for parking.

l. Landscaping. In any Planned Unit Development (PUD), landscaping shall be provided according to a plan approved by the City Council, which shall include a detailed planting list with sizes and species indicated as part of the final plan. In assessing the landscaping plan, the City Council shall consider the natural features of the particular site, the architectural characteristics of the proposed structures and the overall scheme of the Planned Unit Development plan.

m. Public services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection.

n. Refuse. Provision for trash pick-up shall be provided according to a plan approved by the City Council.

o. Best Management Practices. All Planned Unit Developments shall meet the requirements of the City's stormwater ordinances and where appropriate, incorporate Best Management Practices for stormwater management, subject to review by the City Engineer and Planning Commission and approval of the City Council.

p. Sidewalks and Trails. Except as otherwise determined by the City Council, concrete sidewalks not less than five (5) feet in width and/or bituminous trails not less than eight (8) feet in width shall be provided in accordance with the City's sidewalk and trails map.

q. Development Agreement. Prior to a rezoning or the issuance of a building permit as part of a Planned Unit Development (PUD), the developer shall execute a development agreement with the City. The agreement shall detail all use restrictions and required improvements conditional to the Planned Unit Development (PUD) rezoning or Conditional Use Permit

approval. The agreement shall provide for the installation within one (1) year of the off-site and on-site improvements as approved by the City Council, secured by a cash escrow or security in an amount and with conditions satisfactory to the City, to insure the City that such improvements will be actually constructed and installed according to specifications and plans approved by the City as expressed in such agreement. The amount of the financial guarantee shall be one and one-half (1½) times the estimated cost of the improvements as determined by the City.

3. General Standards for Common Open Space. No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

a. The location, shape, size, and character of the common open space must be suitable for the planned development. At a minimum, fifty percent (50%) of the total area of the property involved in the PUD shall be preserved as open space, unless otherwise approved by the City Council, which shall take into consideration the dedication of any land as public park land.

Land within 10 feet of any structure and any roadway shall not be included in the computation of minimum open space. The City Council may also choose to not include areas as open space which do not serve the overall intent and purposes of the open space requirement.

b. Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.

c. Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.

4. Conveyance and Maintenance of Common Open Space.

a. All land shown on the final development plan as common open space must be conveyed under one of the following methods at the discretion of the City.

(1.) It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures, or improvements which have been placed on it.

(2.) It may be conveyed to a homeowner association (incorporated or non-incorporated) or trustee provided in an indenture establishing an association or similar

organization for the maintenance of the planned development. The common open space must be conveyed to the party involved subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.

b. If the common open space is conveyed to a private party and is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to said private party.

5. Enforcement of Development Schedule/Planned Unit Development Staging. The construction and provision of all the common open spaces and public and private recreational facilities that are shown on the final development plan must proceed at the same rate as development. At least once every six (6) months following the approval of the final development plan, City staff shall review all of the building permits issued for the planned development and examine the construction that has taken place on the site. If it is found that the rate of development is faster than the rate at which common open spaces and public and private recreational facilities have been constructed and provided, this information shall be forwarded to the City Council, which may revoke the Conditional Use Permit. If the developer or landowners fail to complete the open spaces and recreation areas within sixty (60) days after the completion of the remainder of the project, the City may finish the open space areas and assess the cost back to the developer or landowner.

#### 6. Residential Density

a. In order to encourage the protection of natural resources, to allow limited development in an area with unusual building characteristics due to subsoil characteristics or to encourage creative land use, a density transfer system may be allowed whereby lot sizes smaller than that normally required in a district will be allowed on the developable land in return for leaving the natural resource areas open from development. The number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density indicated in the zoning district where the land is located.

b. The number of dwelling units which may be constructed within the Planned Unit Development (PUD) shall be determined by dividing the gross acreage of the project area by the maximum allowable density as set forth in Section 515-11-6.A of this Ordinance. If the Planned Unit Development (PUD) is in more than one (1) underlying zoning district, the number of allowable dwelling units must be separately calculated for each zoning district and the allowable units located within their respective zoning districts, unless specifically approved otherwise by the City Council.

7. Residential Planned Unit Development/Conditional Use Permit Requirements

a. It is the intent of this section to establish special requirements for the granting of a Conditional Use Permit for residential Planned Unit Development (PUD) projects which are in compliance with the density, permitted and conditional uses allowed in a specific base district including dwellings, offices and institutional uses of one or more buildings in relation to an overall design and integrated physical plan.

b. Yards and Building Spacing

(1.) Setbacks, Periphery. The front and side yard restrictions at the periphery of the Planned Unit Development (PUD) site at a minimum shall be the same as imposed in the respective districts, unless greater setbacks are required by the City to protect neighboring properties from negative effects that might otherwise occur.

(2.) Setback, Front. For portions of buildings which face the interior of the development, no building shall be located less than twenty (20) feet from the road surface or back of the curb line (whichever is more restrictive).

(3.) Building Spacing. Buildings within a planned unit development shall be spaced consistent with the minimum side yard setbacks of the underlying zoning district. This spacing shall not apply to individual units that share walls or are otherwise built as an integrated unit.

c. Townhouses, Cooperatives, Condominiums.

(1.) Frontage. Minimum unit lot frontage for townhouses shall be not less than twenty-four (24) feet.

(2.) Dwelling Unit. Dwelling unit and accessory use requirements are in compliance with the district provisions in which the development is planned.

(3.) Building Façade Treatment. Facades greater than forty-eight (48) feet in length shall incorporate wall plan projections or recesses having a depth of at least three (3) feet or more, unless specifically approved otherwise by the City Council.

8. Commercial and Industrial Planned Unit Development/Conditional Use Permit Requirements.

a. The intent of this section is to establish special requirements for the granting of a Conditional Use Permit to allow commercial or industrial Planned Unit Development (PUD) projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design and integrated physical plan.

b. Surfacing and Drainage.

(1.) Surfacing. The entire site other than that taken up by buildings or landscaping shall be paved with concrete, bituminous or paving brick.

(2.) Drainage. A drainage system subject to the approval of the City Engineer shall be installed.

c. Yards.

(1.) Setbacks, periphery. The front and side yard setbacks shall be the same as imposed in the underlying district.

9. Procedure for Processing a Planned Unit Development (PUD).

a. Stages of Planned Unit Development (PUD). The processing steps for a Planned Unit Development (PUD) are intended to provide for an orderly development and progression of the Plan, with the greatest expenditure of developmental funds being made only after the City has had ample opportunity for informed decisions as to the acceptability of the various segments of the whole as the plan affects the public interest. The various steps represent separate applications for purpose of review, compliant with Minnesota Statutes 15.99, outlined in detail in the following sections:

(1.) Pre-Application Meeting. Preliminary discussions.

(2.) General Concept Plan Application. Consideration of overall concept and plan. The concept plan review is voluntary but strongly recommended.

(3.) Development Stage Plan Application. One or more detailed plans as part of the whole final plan.

(4.) Final Plan Application. The summary of the entire concept and each Development Stage Plan in an integrated complete and final plan.

b. Pre-Application Review. Prior to the submission of any plan to the Planning Commission, the applicant shall meet with City staff to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a Conditional Use Permit and a Preliminary Plat as necessary. The applicant is urged to avail himself or herself of the advice and assistance provided by City staff to facilitate the review of the proposed Planned Unit Development (PUD).

10. General Concept Plan

a. The General Concept Plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development before incurring substantial cost. This concept plan serves as the basis for public comment so that the proposal may be publicly considered at an early stage. The following elements of the proposed

General Concept Plan represent the immediately significant elements which the City shall review and for which a decision shall be rendered:

- (1.) Overall maximum Planned Unit Development density range.
- (2.) Location of major streets and pedestrian ways.
- (3.) Location and extent of public and common open space.
- (4.) Location of residential and nonresidential land uses with approximate type and intensities of development.
- (5.) Staging and time schedule of development.
- (6.) Other special criteria for development.

b. General Concept Plan submission information

(1.) General Information.

(a.) Owner. The landowner's name, address and telephone number and interest in the subject property.

(b.) Applicant. The applicant's name, address and telephone number if different from the landowner. The applicant may designate an agent to be contacted by the City, who may speak for the applicant.

(c.) Consultants. The names and addresses of all professional consultants who have contributed to the development of the Planned Unit Development (PUD) plan being submitted, including attorney, land planner, engineer and surveyor.

(d.) Title of Applicant. Evidence that the applicant has sufficient control over the subject property to effectuate the proposed Planned Unit Development (PUD), including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and such other evidence as the City Attorney may require to show the status of title or control of the subject property.

(2.) Present status of premises and adjacent properties

(a.) Description. The address and legal description of the subject property. A survey is required.

(b.) Zoning. The existing zoning classification and present use of the subject property and all lands within five hundred (500) feet of the subject property.

(c.) Map. A single reproducible map or aerial photograph at a scale of not less than one (1) inch equals one hundred (100) feet, depicting the existing development of the subject property and all land within five hundred (500) feet thereof and showing the precise location of existing streets.

(3.) Narrative Description. A written statement generally describing the proposed Planned Unit Development (PUD) and the market which it is intended to serve, showing its relationship to the City's Comprehensive Plan and how the proposed Planned Unit Development (PUD) is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

(4.) Site Conditions. Where deemed necessary by the City, graphic reproductions of the existing site conditions at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted and shall contain the following:

(a.) Survey showing lot dimensions and existing easements and utilities.

(b.) Contours, minimum two (2) foot intervals.

(c.) Location, type, and extent of tree cover.

(d.) Slope analysis.

(e.) Location and extent of water bodies, wetlands, streams and flood plains along with corresponding zoning overlays (Shoreland and Mississippi Headwaters) within three hundred (300) feet of the subject property.

(f.) Existing drainage patterns.

(g.) Vistas and significant views.

(h.) Soil conditions as they affect development.

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

(5.) Concept Drawing. Schematic drawing of the proposed development concept including, but not limited to, the general location of major circulation elements, public and common open space, residential and other land uses.

(6.) Number of Units. A statement of the estimated total number of dwelling and/or other units proposed for the Planned Unit Development (PUD) and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

(a.) Area devoted to residential uses.

(b.) Area devoted to residential use by building or structure or use type.

(c.) Area devoted to common open space.

(d.) Area devoted to public open space.

(e.) Approximate area devoted to streets.

(f.) Approximate area, and potential floor area, devoted to commercial uses.

(g.) Approximate area, and potential floor area, devoted to industrial or office uses.

(7.) Staged Development. When the Planned Unit Development (PUD) is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total Planned Unit Development (PUD) public or common open space and dwelling units to be provided or constructed during each such stage and the overall chronology of development to be followed from stage to stage.

(8.) Common Areas. When the proposed Planned Unit Development (PUD) includes provisions for public or common open space or service facilities a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities is required. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted during the development stage.

(9.) Covenants. General intent of any restrictive covenants that are to be recorded with respect to property included in the proposed Planned Unit Development (PUD).

(10.) Market Feasibility. Where deemed necessary by City staff a market feasibility study including an analysis of the proposals economic impact on the City.

c. General Concept Plan Process

(1.) The developer shall submit five (5) copies of the General Concept Plan for distribution to the Planning Commission.

(2.) The applicant, or a representative thereof, shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(3.) Planning Commission shall review and make a recommendation to the City Council on the General Concept Plan.

(4.) City Council reviews all recommendations and indicates its support or concerns about the General Concept Plan as presented or amended.

d. Optional Submission of Development Stage Plan. In cases of single stage Planned Unit Development (PUD) or where the applicant wishes to begin the first stage of a multiple stage Planned Unit Development (PUD) immediately, they may, at their option, submit Development Stage Plans for the proposed Planned Unit Development (PUD) simultaneously with the submission of the General Concept Plan. In such case, the applicant shall comply with all the provisions of this Ordinance applicable to submission of the Development Stage Plan. The Planning Commission and City Council shall consider such plans simultaneously and shall grant or deny Development Stage Plan approval in accordance with the provisions of this section.

e. Effect of Concept Approval. Planned Unit Development concept approval only provides direction for the applicant to proceed to Planned Unit Development (PUD), Development Stage Plan submission. The concept plan approval does not convey any development rights or privileges to the applicants.

11. Development Stage Plan. Development Stage Plan submissions shall depict and outline the proposed implementation of the Planned Unit Development (PUD) General Concept Stage. Information from the General Concept Stage may be included for background and to provide a basis for the submitted plan.

a. Application. Requests for Planned Unit Development (PUD), Development Stage, as provided within this Ordinance, shall be filed on an official application form. Such application shall be accompanied by a fee as provided for by City Ordinance. Such application shall also be accompanied by five (5) copies of detailed written and graphic materials fully explaining the proposed change, development, or use, as follows:

(1.) Zoning Required. Zoning classification required for Development Stage submission and any other public decisions necessary for implementation of the proposed plan.

(2.) Site Plan/Preliminary Plat. Drawn to a scale of one (1) inch equals one hundred (100) feet or less, containing the following information:

(a.) Project Name. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in the County where the subject property is situated).

(b.) Survey. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property. An accurate legal description of the entire area within the Planned Unit Development (PUD), for which Final Plan approval is sought, correlated to the legal description defining use districts in this Ordinance.

(c.) Preliminary Plat. Preliminary Plat, if applicable, shall comply with all the performance standards of the Subdivision Ordinance and the Zoning Ordinance.

(d.) Buildings. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area, or proposed buildings, and existing buildings which will remain, if any.

(e.) Traffic Circulation. Location, dimensions and number of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian and the total site coverage of all circulation elements.

(f.) Sites adjacent to MnDOT right-of-way shall identify the right-of-way location, dimension from the center line of the highway to the MnDOT right-of-way line, along with existing and proposed ingress and egress.

(g.) Sites adjacent to MnDOT right-of-way shall be submitted to MnDOT for review and approval.

(h.) Common Areas. Location, designation and total area of all common open space.

(i.) Public Open Space. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.

(j.) Location of Existing Structures. The location, use and size of structures and other land uses on adjacent properties within one hundred (100) feet of the property boundaries.

(3.) Residential Tabulation. A tabulation indicating the number of residential dwelling units by number of bedrooms and expected population/housing profile.

(4.) Areas of Use. A tabulation indicating the approximate gross square footage, if any, of commercial and industrial floor space by type of use.

(5.) Architectural Plans. Preliminary architectural plans indicating use, floor plan, elevations and exterior wall finishes of proposed buildings and architectural guidelines for future development phases.

(6.) Landscape Plan. A detailed landscaping plan including the type, size and quantity of all existing and proposed plantings.

(7.) Grading and Drainage Plan. Preliminary grading and drainage plan illustrating changes to existing topography and natural site vegetation. The Plan should clearly reflect the site treatment and its conformance with the approved concept plan.

(8.) Erosion Control. An Erosion Control Plan acceptable to watershed management organization and any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

(9.) Document Changes. A statement summarizing all changes which have been made in any document, plan data or information previously submitted, together with revised copies of any such document, plan or data.

(10.) Preliminary Plat, if applicable. A Preliminary Plat conforming to the Subdivision Ordinance.

(11.) Lighting Plan. A plan illustrating site lighting.

(12.) Additional Data. Such other and further information as the City staff, Planning Commission or City Council shall find necessary for a full consideration of the entire proposed Planning Unit Development (PUD) or any stage thereof.

b. Development Stage Plan Review Schedule

(1.) The applicant shall file the development stage application within six (6) months after Concept Plan review, together with all supporting data and filing fee, as established by Ordinance.

(2.) It is recommended that the developer meets with City staff to discuss specific development plans prior to submitting the Development Stage Plan.

(3.) Staff Review/Technical Assistance Reports. Upon receipt of an application for a Planned Unit Development (PUD), Development Stage Plan, the request shall be referred to appropriate City staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted.

(4.) Other Agency Review. When appropriate, the Planned Unit Development (PUD), Development Stage Plan application shall be forwarded to other special review agencies such as the Department of Natural Resources, soil conservation services, highway departments, or other affected agencies.

(5.) A public hearing shall be scheduled at a meeting of the Planning Commission pursuant to the time periods established by Minnesota State Statutes 15.99.

(6.) The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed development.

(7.) The Planning Commission shall review said reports and plans and submit recommendations to the Council. Such recommendations shall contain the findings of the Planning Commission with respect to the conformity of the Development Stage Plan to the approved General Concept Plan. Should any changes be found to exist, the Planning Commission shall comment with respect to the merit or lack of merit of any departure of the Development Stage Plan from substantial conformity with the Concept Plan and with respect to the compliance of the Development Stage Plan with the provisions of this Ordinance and all other applicable Federal, State and local codes and

ordinances. If the Planning Commission shall find conformity or any changes merit approval and the Planning Commission shall further find the Development Stage Plan to be in all other respects completed and in compliance with this Ordinance and other applicable Federal, State, and local codes and ordinances, it shall recommend approval. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(8.) Upon receipt of the Planning Commission report and recommendation, the request shall be placed on the agenda of the next regularly scheduled meeting of the City Council. The Planning Commission must act and report its recommendations in a timely manner so that the City Council can act on the application within sixty (60) days of receipt of a complete application, unless the review period for the application has been extended pursuant to Minnesota State Statutes 15.99.

(9.) The City Attorney shall prepare a Planned Unit Development (PUD) Development Agreement which stipulates the specific terms and conditions approved by the City Council and accepted by the applicant. This agreement shall be signed by the Council President, the City Administrator and the applicant within thirty (30) days of City Council approval of the Development Stage Plan. Where the Development Stage Plan is to be resubmitted or denied approval, the City Council action shall be by written report setting forth the reasons for its action. In all cases, a copy of the document evidencing City Council action shall be promptly delivered to the applicant.

(10.) Limitation on Development Stage Plan Approval. Unless a Final Plan covering the area designated in the Development Stage Plan as the first stage of the Planned Unit Development (PUD) has been filed within six (6) months from the date the City Council grants Development Stage Plan approval, or in any case where the applicant fails to file Final Plans and to proceed with development in accordance with the provisions of this Ordinance and/or an approved Development Stage Plan, the approval shall expire. Upon application by the applicant, the City Council may at its discretion extend for not more than six months, the filing deadline for any Final Plan when, for good cause shown, such extension is necessary. In any case where Development Stage Plan approval expires, the City Council shall forthwith adopt a resolution repealing the General Concept Plan approval and the Development Stage Plan approval for that portion of the Planned Unit Development (PUD) that has received Final Plan approval and re-establishing the zoning and other ordinance provisions that would otherwise be applicable.

12. Final Plan. The Final Plan is to serve as a complete, thorough and permanent public record of the Planned Unit Development (PUD) and the manner in which it is to be developed. It shall incorporate all prior approved plans and all approved modifications thereof resulting from the Planned Unit Development (PUD) process. It shall serve in conjunction with other City ordinances and the land use

regulations applicable to the Planned Unit Development (PUD). The Final Plan is intended only to add detail to, and to put in final form, the information contained in the General Concept Plan and the Development Stage Plan and shall conform to the Development Stage Plan in all respects.

a. Final Plan Submission Information. After review of a General Concept Plan for the Planned Unit Development (PUD) and approval of a Development Stage Plan for a section or sections of the proposed Planned Unit Development (PUD), the applicant will submit the following material for review by City staff prior to issuance of a building permit:

(1.) Recording Proof. Documents establishing the recording of any easement or other documents required by the City prior to the sale of any land or dwelling unit included in the Planned Unit Development (PUD) and of the establishment and activation of any entity that is to be responsible for the management and maintenance of any public or common open space or service facility.

(2.) Final Plans, Buildings. Final architectural working drawings of all buildings.

(3.) Final Engineering Plans. Final engineering plans and specifications for streets, drainage, utilities and other public improvements, together with a development contract providing for the installation of such improvements and financial guarantees for the completion of such improvements.

(4.) Other Plans. Any other plans, agreements, or specifications necessary for the City staff to review the proposed construction. All work shall be in conformance with the Building Code of the City.

b. Final Plan Review Schedule

(1.) Upon approval of the Development Stage Plan and within the time established by this Ordinance, the applicant shall file with the Zoning Administrator a Final Plan consisting of the information and submissions required by this Ordinance for the entire Planned Unit Development (PUD) or for one (1) or more stages. This application will be considered at the next possible regular Planning Commission meeting. No public hearing shall be required.

(2.) The findings and recommendations of the Planning Commission shall be forwarded to the City Council for consideration. If the Planning Commission fails to act within the time specified herein, it shall be deemed to have recommended the plan for approval.

(3.) Within sixty (60) days of receipt of a complete Planned Unit Development (PUD) final plan application, unless the review period is extended in accordance with Minnesota State Statutes 15.99, and receipt of the findings and recommendations of the Planning Commission, the City Council shall grant approval or denial of said request.

(4.) The applicant shall cause the Final Plan, or such portions thereof as are appropriate, to be recorded with the County. The applicant shall provide the City with a signed copy verifying County recording within six (6) months from the date of approval.

(5.) Building and Other Permits. Except as otherwise expressly provided herein, upon receiving notice from the Zoning Administrator that the approved Final Plan has been recorded and upon application of the applicant pursuant to the applicant ordinances of the City, City staff may issue building and other permits to the applicant for development, construction and other work in the area encompassed by the approved Final Plan provided, however, that no such permit shall be issued unless City staff is first satisfied that the requirements of all codes and ordinances in which are applicable to the permit sought, have been satisfied.

c. Limitation on Final Plan Approval. Within one (1) year after the approval of a Final Plan for Planned Unit Development (PUD), or such shorter time as may be established by the approved development schedule, construction shall commence in accordance with such approved plan. Failure to commence construction within such period shall, unless an automatically rendered void, the Planned Unit Development (PUD) permit and all approvals of the Planned Unit Development (PUD) plan and the area encompassed within the Planned Unit Development (PUD) shall thereafter be subject to those provisions of the Zoning Ordinance, and other ordinances, applicable in the district in which it is located. In such case, the City Council shall forthwith adopt an ordinance repealing the Planned Unit Development (PUD) permit and all Planned Unit Development (PUD) approvals and re-establishing the zoning and other ordinance provisions that would otherwise be applicable. The time limit established by this section may, at the discretion of the City Council, be extended for not more than one (1) year by ordinance or resolution duly adopted.

### 13. Coordination with Subdivision Resolution Regulations

a. It is the intent of this Ordinance that subdivision review under the Subdivision Ordinance be carried out simultaneously with the review of a Planned Unit Development (PUD) under this Chapter of the Zoning Ordinance.

b. The plans required under this section must be submitted in a form which will satisfy the requirements of the Subdivision Ordinance for the Preliminary and Final Plats required under those regulations.

### 14. Planned Unit Development (PUD) Review and Amendments.

a. Annual Review. City staff and the Planning Commission shall review all uncompleted Planned Unit Development (PUD) within the City by March 1 of each year and shall make a report to the Planning Commission and City Council on the status of the development in each of

the Planned Unit Development (PUD) Districts. If the Planning Commission finds that development has not occurred within one (1) year after the original approval of the conditional use for the Planned Unit Development (PUD), the Planning Commission may recommend that the City Council revoke the Conditional Use Permit or the Planned Unit Development (PUD) permit.

b. Amendments to the Planned Unit Development (PUD)

(1.) Any deviation or modification from the terms or conditions of an approved Planned Unit Development (PUD), or any alteration in a project for which a Planned Unit Development (PUD) permit has been approved, shall require an amendment of the original Planned Unit Development (PUD). An application for an amendment specifying the proposed alteration shall be submitted to the City, together with a fee as provided for by Ordinance.

(2.) Action by the Planning Commission and City Council. The same application and review procedure shall be followed with respect to the applicant's initial request.

~~The purpose of this subsection is to establish provisions for the granting of a conditional use permit to provide for a planned development project wherein there is more than one principal building or land use per lot, and with adequate controls to protect adjacent development and ensure high standards of development in accordance with an integrated design and coordinated physical plan which is appropriately located and in accordance with the following conditions. It is also the intent of this subsection to provide more flexible means to permit construction according to changing trends, techniques and materials in the process of urban development.~~

~~1. A complete site plan of the planned development project shall be submitted, which plan shall show proposed location of all buildings, parking areas, drives, lot lines, landscaped areas and other features, and shall be subject to approval of the council.~~

~~2. The council shall refer such plan to the planning commission for review and recommendations and such additional conditions as the council may direct to protect the general welfare may be imposed. (Ord. 801, 3rd Series, eff. 6-3-1974)~~

~~3. The tract of land for which a project is proposed and a permit requested shall be not less than one acre in area. (Ord. 33, 3rd Series, eff. 9-28-1987)~~

~~4. Uses may include only those uses generally considered associated with the general land use category shown for the area on the official land use plan of the city.~~

~~5. Where proposed private streets are determined by the council to better serve the traffic flow and the general welfare as a public street, the council may require such dedication and construction in conformance with city standards.~~

~~6. All other development regulations not specified in the "planned unit development" subdivision or specified as a condition to the conditional use permit, shall apply as regulated in the zoning district in~~

~~which structure or use would be placed if the land were to be placed in a zoning district classification to permit said use of structure.~~

~~7. It is the intent of this subsection to provide a means to allow substantial variances from the provisions of this chapter, including uses, setbacks, height and similar regulations, but not including parking requirements, off street loading, necessary screening and the like. Variances may be granted for planned unit developments provided:~~

~~a. Certain regulations contained in this chapter do not realistically apply to the proposed development due to the unique nature of the proposed development.~~

~~b. The variances, if granted, would be fully consistent with the general intent and purpose of this chapter.~~

~~c. The planned unit development would produce urban development and an urban environment of equal or superior quality to that which would result from strict adherence to the provisions of this chapter.~~

~~d. The variances will not constitute a threat to the property values, safety, health or general welfare of the owners or occupants of adjacent or nearby land, nor be detrimental to the health, safety, morals or general welfare of the people of the city.~~

~~e. The proposed development is of such a unique nature as to require consideration under conditions of a planned unit development.~~

~~f. It shall be determined that the variances are required for reasonable and practicable physical development according to a plan and are not required solely on the basis of financial considerations.~~

~~g. Motor fuel stations granted a conditional use permit as part of a planned unit development shall be constructed concurrently with the major portion of such planned unit development. (Ord. 801, eff. 6-3-1974)~~

~~8. The council, upon review and recommendations of the planning commission, shall find that the proposed development is fully consistent with the purposes of this chapter and in conformity to the comprehensive plan, before it grants a special use permit. (Ord. 33, 3rd Series, eff. 9-28-1987)~~

#### E. Fallout And Blast Shelters:

1. The purpose of this subsection is to establish provisions to permit the construction and maintenance of fallout and blast shelters. Fallout or blast shelters are permitted as principal or accessory uses and structures in any district, subject to the yard regulations of the district. Such shelters may contain or be contained in other structures, or may be constructed separately and, in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use, but shall not be used for principal or accessory uses prohibited expressly or by implication in the district.

2. The council may permit a fallout or blast shelter to be used also for other purposes which are permitted, conditional or accessory uses in the district in which the shelter is located, if the council finds that all of the general requirements of this chapter concerning such uses are satisfied, and in addition establishes:

- a. The use other than as a shelter is compatible with the shelter proposed.
- b. The function as a shelter would not be materially impaired by the proposed use.
- c. If a conditional use permit is required, this permit would have been granted regardless of whether the shelter was involved.

F. Access Driveways:

1. The purpose of this subsection is to establish minimum standards for the design of safe ingress and egress for uses oriented to serving the motoring public, but not including parking lots.
2. The distance from a driveway to the intersection of two (2) streets shall not be less than twenty feet (20') measured along the curb line with the property line and the point of tangency of the curb lines with the curb return of the driveway; provided, however, that if, in the opinion of the city engineer, present or future traffic conditions warrant greater or lesser distances, such greater or lesser distances shall be required subject to approval by the council.
3. The minimum distance between driveways shall be twenty feet (20') measured at the property or street right of way line; provided, however, that if, in the opinion of the city engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the council.
4. The minimum driveway angle to the street shall be ~~forty-seventy~~ five degrees (~~4575~~°), unless otherwise recommended by the city engineer and approved by the council.
5. The distance from a driveway to the property line of an adjacent property shall not be less than five feet (5') measured along the curb line between the point of intersection of the curb line with the property line extended and the point of tangency of the curb line with the curb return of the driveway, unless otherwise recommended by the city engineer and approved by the council.
6. Access driveways shall be thirty feet (30') wide measured along the property line between the curb faces of the driveway, unless otherwise recommended by the city engineer and approved by the council.

G. Additional Requirements, Exceptions And Modifications: The requirements and regulations specified heretofore in this chapter shall be subject to the following:

1. Height Limitations: Height limitations set forth elsewhere in this chapter ~~shall be increased fifty percent (50%) when applied to the following structures~~ may be increased as follows:

- ~~a. Church spires.~~
- ~~b. Belfries.~~
- ~~c. Cupolas and domes which do not contain usable space.~~
- ~~d. Monuments.~~
- ~~e. Water towers.~~
- ~~f. Fire and hose towers.~~
- ~~g. Observation towers.~~
- ~~h. Flag poles.~~
- ~~i. Chimneys.~~
- ~~j. Smokestacks.~~
- ~~k. Parapet walls extending not more than three feet (3') above the limiting height of the building.~~
- ~~l. Cooling towers.~~
- ~~m. Elevators, penthouses.~~
- ~~n. Farm silos.~~

~~ea.~~ Heights in excess of those allowed under this subsection and other sections shall be permitted only by conditional use permit granted by resolution of the council determining that such structure would not be dangerous and would not adversely affect adjoining or adjacent property.

~~pb.~~ On any lot sloping downhill from the street, which has an average ground slope on that portion of the lot to be occupied by the main building of twenty five percent (25%) or more (measured in the general direction of the side lot lines), an additional twelve feet (12') of height may be permitted in such main building, provided the lowest floor shall not be less than ten feet (10') below the average established property line grades along the front of the lot. The floor of the basement shall be considered the lowest floor and a cellar floor shall not be counted.

~~2. Lot Sizes In Park Subdivisions: Where a proposed plat is submitted incorporating an extensive park area as an integral part of the subdivision and serving each lot within the plat, minimum lot area frontage and width requirements for the district in which the plat is located may be reduced subject to conditions and approval of plans by the planning commission and council.~~

~~a. Land area taken from individual lots to create the park must be over and above the percent of total land area required for park purposes under the provisions of the subdivision chapter of this code.~~

~~b. The number of dwelling units created in the subdivision, excluding required park area, must not exceed the overall density requirements as specified in this chapter.~~

32. Yard Requirements:

a. Buildings may be excluded from side yard requirements if party walls are utilized or if the adjacent buildings are planned to be constructed as an integral structure ~~and a conditional use permit is secured.~~

b. Required yards in the districts specified shall be subject to the following additional requirements:

(1) Through lots in any district shall have a required front yard on each street. (Ord. 801, eff. 6-3-1974)

(2) In the B and I districts, where the average depth of at least two (2) existing front yards for buildings, within the same block front of the lot in question is less or greater than the minimum front yard depth of such existing front yards, required front yards shall not be less than the average depth of such existing front yards, however, notwithstanding the foregoing, in no case shall the depth of a front yard be reduced by this section to below twenty feet (20').

(3) In any R district, where the average depth of at least two (2) existing front yards for buildings within the same block front of the lot in question is less or greater than the minimum front yard depth required for the district, the required front yard shall not be less than the average depth of such existing front yard, however, notwithstanding the foregoing, in no case shall the depth of a front yard be reduced by this section to below fifteen feet (15'). (Ord. 72, 4th Series, eff. 5-6-1996)

H. Outdoor Boilers:

1. The purpose of this subsection is to establish minimum standards for the placement and safe use of outdoor boilers.

2. Outdoor boilers are permitted in any zoning district, but must meet the requirements of this subsection, except they may not be placed in the following zoning districts: ~~limited business district~~ central business district B-1; ~~general business district B-2~~; and noncentral business district ~~B-3B-2~~.

3. Outdoor boilers permitted in other zoning districts must:

a. Be installed on a lot in area of five (5) acres or more; and

b. Be set back from the nearest property line by at least two hundred feet (200'); and

c. Burn only firewood or untreated lumber, no other biomass material is allowable; and

d. Be operated only between the days of October 1 and May 1; and

e. Be equipped with a properly functioning spark arrestor; and

f. The chimney shall extend a minimum of at least fifteen feet (15') above the ground surface, but shall also extend at least as high as the height of the roofs of residents within five hundred feet (500').

4. All outdoor boilers will require a conditional use permit before they are constructed. (Ord. 123, 5th Series, eff. 7-10-2006)

I. Street Side Ground Floor Dwelling Units:

1. A "street side ground floor dwelling unit" is defined as a dwelling unit contained within a larger building structure which is designed or used for purposes of permanent or temporary residency and is located within the general-central business district B-2B-1 whereby any part of the exterior wall of the dwelling unit is adjacent to any street, avenue or alley.

2. Street side ground floor dwelling units shall not be permitted in any structure located within the historic or preservation landmark districts, attached as exhibit B to the ordinance codified herein. All street side ground floor dwelling units in existence prior to April 1, 2010, are grandfathered in and will be allowed to continue within the parameters of a legal nonconforming use.

3. Street side ground floor dwelling units shall be permitted by a conditional use permit in any general-central business district B-2B-1 other than the historic or preservation landmark districts, provided:

a. At least one off street parking space must be provided for each dwelling unit. The parking space must be available twenty four (24) hours each day and be located on the same parcel as the dwelling unit.

b. Usable space in the dwelling unit shall be not less than two hundred (200) square feet in area per occupant and have one kitchen sink, one water closet, one lavatory, and one bathtub or shower. Kitchens and uninhabitable spaces shall not be used for sleeping purposes. Each sleeping area or room shall have at least one operable emergency escape and rescue opening. Such opening shall open directly into a public street, public alley, yard or court. The openings shall meet all the requirements for emergency escape and rescue openings set forth in section R310 of the current international residential code.

c. No less than one exit door must be provided to each dwelling unit. The exit door shall provide for direct access from the dwelling to the exterior without traveling through any other dwelling unit or occupancy. The required exterior exit door shall be a side hinged door not less than three feet (3') in width and six feet eight inches (6'8") in height.

d. All changes in occupancy must meet the current Minnesota building code requirements. Dwelling unit separation from all existing occupancies must be reviewed for fire resistance rated separation and opening protectives by a Minnesota licensed engineer or architect.

e. The exterior appearance of the building shall maintain a commercial appearance. Storefront windows shall be covered on the interior side with translucent or opaque materials that have a commercial appearance. Deliveries to street side ground floor dwelling units shall not be permitted on the exterior of the building.

f. There shall be no existing violations currently on file with respect to subject property, which have not been removed or remedied to the satisfaction of the zoning administrator. However, an applicant may

be required by the city council to remove or remedy said violation as a condition of securing a conditional use permit.

g. For each block in the general-central business district B-2B-1 zoning district, the maximum percentage of commercial structures which may be converted to provide residence facilities on the same floor as a commercial business is twenty percent (20%). For the purpose of this chapter, a percentage greater than the above shall be construed as detrimental and threatening to the existing character, health, safety, and welfare of the district.

h. The city council may impose additional reasonable conditions in order to protect the intent and purpose of this option in the general-central business district B-2B-1.

i. All requirements, changes and conditions imposed by the city council shall be met before occupancy of the newly created residential unit is allowed. (Ord. 56, 6th Series, eff. 5-5-2014)

#### **11.08: MOBILE HOME REQUIREMENTS; GENERAL PROVISIONS:**

A. Minimum Size: Unless located in a mobile home park, all mobile homes used for living purposes shall be at least twenty four feet (24') wide and at least thirty feet (30') long, and placed on a permanent foundation. (Ord. 132, 2nd Series, eff. 10-29-1984)

B. Prohibited Mobile Homes: Mobile homes shall be prohibited that:

1. Do not conform to the requirements of the vehicle code of the state.

2. Are in an unsanitary condition ~~or having an exterior in bad repair.~~

~~3. Are structurally unsound and do not protect the inhabitants against all elements.~~

~~C. Maintenance: Every structure shall be developed and maintained in a safe, approved and substantial manner. The exterior of such structures shall be kept in good repair and shall be repainted or refinished when directed by the city.~~

~~D. Land Area: All land areas shall be properly maintained:~~

~~1. Adequately drained.~~

~~2. Free from dust.~~

~~3. Clean and free from refuse, garbage, rubbish or debris.~~

~~ED~~. Tents: No tents shall be erected or occupied.

~~FE~~. Outdoor Camping: There shall be no outdoor camping anywhere in the mobile home court.

~~GF~~. Speaker System: No public address or loudspeaker system shall be permitted.

~~H. At Large Dogs And Animals: Dogs and animals shall not be permitted to run at large within the mobile home court.~~

~~HG~~. Access: Access to mobile home courts shall be as approved by the city.

~~J. Advertising: Advertising shall be limited to one sign not to exceed six (6) square feet, with lighting, height and location as approved by the city.~~

~~KH~~. Registry: So as to assist emergency service providers, The operator of every mobile home court shall maintain a registry of the mobile home court showing:

1. The name and address of each guest or permanent resident.
2. The make, type and license number of each mobile home and automobile.

~~LJ~~. Map Displayed: A map of the mobile home court shall be displayed at the entrance to the court and be illuminated during all hours of darkness so as to be visible by emergency service providers.

~~MJ~~. Consent Required: No person shall erect, place, construct, reconstruct, relocate, alter, maintain, use or occupy a cabana or structure in a mobile home court without the written consent of the owner or operator of the mobile home court.

~~NK~~. Building Permit Required: All structures (fences, sidewalks, roads, storage space, cabana, ramada or other) shall require a building permit.

**OL**. Enclosed Area Under Home: The area beneath a mobile home coach shall be enclosed, except that such enclosure must be openable for inspection.

**PM**. Clotheslines: Laundry and clothes shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose.

**QN**. Transient Trailer Sites: No building, cabana, ramada, carport, awning, storage closet, cupboard or other structure shall be permitted on a transient trailer site, except plumbing and electrical service connections.

**RO**. Central Community Building: Where mobile home court has a central community building with the following features:

1. Laundry drying areas and machines;
2. Laundry washing machines;
3. Showers;
4. Public toilets and lavatories;

such building shall have central heating and be maintained in a safe, clean and sanitary condition.

**SP**. Site Plan Requirements:

1. Five (5) copies of a plot plan of the proposed mobile home court shall be submitted to the planning commission for its consideration. Said plot plan shall be drawn to scale and showing:
  - a. Legal description and size in acres of the proposed mobile home court.
  - b. Location and size of all mobile home sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites and all setback dimensions (parking spaces, exact mobile home sites, etc.).
  - c. Detailed landscaping plans and specifications.
  - d. Location and width of sidewalks.
  - e. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service and gas service.
  - f. Location, size and character of each cabana and cabana site.
  - g. Location and size of all streets abutting the mobile home court and all driveways from such streets to the mobile home court.

- h. Road construction plans and specifications.
- i. Plans for any and all structures.
- j. Such other information as required or implied by these mobile home court standards or requested by public officials.
- k. Name and address of developer.
- l. Description of the method of disposing of garbage and refuse.
- m. Detailed description of maintenance procedures and grounds supervision.
- n. Description of construction plans (i.e., time involved, cost estimates, stage development, if any, and so on).

**FO.** Design Standards:

1. Site:

a. Each mobile home site shall contain at least four thousand (4,000) square feet of land area for the exclusive use of the occupant.

(1) Width: No less than forty feet (40').

(2) Depth: No less than one hundred feet (100').

b. Each mobile home site shall have the following features:

(1) Frontage on an approved roadway.

(2) A sidewalk along the entire frontage with a sidewalk connecting from the mobile home entrance to the frontage sidewalk. Sidewalk shall be hard surfaced.

c. The corners of each mobile home site shall be clearly marked and each site shall be numbered.

d. The area occupied by a mobile home shall not exceed seventy five percent (75%) of the total area of a mobile home site; land may be occupied by a trailer, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure; unoccupied land shall be landscaped.

2. Setbacks:

a. No coach shall be parked closer than five feet (5') to the side lot lines, nor closer than twenty feet (20') to the front lot line, or within twenty five feet (25') of the rear lot line.

b. There shall be an open space of at least ten feet (10') between the sides of adjacent coaches.

c. Automobiles may park no closer than five feet (5') to the side of any coach; automobiles shall not, however, be parked nearer than five feet (5') to any side lot line.

d. No coach, off street parking space or building shall be located within twenty feet (20') of the exterior boundary of any mobile home court.

e. Mobile home sites with access to public streets shall conform to all setback and other requirements of the zoning district in which said site is located.

f. No mobile home shall be closer than thirty feet (30') from the exterior property lines of any mobile home court.

### 3. Parking:

a. Each mobile home site shall have a hard surfaced off street parking space for two (2) automobiles.

b. Each mobile home court shall maintain a hard surfaced off street parking lot for guests or occupants in the amount of one space for each five (5) coach sites.

c. All mobile home parks must have an area or areas set aside for dead storage and "overload" parking.

d. Access drives, off roads, to all parking spaces and coach sites shall be hard surfaced.

### 4. Utilities:

a. All mobile homes shall be connected to a public water and sanitary sewer system, or a water and sewer system approved by the state department of health.

b. All plans for disposal of surface stormwater must be approved by the city.

c. All utility connections shall be as approved by the city.

d. The source of fuel for cooking, heating or other purposes at each mobile home site shall be as approved by the city.

e. All utilities shall be underground; there shall be no overhead wires or supporting poles, except those essential for street or other lighting purposes.

f. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities and related mobile home equipment.

g. The proposed method of garbage, waste and trash disposal must be as approved by the city.

### 5. Internal Roads And Streets:

a. Roads shall be hard surfaced as approved by the city.

b. All roads shall have a hard surfaced (mountable roll type) curb and gutter.

c. Rights of way shall be no less than fifty feet (50') in width.

d. All streets shall be developed as approved by the city.

### 6. Sidewalks:

a. There shall be a hard surfaced sidewalk across the front of each mobile home site and parallel to the street. Said sidewalk shall not be less than five feet (5') wide.

7. Recreation: All mobile home courts shall have at least ten percent (10%) of the land areas developed for recreational use (tennis courts, children's play equipment, swimming pool, golf greens, etc.), developed and maintained at the owner/operator's expense.

8. Landscaping:

a. Each site shall have a front yard not less than twenty feet (20') in depth across the entire frontage; this yard shall be landscaped, except for necessary driveway and sidewalk needs which shall not exceed one-half ( $\frac{1}{2}$ ) the width of the site.

b. A landscaped rear yard shall be maintained to a depth of twenty five feet (25').

c. A five foot (5') landscaped side yard (both sides) shall be maintained.

d. A compact hedge, redwood fence or landscaped area shall be installed around each mobile home court and be maintained in first class condition at all times as approved.

e. All areas shall be landscaped in accordance with a landscaping plan approved by the council.

9. Lighting:

a. Artificial light shall be maintained during all hours of darkness in all buildings containing public toilets, laundry equipment and the like.

b. The mobile home court grounds shall be lighted as approved by the city from sunset to sunrise. (Ord. 801, eff. 6-3-1974)

#### **11.09: REGULATION OF ADULT USES:**

A. Purposes and Intent. In the development and adoption of this Section, it is recognized that:

1. There are some adult use establishments which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.

2. These establishments have deleterious impact upon property values.

3. These establishments frequently become places of criminality.

4. It is the intent of this ordinance to protect the well-being of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to churches, parks, schools, and residential areas.

5. In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this ordinance to inhibit the freedom of speech or the press. The provisions herein have neither the

purposes nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials.

6. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. This ordinance represents a balancing of the legitimate ends of the City by imposing an incidental, content-neutral place, time and manner of regulation of sexually-oriented entertainment to sexually-oriented establishments without limiting alternative avenues of communication, and at the same time, requiring the establishments to carry their financial share of the law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance.

#### B. Findings

1. The Little Falls City Council, in adopting this ordinance, takes legislative notice of the existence and content of the following studies concerning the adverse secondary side effects of adult use establishments in other communities, including but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Benevue, Washington; New York, New York; and St. Croix County, Wisconsin; and also on findings from the Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); on findings and recommendations in Everything You Always Wanted to Know About Regulating Sex Businesses, American Planning Association, Planning Advisory Service Report Number 495/496, December, 2000; on decisions in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Young v. American Mini Theaters, 426 U.S. 50 (1976); City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000); California v. LaRue, 409 U.S. 109, 111 (1972); Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991); Knudtson v. City of Coates, 519 N.W.2d 166 (Minn. 1994); S.O.B., Inc. v. County of Benton, 317 F.3d 856 (8th Cir., Minn, 2003); Jakes, Lt., Inc. v. City of Coates, 284 F.3d 884 (8th Cir., Minn, 2002); and Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minn. App. 2000); and on the Council's knowledge of actual conditions within the City of Little Falls and the surrounding communities.

Based on these studies, cases and other documentation, the Little Falls City Council hereby finds:

a. Establishments exist, have existed, or may exist within the City and nearby communities where the primary or dominant theme, of all or part of the business, is the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities, as those terms are defined in this ordinance. These establishments include, but are not limited to those:

i. Distinguished by an emphasis on or the promotion of dancers, entertainers, performers, or other individuals, who perform or are presented while displaying or exposing specified anatomical areas or are presented while simulating or engaging in specified sexual activities;

- ii. Where workers dance or perform in consideration for tips, remuneration or compensation from or on behalf of those customers, or offer, solicit or contract to do the same, and the product, service or entertainment is intended to provide sexual excitement, sexual stimulation or sexual gratification to such customers;
  - iii. Where straddle dancing, lap dancing, private modeling, prostitution, unlawful drug transactions, or lewd and lascivious touching occurs between customers and workers or performers;
  - iv. Where sexually oriented media are offered for sale or rental;
  - v. Where sexually oriented adult toys or novelties are offered for sale.
- b. Activities exist, have existed, or may exist within the City and nearby communities where sexually oriented physical contact or escort services are offered for pecuniary gain. The people involved in such activities engage in physical contact or touching with customers, including acts of prostitution, or encourage or entice customers to engage in acts of lewdness.
2. Adult uses, and the establishments in which they occur, are subject to regulation by the City in the interest of the health, safety, and general welfare of the people of the City of Little Falls.
3. The general welfare, health, and safety of the citizens of this City will be promoted by enactment of this ordinance.
4. Adult Use Establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
5. When adult uses are present in establishments, activities which are illegal or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution, and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property. There is a higher correlation between incidents of crime and adult use establishments that involve on-premises entertainment of any kind, as compared to those that do not have on-premises entertainment. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where adult entertainment establishments are located. See, e.g., Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
6. When adult uses are present within establishments they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, and ultimately lead residents and businesses to move to other locations.
7. Real estate professionals believe that there is a negative impact of adult use establishments on both nearby residential and business property value. There is an inverse correlation between the level of impact and the distance between the business and other uses. In addition, the impacts on residential properties are greater than on non-residential properties.

8. The proximity and concentration of adult use establishments adjacent to residential, recreational, religious, education uses, as well as proximity to other adult use establishments can have adverse secondary effects on local establishments and residences.

9. The locational requirements established by this ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult use establishments in the City of Little Falls, and a sufficient reasonable number of appropriate locations for adult use establishments are provided by this ordinance.

10. The Little Falls City Council, in adopting operational standards, recognizes that these standards do not preclude reasonable alternative avenues of communication. The City Council takes note of the proliferation of adult material on the Internet and its availability as an alternative avenue of communication. The City Council also considers and relies on published decisions examining the proliferation of communications on the Internet. Reno v. American Civil Liberties Union (1997) 521 U.S. 844 (the principal channel through which many Americans now transmit and receive sexually explicit communication is the Internet); see also: Anheuser-Busch v. Schmoke, 101 F.3d 325, 329 (4th Cir. 1996)(rejecting First Amendment challenge to Baltimore ordinance restricting alcohol advertisements on billboards and acknowledging that the Internet is an available channel of communication); U.S. v. Hockings, 129 F.3d 1069 (9th Cir. 1997); and U.S. v. Thomas, 74 F.3d 701 (6th Cir. 1996) (cert. denied 519 U.S. 820). The emergence of the Internet provides a virtually unlimited additional source of adult oriented sexual material available to persons without regard to geographic boundaries. An adult business no longer needs to be actually physically located within a community to be available to the community.

11. The Little Falls City Council also finds that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of The City of Little Falls, and thus certain requirements with respect to the ownership and operation of adult use establishments are in the public interest. In addition to the findings and studies conducted in other cities regarding increases in crime rates, decreases in property values and the blighting of areas in which such businesses are located, the City Council also takes legislative notice of the facts recited in the case of Kev, Inc. v. Kitsap County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in secondary effects such as prostitution, drug dealing, and other law enforcement problems.

12. Alcohol consumption in adult use establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare. See, e.g., Artistic Entertainment, Inc. v. City of Warner Robins, 223 F.3d 1306, 1309 (11th Cir.2000); Sammy's Ltd. v. City of Mobile, 140 F.3d 993, 996 (11th Cir.1998), cert. denied, 529 U.S. 1052, 146 L. Ed. 2d 459, 120 S. Ct. 1553 (2000).

13. The concurrence of the sale and/or consumption of alcoholic beverages with adult uses is hazardous to the health and safety of those persons in attendance, depreciates the value of adjoining real property, harms the economic welfare of the City, and adversely affects the public's interest in the quality of life in the City.

14. In order to preserve and safeguard the health, safety, morals, and general welfare of the people of the City, it is necessary and advisable for the City to prohibit the sale and consumption of alcoholic beverages at or near establishments where adult uses occur.

15. The potential dangers to health, safety, and general welfare of the citizens of the City posed by permitting adult use establishments to operate without first obtaining a license and securing a land use permit under the City's licensing and land use ordinance are so great as to require the licensure and permitting of such establishments prior to their being allowed to operate. A thorough but prompt investigation and review of the license and land use applications will facilitate this public purpose. Suspension or revocation of adult entertainment licenses or land use permits at which violations of either the licensing ordinance or the land use ordinance occur, upon adequate proof at administrative proceedings of the occurrence of such acts, will serve to protect the community from such danger by deterring or ending the use of the establishment for future specified acts which are criminal or violate this ordinance. Access to prompt judicial review for a denial, suspension or revocation of a license or land use permit will protect the rights of the licensee or applicant.

16. Prohibiting adult use establishments from operating within set distances of areas zoned for residential use, religious institutions, educational institutions, and parks and other areas where minors are customarily found, will serve to protect minors from the adverse secondary impacts that accompany such establishments.

17. Adult use establishments involve activities that are pure conduct engaged in and for the purpose of making a profit, rather than speech or expressive activity, and therefore are subject to regulation to protect the health, welfare, and safety of the community.

18. Operators or workers of adult entertainment establishments who have the authority to direct or control other workers at, or the operation of, an adult entertainment establishment, should be subject to penalties for allowing violations of either the licensing ordinance or the land use ordinance to occur. This will discourage such operators from allowing or encouraging violations of these ordinances the purpose of increasing profits at the establishment to the detriment of the community and contrary to the purposes of these ordinances.

19. Sexual acts, including masturbation, and oral and anal sex, occur at adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., California v. LaRue, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Commission on Pornography (1986) at 377.

20. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

21. Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments, for the purpose of engaging in sex within the premises of such adult entertainment establishments. See, e.g., Arcara v. Cloud Books, Inc., 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.

22. At least 50 communicable diseases may be spread by activities occurring in adult entertainment establishments including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.
23. As of June, 2001, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 793,025. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at [www.cdc.gov](http://www.cdc.gov).
24. The total number of cases of genital chlamydia trachomatis infections in the United States reported in 2000 was 702,093, a 6% increase over the year 1999. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at [www.cdc.gov](http://www.cdc.gov).
25. The total number of cases of early (less than one year) syphilis in the United States reported during the twelve-year period 1996-2000 was 212,672. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at [www.cdc.gov](http://www.cdc.gov).
26. The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,730,911 cases reported during the period 1996-2000. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at [www.cdc.gov](http://www.cdc.gov).
27. The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
28. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at [www.cdc.gov](http://www.cdc.gov).
29. Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of adult entertainment establishments where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Commission on Pornography (1986) at 377.
30. Nude dancing in adult Use Establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., Barnes v. Glen Theatre, 501 U.S. 560, 583 (1991).
31. Nude dancing in adult Use Establishments increases the likelihood of drug-dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1056 (9th Cir.1986).
32. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult use establishments.
33. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment establishment, where such information is

substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

34. When more than one adult entertainment establishment use occupies the same location or business address, the secondary effects caused by such businesses are increased. Secondary effects are eliminated or controlled to a greater degree when only a single adult entertainment establishment use is allowed to occupy the same location.

35. The findings noted above raise substantial governmental concerns.

36. Adult entertainment establishments have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

### C. Definitions.

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. Adult Body Painting Studio - an establishment which provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude or the application of paint or other substance by a patron to the body of another person.

2. Adult Bookstore - An establishment distinguished or characterized the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film which are distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

3. Adult Cabaret – a building or portion of a building which provides exotic dancing, striptease or other live entertainment, if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

4. Adult Companionship/Conversation/Rap Establishment - a companionship, conversation, rap establishment which provides the service of engaging in or listening to conversation, talk or discussion between and adult entertainment employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

5. Adult Entertainment Employee - any person who performs any service on the premises of a sexually-oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an adult entertainment employee, independent contractor, agent, or otherwise. Adult entertainment employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

6. Adult Entertainment Facility - a building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are being sold or intended for consumption, and in which may be regularly observed live presentation of entertainment distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

7. Adult Hotel or Motel - A hotel or motel that excludes minors by reason of age and that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

8. Adult Massage Parlor, Health/Sport Club - a health club, sport club or massage parlor that provides services distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

9. Adult Mini-Motion Picture Theater - a building or portion of a building with a capacity for less than 50 persons used for presenting still or motion pictures if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons.

10. Adult Modeling Studio - an establishment whose business is the provision to customers of figure models who are provided with the intent of giving sexual stimulation or sexual gratification to customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

11. Adult Motion Picture Arcade - a building or portion of a building wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors, computers or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

12. Adult Motion Picture Theater - a building or portion of a building with a capacity for fifty (50) or more persons used for presenting still or motion pictures if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

13. Adult Novelty Business - a building or portion of a building used for the barter, rental or sale of toys, instruments, devices, clothing or paraphernalia designed or used in connection with the stimulation of human genitals or the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas."

14. Adult Sauna/Steam Room/Bathhouse - a business which provides a steam bath or heat bathing room used for bathing, relaxation or reducing which utilizes steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

15. Adult Use, Accessory - the offering of merchandise, whether for sale, rental or loan, characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. A business shall be classified as an accessory adult use if the merchandise for sale or rental occupies no more than ten (10%) percent of the floor area of the establishment in which it is located or 100 square feet, whichever is less, or comprises no more than twenty (20%) percent of the gross receipts of the entire business operation.

16. Adult Use, Principal - the offering of merchandise, services and/or entertainment (live or via various forms of visual, auditory or other sensory media) characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" as a primary or sole activity of a business or establishment or where the business advertises, otherwise distinguishes or characterizes itself with an emphasis on the offering of such merchandise, services and/or entertainment. Any adult use establishment which does not meet the definition of an accessory adult use shall be considered a principal adult use.

17. Adult Use Establishment - Adult use establishments include, but are not limited to the following list of activities or businesses: adult body painting studios, adult book stores, adult cabarets, adult entertainment facilities, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bath houses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios and other premises, enterprises, establishments, businesses or places open to some of all members of the public and membership clubs at or in which there is an emphasis on the presentation, display, depiction or description or "specified sexual activities" or of "specified anatomical areas." This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed registered persons. Activities classified as obscene as defined by Minnesota Statutes § 617.241 are not lawful and are not included in the definitions of adult uses.

18. Distinguished or Characterized by an Emphasis upon - means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of "specified anatomical areas" or "specified sexual activities" the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specific sexual activities."

19. Nude or Nudity or State of Nudity – means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than fully opaque covering of any part of the areola.

20. Semi-Nude - means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

21. Specified Anatomical Areas – anatomical areas consisting of (a) Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below the point immediately above the top of the areola or any combination of the foregoing; and (b) Exposed or opaquely covered human male genitals in a discernibly turgid state.

22. Specified Sexual Activities – activities consisting of the following:

a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, or any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or

b. Presentation, display, depiction, or description of human genitals in the state of sexual stimulation, arousal or tumescence; or

c. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or

d. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breast(s); or

e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or

f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

g. Human excretion, urination, menstruation, vaginal or anal irrigation; or

h. Any combination of the above.

D. License requirement.

A. No person, firm or corporation shall operate or allow the operation of an adult use establishment on property under the person's ownership or control without a validly issued license as required by this section. The license shall be one of two types:

1. Principal Adult Use

2. Accessory Adult Use

B. The applicant for an adult use license shall complete an application on a form provided by the City. This application shall include:

1. The parcel number and legal description of the property where the adult use establishment is proposed;
  2. A detailed floor plan, drawn to scale, showing the type of activities which will be conducted in each area of the adult use establishment, including a statement of the total floor space occupied by the business;
  3. The proposed hours of operation;
  4. A sewage treatment system design that meets the requirements of the City of Little Falls and the State of Minnesota.
  5. A statement of the type of adult use license (principal or accessory) being applied for.
  6. Sufficient evidence that all setback requirements in this ordinance will be met. When deemed necessary, a survey of the property and proposed uses prepared by a qualified surveyor may be required.
  7. Whether the applicant is a natural person, corporation, partnership, or other form of organization.
  8. The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minn, Stat. § 333.01 shall be submitted.
  9. Whether the applicant has had a previous adult use establishment license suspended or revoked.
- C. If the applicant is a natural person.
1. The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.
  2. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
  3. The street and city addresses at which the applicant has lived during the preceding two years.
  4. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.
  5. Whether the applicant has ever been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult use establishments.
- D. If the applicant is a partnership:

1. The name(s) and address(es) of the partnership, the name(s) and address(es) of all partners and all of the information concerning each partner that is required of applicants in paragraph (b) of this section.

2. Whether the partnership is general or limited.

3. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. Â§ 333.01, a certified copy of the certificate shall be attached to the application.

E. If the applicant is a corporation or other organization:

1. The name of the corporation or business form, and if incorporated, the date and state of incorporation.

2. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and Bylaws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minn. Stat. Â§ 303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the Articles of Organization and any Membership Agreements shall be attached to the application.

3. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in paragraph (b) of this section.

4. Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.

5. The name of the registered corporate agent and the address of the registered office for service of process.

E. License issuance, expiration, renewal, suspension and revocation

A. License Eligibility

1. An applicant may qualify for a license:

a. If they are at least twenty-one (21) years of age; and

b. If they are not overdue in payments to a city, county, state, or federal government of taxes, fees, fines, or penalties or charges for municipal services and utilities assessed against them or imposed upon them; and

c. If they have not been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult use establishments; and

d. If they are not an owner of five (5%) percent or more of a business entity which has been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult use establishments, and

e. If more than one year has elapsed in the case of a previous license revocation; and

f. If more than two years have elapsed since the date of conviction or the date of release from confinement, whichever is later, in the case of a misdemeanor or gross misdemeanor offense; and

g. If more than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; and

h. If more than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.

#### B. License Issuance

1. The City shall investigate all facts set out in the application. Each owner of the establishment be it individual, or in the case of business entity owner, any owner of five percent (5%) or more of the business entity, shall be subjected to a criminal history background check by the Little Falls Police Chief or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Police Department or City Council.

2. The application for the adult use establishment license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Police Chief, and a report provided to the City Administrator by the applicant.

3. The City Council shall hold a public hearing with notification equivalent to that required for a conditional use permit within thirty (30) days after receiving a complete application. At the hearing opportunity shall be given to any person to be heard relating to the granting of the license. The City Council shall grant or deny said adult use establishment license within thirty (30) days of the conclusion of the hearing.

a. The City will issue a license to an applicant unless one or more of the following conditions exist:

i. The applicant is not met the eligibility requirements as noted in this ordinance;

ii. The applicant failed to supply all of the information required on the license application;

iii. The applicant gives false, fraudulent, or untruthful information on the license application;

iv. The adult use establishment is not in full compliance with the Little Falls City Code and all provisions of county, state and federal law;

v. The applicant has not paid the required license fee;

vi. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult use establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;

vii. The applicant is not the proprietor of the establishment for which the license is issued; or

viii. The adult use establishment owner or operator holds an intoxicating liquor, beer or wine license applicable to the premises.

B. Expiration And Renewal

1. An adult use establishment license expires on December 31 of each calendar year.

2. A licensee may renew a license by completing an application as required for a new license. The applicant will be allowed to continue business until the City has determined whether the applicant meets the criteria for renewal of the license. If the City denies the renewal, the applicant shall not be issued a license for one year from the date of denial.

C. Suspension

1. The City may suspend a license beginning on January 1 if the licensee fails to make application for renewal of the license. The suspension shall remain in effect until such time as the applicant has made application and the license has been approved by the City, or until the license has been revoked in accordance with this ordinance;

2. The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:

a. Violated or is not in compliance with any provision of this Ordinance;

b. Allowed or engaged in the sale or use of alcoholic beverages while on the adult use establishment premises other than at an Adult Hotel or Motel;

c. Refused to allow an inspection of the adult use establishment as authorized by this Ordinance;  
or

d. Knowingly permitted unlawful gambling by any person on the adult use establishment premises.

e. A suspension by the City shall be preceded by written notice to the licensee and, except in the case of failure to make application for renewal, a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the alleged violations of the licensee or their employee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application:

D. Revocation

1. The City may revoke a license if:

a. A licensee fails to make application for renewal of the license by February 28 or of the year after the previous license has expired;

b. A cause of suspension occurs and the license has been suspended at least once before within the preceding 12 months;

c. It determines that:

i. A licensee gave false or misleading information in the material submitted to the City during the application process;

ii. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

iii. A licensee or an employee has knowingly allowed prostitution on the premises;

iv. A licensee or an employee knowingly operated the adult use establishment during a period of time when the licensee's license was suspended;

v. A licensee has been convicted of an offense listed in Section 1.05.A, for which the time period required that same section has not elapsed; or

vi. Except in the case of an Adult Hotel or Motel, a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

2. The fact that a conviction for an offense listed in this ordinance, is being appealed shall have no effect on the revocation of the license.

3. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult use establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked due to a criminal conviction under Section 1.05.A, an applicant may not be granted another license until the appropriate number of years required under Section 1.05.A, has elapsed.

E. Procedures For Appeal

Non-renewals, suspensions and revocations of an adult use establishment license are governed by the following:

1. In the event that the City proposes to not renew, to suspend or to revoke a license, the City will notify the licensee in writing of the basis for the action. The City will hold a hearing for the purpose of determining whether to not renew, to suspend, or to revoke the license, except in the case of failure to apply for renewal of the license by February 28 following the date the license expires. The hearing must be within 30 days of the date of the notice. The City Council must determine whether to not renew, to

suspend or to revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The City must notify the licensee of its decision within that period.

2. If the City determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the City's action the suspension or revocation is stayed until the conclusion of such action.

3. If the City Council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal, if the licensee files and serves an action in state or federal court within the 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.

4. After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

#### F. Inspection

1. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspector, to inspect the premises of an adult use establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.

2. Refusal to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, or building inspector at any time it is occupied or open for business is a violation of this Ordinance. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license.

3. The provisions of this section do not apply to areas of an Adult Hotel or Motel that are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

#### G. Transfer Of License

1. A licensee shall not transfer this license to another, nor shall a licensee operate an adult use establishment under the authority of a license at any place other than the address designated in the application.

#### H. Changes in design or use

1. If an applicant makes any changes in the proposed design or use of the property, or any other changes to the information submitted in the application, before a license is issued, the applicant shall submit the proposed changes in writing to the City.

2. If an adult use license holder proposes changes in the design, construction, or use of an already permitted adult use, the license holder must submit to The City of Little Falls a detailed description of

the proposed change in writing and no change can be made unless and until the City issues a written opinion that the change complies to all requirements of this ordinance.

I. Granting of Permit

1. The City shall issue a license only to the owner of the real property or to an applicant who has express written permission from the owner to use the land for an adult use.

2. An adult use license shall be valid only for the specific building and type of use described in the application.

3. Adult uses are subject to the location restrictions, performance standards and conditions listed in this ordinance.

4. The license, if granted, must state on its face the name of the person or entity to whom is granted, the expiration date, and the address of the adult use establishment. The license must be posted in a conspicuous place at or near the entrance to the adult use establishment.

5. The licensee must keep itemized written records of all transactions involving the sale, rental or loan of any items or merchandise for at least twelve (12) months after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City or to law enforcement upon request.

J. Responsibility to Obtain Other Permits/Licenses.

The granting of any permit or license pursuant to requirements of this Ordinance, or other applicable City of Little Falls ordinances, shall not relieve applicants of their responsibility to obtain any required county, state or federal permits and/or licenses.

F. License Fees

Each application for an adult use license shall be accompanied by the required fee. All fees shall be paid at time of application.

The annual license fee for adult use establishment is \$3,000 or as otherwise set by a resolution of the City Council. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half the regular amount. The fee is non-refundable.

G. Performance Standards and Other Requirements

The City may issue an adult use license to businesses, subject to the following conditions:

1. General Prohibitions:

a. Activities classified as obscene as defined by Minnesota Statutes, Section 617.241, or successor statutes, are not permitted and are prohibited.

b. No principal adult use shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any applicable ordinance of the City of Little Falls, Morrison County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale, or distribution of specified materials to minors.

c. No principal adult use shall be conducted in any manner that permits the perception or observation - from any property not containing a licensed adult use establishment - of any materials depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

d. A building owner or operator may not have more than one (1) adult use present in the same building or structure.

2. Location Restrictions:

a. All Adult Use Establishments (Principal or Accessory)

i. Adult use establishments may only be located in a business or industrial zoned district.

ii. Adult uses shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted or where such activity would reasonably be visible by minors.

b. Principal Adult Use

i. A principal adult use shall be setback a minimum of 1,700 feet from the following land uses:

1). any other principal adult use or accessory adult use;

2). a church;

3). a school;

4). a public library;

5). a public park;

6). a pool hall, video arcade or other entertainment facility open to minors;

7). a hotel or motel;

- 8). a licensed day care/child care home or center;
  - 9). a licensed group family day care home or center; or
  - 10). any building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit.
  - 11). a residential single-family or multi-family dwelling.
  - 12). any property zoned for residential use.
- iii. An accessory adult use shall meet the same setback as is required for structures within the applicable zoning district.

If such setbacks effectively eliminate all areas within the City to locate an adult use establishment, the City shall reduce the required setback only so much as is necessary to reasonably allow for the use and may require fencing, screening or other conditions of the approval as deemed necessary to protect the public health, safety and welfare. In no case shall the setback be reduced to less than what is required for a structure in the relevant zoning district, without application for, and approval of, a variance.

If under such an analysis the adult use establishment would be within fifty (50) percent of the setback distance normally required, and another location exists which would meet or be greater than 50% of the required setback, the City may prohibit an adult use establishment within 50% of the required setback.

Measurements shall be made in a straight line, without regard to township, city or county boundaries, intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where an principal adult use or accessory adult use is conducted, to the nearest property line of the premises of the uses listed.

C. Liquor:

1. A principal adult use shall not sell or dispense non-intoxicating or intoxicating liquors or hold a consumption and display permit, as those terms are defined in Minnesota Statute 340A, nor shall an adult use be located in a building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit.

2. A principal adult use shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business.

D. Protection of Minors:

1. A principal adult use shall prominently display at all public entrances, between four (4) and six (6) feet above the bottom of the door and located within two (2) feet of the door opening device of the establishment or section of the establishment devoted to adult uses a sign which states: "This business provides goods and/or services containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign shall be in clear legible letters each letter being at least one inch high.

2. An accessory adult use shall be restricted from, and prohibit access to, minors by the physical separation of such areas from areas of general public access:

a. Display areas shall be physically and visually separated from general view by an opaque wall of durable material, reaching at least eight feet high or to the ceiling, whichever is less. This room must have access controlled by electronic or other means to assure that minors do not enter and/or provide continuous video or window surveillance of the room by store personnel. A sign shall be placed at the entrance to the separate room between four (4) and six (6) feet above the bottom of the entranceway stating that persons under eighteen (18) years of age are not allowed inside.

b. Publications characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas." shall not be accessible to minors and shall be physically separated from areas of general public access and/or covered with a opaque wrapper or other means to prevent display of any material other than the publication title. Magazines or publications classified as adult uses shall not be physically accessible to minors either by placing them at least six (6) feet above the floor surface or by physical separation into a separate room not accessible by minors.

c. Accessory adult uses shall be prohibited from both internal and external advertising of adult materials and products anywhere on the premises of the adult use establishment that would be visible to minors.

E. Building and Property Standards:

1. Lighting: All parking lots and exterior business premises shall be lit in such a way so that they are visible to law enforcement without the aid of flashlights and/or spotlights.

2. Entrances: All entrances to a principal adult use, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.

F. Hours of Operation: Principal adult uses shall not be open at any time on Sunday nor between the hours of 12:00am (midnight) and 4:00pm on the days of Monday through Saturday.

G. Adult Cabarets: The following additional conditions apply to adult cabarets:

1. No dancer, live entertainer, performer or patron shall be under 18 years of age.

2. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.

3. No dancer, live entertainer or performer shall perform or dance closer than ten (10) feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass or other partition.

4. No dancer or performer shall fondle, caress, or touch any patron and no patron shall fondle, caress, or touch any dancer or performer.

5. An adult cabaret shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by a licensee.

H. Viewing Booths: The following additional regulations apply to viewing booths:

1. Individual motion picture viewing booths must be without doors and the occupant must be visible at all times.

2. Only one person may be in a viewing booth at a time.

3. Walls separating booths must be such that the occupants cannot engage in sexual activity.

4. Each booth must be kept clean and sanitary.

5. The booths shall be adequately lit such that the occupant is visible at all times.

I. Nudity Prohibited: No person may be nude on the premises of any adult use establishment.

H. Sign restrictions. Signs identifying or advertising adult use establishments must comply with the following restrictions:

A. Signs shall be limited to the size, number of signs and other performance standards that are permitted in the district in which the use is located.

B. No photos, pictures, digital representations or visual depictions of any person, product, device or service relating to "specified sexual activities" or "specified anatomical area" shall be displayed on any sign.

C. No merchandise, photos, illustrations, representations or pictures of the sexually-oriented products, activities or entertainment offered on the premises of the adult use may be displayed in an area where such items can be viewed from a sidewalk, public right-of-way, or any building or structure adjoining or adjacent to the adult use establishment.

#### I. Penalty

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. The City may also enforce any provision of this Ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

#### J. Severability

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held

invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

~~No adult uses—principal, shall be located less than one thousand seven hundred feet (1,700') from the nearest property line of any land in any residential zone, or any public daycare, library, park, playground or other public recreational facility in any zone, or less than one thousand seven hundred feet (1,700') from the nearest property line of any religious institution, or less than one thousand seven hundred feet (1,700') from any property used as a residence. (Ord. 52, 4th Series, eff. 2-13-1995)~~

## **11.10: COMMUNICATIONS TOWERS:**

### A. Purpose And Intent:

1. The federal communications act of 1934, as amended by the telecommunications act of 1996 ("the act"), governs the construction, placement and modification of personal wireless facilities.
2. Consistent with the act, the general purpose of this section is to manage the placement, construction and modification of telecommunications towers and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless communications marketplace in the city.
3. In furtherance of the goals of the city and within the framework of the act and state law, the city will give due consideration to the city comprehensive plan, zoning districts, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are to:
  - a. Accommodate the communication needs of the residents and businesses.
  - b. Facilitate the provision of wireless communication facilities through careful siting and design standards.
  - c. Minimize adverse visual impacts of telecommunications towers and facilities through design, siting, landscaping and innovation camouflaging techniques.
  - d. Avoid potential damage to adjacent properties from the construction and operation of wireless communications facilities through structural standards and setback requirements; and ensuring that those structures are promptly and safely removed when no longer used or when determined to be structurally unsound.
  - e. Maximize the use of existing and approved towers, buildings or structures to accommodate new wireless communications antennas to reduce the number of towers needed to serve the industry.

B. Definitions: For the purposes of this section, the following terms, phrases, words and their derivations shall have the meanings given:

**Legend**  
**Zoning**  
**ZONE, OVERLAY**

- B-1
- B-2
- B-2, PUD
- B-3
- B-3, PUD
- I-1
- I-2
- I-2, PUD
- PUD
- PUD-CH
- PUD.M
- R-1
- R-1, PUD
- R-1C
- R-2
- R-2, PUD
- R-2.M
- R-3
- R-3, PUD
- R-4



# CURRENT ZONING MAP

