

## STAFF REPORT

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**Issue:** Discussion – Zoning and Subdivision Ordinance Update

**Agenda Item:** 8a

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**Background Information:**

**Issue:** The Planning Commission instructed Staff to begin drafting a comprehensive update to the City's Zoning and Subdivision Ordinances last month. The attached represents initial changes to Section V of the ordinance originally presented at the October meeting, which addresses the minimum requirements for each zoning district – lot sizes and widths, setback requirements, impervious coverage, maximum building height, etc. Additional changes are also now being presented to various other sections of the Ordinance.

Note that Staff's intent is to create a new, separate Subdivision Ordinance for the City that would replace any sections in the current ordinance relating to subdivision of land.

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**Action Requested:** None at this time, except to review the proposed language and provide any comments you may have. Additional amendments will be presented at future meetings.

- elevation less than 3 feet above the highest known water table.
- c. Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
  - d. Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.
  - e. Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.
6. A one-time addition/enlargement may be made to an existing non- conforming structure, subject to the following:
- a. For water oriented accessory structures, no expansion shall be allowed except as permitted under subparagraph f below.
  - b. The addition is not within the shore impact zone.
  - c. The addition will not encroach further into any setback.
  - d. The size of the addition shall not exceed fifty percent of the size of the structure it is being added to.
  - e. For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.
  - f. The height of the addition shall not exceed the height of the existing structure, except as may be necessary to achieve a roof pitch of no steeper than 4:12.
  - g. No permits shall be granted under this provision for homes constructed after June 10, 2003 or where a previous variance has been approved.
  - h. All other provisions of the Ordinance, except Section 4.5, Subdivision 2 must be complied with.

#### **4.5 Building Standards.**

1. All structures and appurtenances shall be constructed in accordance with the general standards of the building industry. The City does not examine plans nor assume liability for the structural stability or quality of any structures.
2. All dwelling units shall be a minimum of 18 feet wide and shall be placed on a foundation.
3. In accordance with the Minnesota State Building Code, in the absence of a determination by an engineer competent in soil mechanics, the minimum allowable footing depth in feet due to freezing is five feet.
4. ~~Private S~~ewage treatment systems, where allowed, shall conform to Minnesota Pollution Control Agency Standards ~~as required in State rule or law—Chapter 7080. All sanitary systems shall be constructed by installers certified by the State of Minnesota to install individual sewage treatment systems. The septic tank or pressure sewer shall be no closer than 50 feet from any well. The drainfield shall be no closer than 50 feet from a well that is deeper than 50 feet or penetrates at least 10 feet of impervious material, or 100 feet from any other well. The bottom of the drainfield trench shall be 3 feet or more above the highest known water table. The trench and drop box method shall be used where feasible. Sewage tanks being abandoned shall be pumped and filled with soil.~~
5. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must

be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health. All wells must be installed by a well driller licensed in the State of Minnesota. A log of each well shall be filed with the City within 45 days of the well being drilled.

6. The provisions of the Ordinance were prepared to be at least as restrictive as the "Statewide Standards for 'Management of Shoreland Areas'" effective July 3, 1989. Where the conditions of the Shoreland Standards are more restrictive, or in case of oversight, exclusion, or question in this Ordinance, the Shoreland Standards shall govern, except for applications involving non-conforming uses.

## SECTION V - ZONING DISTRICTS AND DISTRICT PROVISIONS

### 5.1 General

1. The City of Motley is hereby divided into Zoning Districts as shown on the official Zoning District map, which may be subsequently amended by the procedures of Section 11.4.
2. The boundaries are generally on the center of the streets, on lot lines, on shorelines, on the center of streams or rivers, and following the contour of the land for the Natural Resource Zoning District.

3. The following Districts are hereby established:

Shoreline Residential.....	R-1
Residential - Medium Density .....	R-2
Residential – High Density .....	R-3
Urban Commercial.....	C-1
Commercial .....	C-2
Industrial.....	I
Public Use.....	PU
Natural Resource .....	NR

4. The rivers in the City have been classified as follows:
  - A. Forested: Crow Wing River and Long Prairie River
5. The jurisdiction of this Ordinance shall include the shorelands of all the public waters in the City listed in Sec. 5.1(4).
6. The following provisions apply to all zoning districts:

- A. All accessory structures or uses require the establishment of a principle structure when placed on a lot less than 2.5 acres in size<sup>34</sup>.
- B. Agricultural use is prohibited within 100 feet of the OHW.
- C. There shall be no impervious coverage within 100 feet of the OHW excepts walks and steps on grade less than four feet wide as provided for in this Ordinance.
- ~~D. Unless specifically allowed, no more than four leases per year, per dwelling are allowed.~~
- ~~E.~~D. Water orientated accessory structures, including boathouses, are prohibited.

Commented [BJO1]: I'm assuming this means the same as renting out a home. Is this something we want to keep? It would prevent "vacation rentals" but also prevent month to month rentals, technically. And it would be difficult to enforce.

- 7. All uses are considered prohibited unless specifically allowed in this Code, even if they are not listed specifically under excluded uses.
- 8. Criteria for land use categories designations:
  - A. Preservation of natural sensitive areas.
  - B. Present ownership and development.
  - C. Shoreland soil types and their engineering capabilities.
  - D. Topographic characteristics.
  - E. Vegetative cover.
  - F. In-water physical characteristics.
  - G. Recreational use of surface water.
  - H. Road and service center accessibility.
  - I. Socio economic development needs of the public.
  - J. Availability of public sewer.
  - K. The necessity to reserve and restore certain areas having significant historical or ecological value.
  - L. Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties.
  - M. Alternative available for desired land use.
  - N. Prevention of spot zoning.
  - O. Conformance to the City of Motley Use Plan.

**5.2 Shoreline Residential (R-1).**

- 1. Purpose: To establish and maintain a land use district on the shorelines of public waters that is residential in character and that is compatible with the natural resources of the public water. The provisions of this zone shall apply to the shorelands of the public water bodies as classified in Section 5.1(4) of this ordinance.
- 2. Permitted Uses. (R-1)<sup>35</sup>  
See Section 5.11
- 3. Conditional Uses. (R-1)<sup>36</sup>  
See Section 5.11
- 4. Excluded Uses. (R-1)<sup>37</sup>  
See Section 5.11

<sup>34</sup> Amended December 2016

<sup>35</sup> Ordinance 2009-3, 4/28/2009

<sup>36</sup> Ordinance 2009-3, 4/28/2009

<sup>37</sup> Ordinance 2009-3, 4/28/2009

5. Lot and Use Requirements. (R-1)

Lot width at OHW and building line - feet, minimum	200
Lot width with guest quarters or duplex – <u>feet, minimum</u>	300
<del>Buildable lot area</del> <u>Lot size</u> - square feet, minimum	80,000
<del>Buildable lot area</del> <u>Lot size</u> with guest quarters or duplex - square feet, minimum	120,000
<u>Buildable area – square feet, minimum</u>	<u>17,400</u>
<u>Buildable area with guest quarters or duplex – square feet, minimum</u>	<u>24,800</u>
Setback, right-of-way, local streets – feet, minimum	30
Setback, right-of-way, collector and arterial streets – feet, minimum	50
Setback, OHW – feet, minimum	150
Setback, bluff – feet, minimum	<del>50</del> 30
Setback, side - feet, minimum	10
Setback, corner side – feet, minimum	<del>50</del> 30
<u>Setback, rear – feet, minimum</u>	<u>10 (20 if for vehicle storage and vehicle door faces an alley)</u>
Impervious coverage – maximum	<del>15</del> %
Building height - feet, maximum	25
Building above highest known groundwater or lake level – feet, minimum	3
Maximum Density	1 unit/20,000 sq. ft.
<del>HSTS-SSTS</del> setback from OHW – feet, minimum	<del>150</del>

Commented [BJO2]: DNR maximum is 25%

Commented [BJO3]: DNR minimum is 100 ft

6. Performance Standards. (R-1)

- A. Dwelling, Guest Quarters. A dwelling guest quarters must meet the following restrictions:
1. Shall be located along with the principal structure on the smallest lot meeting the above requirements.
  2. Shall not cover more than 700 square feet of land and must not exceed 15 foot height (guest cottages may be allowed in the second floor of an accessory building provided the overall height of the structure does not exceed the maximum allowed a structure and the floor area and height of the guest cottage area itself do not exceed the amounts listed here).
  3. Shall be located to reduce it's visibility as viewed from public waters and adjacent shorelands.
  4. Shall be screened from adjacent parcels and public waters by vegetation, topographical location, increased setback, color or other methods assuming summer leaf on conditions.
- B. Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.
  2. Landings for stairways and lifts on residential lots must not exceed 32 square feet

- in area.
3. Canopies or roofs are not allowed on stairways, lifts or landings.
  4. Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
  5. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
  6. Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items (1) to (5) are complied with.
- C. Fertilizer and Pesticides. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation or both.
- D. Duplexes. On Forested rivers, subdivisions of duplexes must also meet the following standards:
1. Each building must meet setback at least 200 feet form the Ordinary High Water Mark.
  2. ~~When not connected to public water and sewer, each~~Each building must have common sewage treatment and water systems that serve both units in the building.
  3. Watercraft docking facilities for each lot must be centralized in location and serve all dwelling units in the subdivision.
  4. No more than 25% of river shoreline can be in duplex development.
- E. Docks. The landward end of all docks must meet a 10 foot setback from the nearest lot line. Docks must be placed so that no portion of the dock, including “L” extensions or additions, and no accessory or ancillary structures or equipment (including mooring buoys, boat lifts, shore trackers or swimming platforms), extends across the projection of the setback from the lot line into the river. Docks must also be places so as not to block access from an adjacent property to open water. The storage of all docks, and all watercraft or water oriented items shall also be subject to this property setback rule.

Notwithstanding any provision of this section to the contrary, the 10-foot setback for docks shall not apply to the extent necessary to allow ingress or egress of a pre-existing boat house.

This Ordinance shall apply to the use, maintenance and installation of any dock and accessory or ancillary structures or equipment at any time.

- F. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
- a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
  - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.3 Residential – Medium Density (R-2)**

1. Purpose: To establish and maintain a medium density land use Zoning District, which will provide a buffer between Residential – Low Density (R-1) and higher density residential and commercial is non-riparian.
2. Permitted Uses. (R-2)<sup>38</sup>  
See Section 5.11
3. Conditional Uses. (R-2)<sup>39</sup>  
See Section 5.11
4. Excluded Uses. (R-2)<sup>40</sup>  
See Section 5.11
5. Lot and Use Requirements. (R-2)

Lot Width – feet, minimum	50
<u>Lot Area - minimum</u>	<u>10,000 sq ft with city sewer/water, 2.5 acres with an ISTS</u>
Buildable Lot Area - minimum	<del>40,000</del> <u>7,400</u> sq ft with city sewer/water, <del>2.5 acres</del> <u>17,400 sq ft with an ISTSSSTS</u>
Setback, right-of-way, local streets – feet, minimum	15
Setback, right-of-way, collector and arterial streets – feet, minimum	25
Setback, side - feet, minimum	10
Setback, corner side – feet, minimum	15
<u>Setback, rear – feet, minimum</u>	<u>10 (20 if for vehicle storage and vehicle door faces an alley)</u>
Impervious coverage - maximum	25%
Building height - feet, maximum	25
Accessory Structure Size – square feet, maximum, cumulative	1,280 for parcels 2.5 acres or less; <del>1,280</del> <u>2,560</u> for <u>parcels 2.51-5 acres</u> <u>4,000 for parcels larger than 5 acres, each additional 2.5 acres parcel size</u>
Building above highest known groundwater lot lake level – feet, minimum	3
Maximum Density	1 unit/10,000 sq. ft.

<sup>38</sup> Ordinance 2009-3, 4/28/2009

<sup>39</sup> Ordinance 2009-3, 4/28/2009

<sup>40</sup> Ordinance 2009-3, 4/28/2009

6. Performance Standards (R-2)

Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:

- a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
- b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.

Impervious Coverage. The impervious coverage may be increased by 50% provided the following:

- a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
- b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.4 Residential - High Density (R-3).**

- 1. Purpose: To establish and maintain a land use District that will accommodate higher levels of residential density serviced by City sanitary utilities. This zone will also be used to enhance the diversity of housing opportunities for residents at a variety of income levels.
- 2. Permitted Uses. (R-3)<sup>41</sup>  
See Section 5.11
- 3. Conditional Uses. (R-3)<sup>42</sup>  
See Section 5.11
- 4. Excluded Uses. (R-3)<sup>43</sup>  
See Section 5.11

5. Lot and Use Requirements. (R-3)

Lot Width – feet, minimum	50
<u>Lot Area - square feet, minimum</u>	<u>6,000</u>
Buildable Lot Area - square feet, minimum	<del>6,000</del> <u>2,700</u>
Setback, right-of-way, local streets – feet, minimum	20
Setback, right-of-way, collector and arterial streets – feet, minimum	20
Setback, side - feet, minimum	10
Setback, cornerside – feet, minimum	20
<u>Setback, rear – feet, minimum</u>	<u>10 (20 if for vehicle)</u>

<sup>41</sup> Ordinance 2009-3, 4/28/2009

<sup>42</sup> Ordinance 2009-3, 4/28/2009

<sup>43</sup> Ordinance 2009-3, 4/28/2009



	<u>storage and vehicle door faces an alley)</u>	
Impervious coverage – maximum		50%
Building height - feet, maximum		45
	1,280 <u>for single-family dwellings.</u>	
Accessory Structure Size – square feet, maximum, cumulative	<u>728 sq ft per dwelling unit for multi-unit dwellings (average)</u>	
Building above highest known groundwater lot lake level – feet, minimum		3
Maximum Density		1 unit/3,000 s.f.

6. Performance Standards (R-3)

Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:

- a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
- b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.

Impervious Coverage. The impervious coverage may be increased by 50% provided the following:

- a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
- b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.5 Urban Commercial (C-1)**

1. Purpose: To provide a zoning classification for high-density commercial uses. Development in this zone relies less on automobile traffic and more on walking, biking and other similar modes of transportation. Infrastructure must be in place to provide on-street parking and walkways as well as connection to municipal water and sanitary sewer utilities. The zone must be clustered to provide the maximum amount of interaction and accessibility between the different business establishments.
2. Permitted Uses. (C-1)<sup>44</sup>  
See Section 5.11
3. Conditional Uses. (C-1)<sup>45</sup>

<sup>44</sup> Ordinance 2009-3, 4/28/2009

See Section 5.11

4. Accessory Uses. (C-1)<sup>46</sup>  
See Section 5.11

5. Excluded Uses. (C-1)<sup>47</sup>  
See Section 5.11

6. Lot and Use Requirements. (C-1)

Minimum lot size - square feet	6,000
Setback, right-of-way - feet	0
Setback, side - feet	0
Setback, rear - feet	0
Building height - feet, maximum	25
Building above highest known groundwater	3
Impervious surface coverage - maximum	85%

Impervious surface coverage - maximum	85%
Setback, right-of-way - feet	0
Setback, side - feet	0
Setback, rear - feet	0
Building height - feet, maximum	25
Building above highest known groundwater	3
Minimum lot size - square feet	6,000

7. Performance Standards. (C-1)

- A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- B. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development.
- C. Fire Lanes. Fire lanes shall remain unobstructed at all times.

**5.6 Commercial (C-2)**

- 1. Purpose: To provide a zoning classification for commercial uses oriented around the automobile. Parcels are larger than in the Urban Commercial zone in order to provide on-site parking, on-site stormwater facilities as well as on-site water supply and sewage treatment where municipal utilities are not immediately available.
- 2. Permitted Uses. (C-2)<sup>48</sup>  
See Section 5.11

<sup>45</sup> Ordinance 2009-3, 4/28/2009

<sup>46</sup> Ordinance 2009-3, 4/28/2009

<sup>47</sup> Ordinance 2009-3, 4/28/2009

<sup>48</sup> Ordinance 2009-3, 4/28/2009

- 3. Conditional Uses. (C-2)<sup>49</sup>  
See Section 5.11
- 4. Accessory Uses. (C-2)<sup>50</sup>  
See Section 5.11
- 5. Excluded Uses. (C-2)<sup>51</sup>  
See Section 5.11

6. Lot and Use Requirements. (C-2)

Minimum lot size - square feet	20,000
Setback, right-of-way - feet	50
Setback, parking from lot line - feet	30
Setback, side - feet	10
Setback, rear - feet	10
Building height - feet, maximum	25
Building above highest known groundwater	3
Impervious surface coverage - maximum	50%

~~Onsite sign setback - feet.....10~~

7. Performance Standards. (C-2)

- A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- B. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.
- D. Screening. ~~All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 25% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions.~~ A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. ~~Lights approved with signs must be turned off at the close of business each day.~~
- F. Side Yard Setback. The side-yard setback may be reduced by 50% provided one of the following is completed:
  - a. The property owner has the lot line in question surveyed by a licensed surveyor. The survey monuments establishing the lot line must be clearly visible so a determination of the encroachment can easily be made.
  - b. The property owner shall install flags, stakes or other devices establishing the location of the property line. The property owner

<sup>49</sup> Ordinance 2009-3, 4/28/2009

<sup>50</sup> Ordinance 2009-3, 4/28/2009

<sup>51</sup> Ordinance 2009-3, 4/28/2009

and the adjacent property owner on the line to be encroached upon must both sign and have notarized an agreement stating that they both agree upon the property line, as marked by the property owner.

- G. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
  - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
  - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.7 Industrial. (I)**

- 1. Purpose: To provide a zoning classification for light-industrial and heavy commercial uses. Development in this zone requires high accessibility and municipal water and sanitary sewer service. Industrial zones should be clustered to control negative impacts of industrial activities and to efficiently facilitate maximum interaction between light-industrial and heavy commercial enterprises.
- 2. Permitted Uses. (I)<sup>52</sup>  
See Section 5.11
- 3. Conditional Uses. (I)<sup>53</sup>  
See Section 5.11
- 4. Accessory Uses. (I)<sup>54</sup>
- 5. Excluded Uses. (I)<sup>55</sup>  
See Section 5.11

6. Lot and Use Requirements. (I)

Minimum lot size - square feet	20,000
Setback, right-of-way - feet	50
Setback, parking from lot line - feet	30
Setback, side - feet	10
Setback, rear - feet	30
Building height - feet, maximum	25
Building above highest known groundwater	3
Impervious surface coverage - maximum	50%

Onsite sign setback - feet.....10

- 7. Performance Standards. (I)

<sup>52</sup> Ordinance 2009-3, 4/28/2009  
<sup>53</sup> Ordinance 2009-3, 4/28/2009  
<sup>54</sup> Ordinance 2009-3, 4/28/2009  
<sup>55</sup> Ordinance 2009-3, 4/28/2009

- A. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.
- B. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.
- C. Screening. ~~All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 25% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. Outside storage shall be screened.~~ A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.
- D. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. ~~Lights approved with signs must be turned off at the close of business each day.~~
- ~~E. Outside storage shall be screened.~~
- ~~F. Highway access will be limited to one driveway per three hundred (300) linear feet of highway frontage. In the case of an egress and ingress driveway for safety reasons, both will be allowed within the 300 linear feet.~~
- ~~G.E.~~ All proposed industrial uses shall be required to disclose any environmentally sensitive emissions, discharges or waste products at the time of a conditional use permit public hearing. The allowable level of these parameters shall be established in the conditional use permit to be at least as restrictive as the applicable State or Federal standards, and a testing program shall be established to monitor the facility. Exceeding the allowable level of any parameter shall constitute a failure to perform a condition of the ~~C.U.P~~conditional use permit.
- ~~H.F.~~ For new construction or additions/alterations, at least ten percent (10%) of the land area shall be landscaped with grass, shrubs, trees or other approved ground cover and ornamental landscaping. All landscaped areas shall be maintained and kept free of weeds and debris.
- ~~I.G.~~ All areas not used for buildings shall be graded to provide drainage and shall not drain unto abutting property. All areas not designated for structures, parking or driveways shall be landscaped and maintained. Landscaping shall be completed within nine months of the end of development construction.
- J. Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
  - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
  - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.8 Public Use. (PU)**

1. Purpose: To establish and maintain a land use district that is publicly owned for public buildings and public facilities.
2. Permitted Uses. (PU)<sup>56</sup>  
See Section 5.11
3. Conditional Uses. (PU)<sup>57</sup>  
See Section 5.11
4. Excluded Uses. (PU)<sup>58</sup>  
See Section 5.11
5. Lot and Use Requirements. (PU)  
Requirements shall be as restrictive as the most restrictive adjacent zoning classification.
6. Performance Standards (PU)  
Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
  - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
  - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

**5.9 Natural Resource. (NR)**

1. Purpose: This zone contains the park and outdoor recreation system, wetlands and the flood plain areas of the city. The zone protects high quality outdoor recreation areas for city residents and visitors and maintains a high quality natural environment.
2. Permitted Uses. (NR)<sup>59</sup>  
See Section 5.11
3. Conditional Uses. (NR)<sup>60</sup>  
See Section 5.11
4. Accessory Uses. (NR)<sup>61</sup>  
See Section 5.11
5. Excluded Uses. (NR)<sup>62</sup>

<sup>56</sup> Ordinance 2009-3, 4/28/2009

<sup>57</sup> Ordinance 2009-3, 4/28/2009

<sup>58</sup> Ordinance 2009-3, 4/28/2009

<sup>59</sup> Ordinance 2009-3, 4/28/2009

<sup>60</sup> Ordinance 2009-3, 4/28/2009

<sup>61</sup> Ordinance 2009-3, 4/28/2009

See Section 5.11

6. Lot, Use and Density Requirements. (NR)  
Requirements shall be as restrictive as the most restrictive adjacent zoning classification.
7. Mixed Zone Lots. (NR)  
For a lot crossing the Natural Resource District boundary into another Zoning District, the minimum lot size shall be the same as the other Zoning District with no area credit given for the Open District area.
8. Performance Standard (NR)  
Impervious Coverage. The impervious coverage may be increased by 50% provided the following:
  - a. A stormwater management plan that retains the 10-year, 24-hour rain event is provided. Upon approval, the plan must be fully implemented.
  - b. Direct runoff to adjacent properties in a 10-year, 24-hour rain event is eliminated through the use of swales, berms, ditches, grading or other necessary means.

#### **5.10 Downtown Mixed Use (DMU)<sup>63</sup>**

1. Purpose and Intent: To provide a zoning classification for a mix of high-density residential and commercial uses. Development in this zone relies less on automobile traffic and more on walking, biking and other similar modes of transportation. Infrastructure must be in place to provide on-street parking and walkways as well as connection to municipal water and sanitary sewer utilities. Downtown Mixed-Use zones should be clustered to provide the maximum amount of interaction and accessibility between the different establishments.
2. Compatibility: The Downtown Mixed-Use zone is most compatible with and should be established next to the Residential, High Density zone, but it also may be adjacent to the Urban Commercial, Commercial and Public Use Zones.
3. Lot and Use Requirements. (DMU)

Lot width– feet, minimum	25
Buildable lot area – square feet, minimum	2,250
Maximum Density (units per acre)	20
Setback, right of way, City road- feet, minimum	1
Setback, right of way, County or State road, feet, minimum	10
Setback, side yard – feet, minimum	0
Setback, rear – feet, minimum	10
Setback, sign – feet, minimum	1
Setback, parking from building or lot line – feet, minimum	0
Setback, wetland – feet, minimum	50
Impervious Coverage with storm sewer available	90%
Impervious Coverage without storm sewer available	50%

<sup>62</sup> Ordinance 2009-3, 4/28/2009

<sup>63</sup> Ordinance 2009-3, 4/28/2009

Building height – feet, maximum	2545
Building above highest groundwater level – feet, minimum	3

4. Performance Standards. (DMU)

A. Parking. Developments shall minimize the appearance of parking areas.

- (1) Location. Parking and vehicle drives shall be located away from building entrances and street corners, and not between a building entrance and the street. Surface parking shall be oriented behind or to the side of a building when possible.
- (2) Landscape Buffering. Suitable trees and shrubs shall be planted between parking lots and all adjacent sidewalks and buildings.

B. Pedestrian Amenities. Proposed developments shall provide for safe and comfortable sidewalks, paths, and resting areas for pedestrians, unless otherwise approved by the City. Sidewalks and paths shall connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.

C. Lighting. All building entrances, pathways and other pedestrian areas shall be lit to two-foot candles with pedestrian-scale lighting including wall mounted, sidewalk lamps, bollards, or landscape up-lighting.

D. Fences. Fences not exceeding 72 inches in height may be constructed. Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right-of-way. Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.

5.11 Land Use Matrix<sup>64</sup>

The following set of tables establishes the uses permitted, permitted by conditional or interim use permit, or not permitted. All uses are subject to any other applicable requirements or performance standards of this ordinance.

<b>ACCESSORY USES</b>	<u>Accessory uses, buildings and structures customarily incidental and directly related to the uses allowed as permitted, interim or conditional uses are permitted in all districts.</u>							
<b>GENERAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
<u>Abandoned Buildings/Structures</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>Abandoned motor vehicles</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>

<sup>64</sup> Ordinance 2009-3, 4/28/2009



Forest Land Conversion	C	C	C	C	C	C	C	C
Grading, greater than 50 cubic yards or which otherwise changes pre-existing drainage patterns.	C	C	C	C	C	C	C	C
Vegetation Removal, Clear Cutting	C	C	C	C	C	C	C	C
Vegetation Removal, Open Cutting	C	C	C	C	C	C	C	C
Vegetation Removal, Select Cutting	P	P	P	P	P	P	P	P

<b>AGRICULTURAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Agricultural; limited, however, to plant husbandry and sale of plants and produce.	X	X	C	X	X	C	C	C
Limited livestock raising of 0.5 animal units per acre up to 49 a.u. (pasture)	X	X	C	X	X	C	C	C
Limited livestock raising of more than 0.5 animal units per acre (pasture)	X	X	X	X	X	C	C	C
Animal Feedlot	X	X	X	X	X	X	X	X
Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission	C	C	C	C	C	C	C	C

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<b>RESIDENTIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Accessory Dwelling Unit	E	C	C	C	C	E	C	C
Bed and Breakfast Facilities	E	C	C	C	C	E	C	C
Dwelling								
Single Family	E	P	P	P	P	E	E	E
Second single family on a parcel (permanent) <sup>65</sup>	E	E	E	E	E	E	E	E
Second single family on a parcel (temporary) <sup>66</sup>	E	C	C	C	C	E	C	C

<sup>65</sup> Except as part of an approved planned unit development (PUD).

<u>Multi-Family (2 units)</u>	<u>E</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Multi-Family (3-4 units)</u>	<u>E</u>	<u>E<sup>67</sup></u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Multi-Family (5+ units), including rental offices and private recreational facilities for the enjoyment of residents.</u>	<u>E</u>	<u>E<sup>68</sup></u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Guest Cottage (riparian lots only)</u>	<u>E</u>	<u>C</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>E</u>	<u>N/A</u>	<u>N/A</u>
<u>Mobile/Manufactured Home Park</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Travel Trailers/ Campers/ Recreational Vehicles (1 per lot)</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Keeping of Animals</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Home Occupations, Low Activity</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Home Occupations, Moderate Activity</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Home Occupations, High Activity</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Planned Unit Developments – Residential (R1 shoreland district)</u>	<u>E</u>	<u>C</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>E</u>	<u>N/A</u>	<u>N/A</u>
<u>Planned Unit Development – Single-Family</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Planned Unit Development – Multi-Family</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>E</u>	<u>E</u>
<u>Solar Energy Systems and Structures, Individual</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>E</u>	<u>P</u>	<u>P</u>
<u>Solar Energy Systems and Structures, Neighborhood</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Solar Energy Systems and Structures, Large Scale (Solar Farm)</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>C</u>	<u>C</u>
<u>Telecommunication antennas and towers, for personal use.</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>E</u>	<u>P</u>	<u>P</u>

<sup>66</sup> Added 8/4/2014 (Resolution #14-02)

<sup>67</sup> Except as part of an approved planned unit development (PUD).

<sup>68</sup> Except as part of an approved planned unit development (PUD).

Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission	E	C	C	C	C	C	C	C
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Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<b>COMMERCIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Adult Uses/Adult Oriented Business	E	E	E	E	E	E	E	C
Animal Boarding Facility/Kennel	E	E	C(2)	C(2)	C	E	C	A
Animal Feed Distribution	E	E	E	C	C	E	A	A
Animal Grooming Facility	E	E	E	E	A	E	A	A
Appliance Repair	E	E	E	E	C	E	A	A
Automobile accessory store with no outdoor storage	E	E	E	E	A	E	A	A
Automobile Repair (passenger vehicles) and Small Engine Repair, including body shops.	E	E	E	E	E	E	A	A
Auto Sales, New or Used	E	E	E	E	E	E	A	A
Banks and other financial service institutions	E	E	E	E	A	E	A	A
Boarding House	E	E	E	E	A	E	A	A
Bowling alley	E	E	E	E	A	E	A	A
Cabinet Shop	E	E	E	E	A	E	A	A
Campground	E	E	E	C	C	C	C	C
Carwash Facility	E	E	E	E	E	E	A	A
Car Washing (Temporary Event)	E	E	E	E	A	E	A	A
Child Care Center	E	E	E	E	A	E	A	C
Commercial uses which serve local permanent residents and the resort industry, such as grocery stores, marine supplies, equipment and service; recreational equipment sales and privately owned and licensed recreational activity.	E	E	E	E	A	E	A	A

<b>COMMERCIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Contractors offices, shops and yards without outdoor storage	E	E	E	E	A	E	A	A
Contractors offices, shops and yards with outdoor storage	E	E	E	E	C	E	C	A
Drive-in Window Facilities	E	E	E	E	C	E	A	E
Fuel (pressurized tanks) storage and sale – propane, acetylene, helium, CO2 and similar (not including small tanks/bottles typically used or sold for medical purposes, filling of helium balloons, portable cooking/heating implements, etc...)	E	E	E	E	C	E	C	C
Gas and convenience store	E	E	E	E	E	E	A	A
Health/athletic/fitness center, and roller rinks	E	E	E	E	A	E	A	A
Hospitals	E	E	E	E	C	E	C	C
Financial institutions	E	E	E	E	A	E	A	A
Laboratories/Testing Facilities	E	E	E	E	A	E	A	A
Laundromat/Dry Cleaning Services	E	E	E	E	A	E	A	A
Lumber/Building Materials Yard	E	E	E	E	C	E	C	A
Machinery, equipment sales, storage and service	E	E	E	E	C	E	C	A
<i>Massage Therapy (as the principal use of a building or business where the practitioner is required to obtain a massage therapist or massage enterprise license from the City, or in any other manner not otherwise listed in this ordinance)</i>								C
	E	E	E	E	C	E	C	

COMMERCIAL USES	NR	R1	R2	R3	DM U	PU	C2	I
<u>Massage Therapy (as a use accessory to an otherwise approved<sup>69</sup> business or medical practice whose practitioners/employees are exempt from City requirements to obtain a massage therapist or massage enterprise license.)</u>	E	E	E	E	A	E	A	A
<u>Massage Therapy (as a home occupation).</u>	E	C	C	C	C	E	C	C
<u>Medical Clinic/Ethical Pharmacy</u>	E	E	E	E	A	E	A	A
<u>Medical Marijuana Sales/Distribution</u>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>E</del>	<del>C</del>
<u>Mini-Storage</u>	E	E	E	E	E	E	C	E
<u>Motel/Hotel and other hospitality businesses, including convention/meeting facilities.</u>	E	E	E	E	C	E	C	C
<u>Nursery/garden store</u>	E	E	E	E	C	E	A	A
<u>Nursing homes, assisted living and other similar group housing.</u>	E	E	E	E	C	E	C	C
<u>Offices</u>	E	E	E	E	A	E	A	A

Commented [BJO4]: The state law appears to say that only pharmacists can dispense medical cannabis and generally its manufacture and distribution is heavily limited throughout the state. I'm thinking we should just stay out of it in the City's ordinance.

<sup>69</sup> Approval of a medical, dental, or chiropractic clinic may require a conditional use permit or other approval procedure. Once such approval is received, a separate conditional use permit to add massage services is not necessary.

<b>COMMERCIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Planned Unit Development (PUD), Commercial/Mixed Use	E	E	E	E	C	E	C	C
Repair Services – jewelry, electronics, household items, furniture, shoe, locksmith and other similar uses.	E	E	E	E	A	E	A	A
Retail sales, rental and/or service, with no outdoor storage	E	E	E	E	A	E	A	A
Retail sales, rental and/or service, with outdoor storage	E	E	E	E	C	E	A	A
Restaurant, on/off sale liquor sales; supper club and fast food establishments, with or without outdoor seating.	E	E	E	E	A	E	A	A
Planned Unit Development – Storage Unit	E	E	E	E	C	E	C	C
Telecommunication services and utility towers including cellular phone/wireless internet towers and antennas and other wireless telecommunications towers.	C	C	C	C	C	C	C	C
Theater, Movie	E	E	E	E	C	E	A	A
Theater, Drive-In	E	E	E	E	C	E	C	C
<b>COMMERCIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DM U</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Truck (semi) and other large vehicle repair, including body shops.	E	E	E	E	E	E	C	C
Veterinary Clinic	E	E	E	E	C	E	C	C
Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission	C or IU	C or IU	C or IU	C or IU	C or IU	E	C or IU	C or IU

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<b>INDUSTRIAL USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DMU</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Blacksmith Shop	E	E	E	E	C	E	C	P

Concrete/bituminous storage or recycling facilities (permanent) <sup>70</sup>	E	E	E	E	E	E	C	P
Concrete/bituminous storage or recycling facilities related to a specific project lasting less than 12 months. <sup>71</sup>	E	E	E	E	C	E	C	P
Hot mix plant, Temporary	E	E	E	E	C	E	C	P
Hot mix plant, Non-temporary	E	E	E	E	E	E	C	P
Manufacturing, processing and assembly (heavy)	E	E	E	E	E	E	C	P
Manufacturing, processing and assembly (light)	E	E	E	E	C	E	C	P
Mining/Extraction of gravel or other materials	E	E	E	E	E	E	C	C
Plumbing Shop	E	E	E	E	P	E	P	P
Print/Copy Shop	E	E	E	E	P	E	P	P
Ready-mix plant	E	E	E	E	E	E	C	C
Recycling facilities (including processing and transferring)	E	E	E	E	C	E	C	C
Salvage/Junk Yard	E	E	E	E	E	E	C	C
Studio – photography, decorating, art, music, dance or similar.	E	E	E	E	P	E	P	P
Transportation or Freight Terminal	E	E	E	E	C	E	C	C
Warehouse	E	E	E	E	C	E	C	C
Welding Shop	E	E	E	E	C	E	C	P
Wholesale Business	E	E	E	E	C	E	C	C
Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission	E	E	E	E	C	E	C	C

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted.

<b>PUBLIC/ SEMI-PUBLIC USES</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DMU</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
Airport, Public or Private	E	E	E	E	X	C	C	C
Armories/Military Facilities	E	E	E	E	C	C	C	C

<sup>70</sup> Added 12/15/08 (Resolution #08-16)

<sup>71</sup> Amended 12/15/08 (Resolution #08-16)

Campground (Permanent)	E	E	E	E	X	C	C	C
Camping (Temporary)	E	P	P	P	P	P	P	P
Cemetery	E	C	C	C	C	C	C	C
Churches, chapels, temples, synagogues and other places of worship, including related buildings and parsonage	E	C	C	C	C	E	C	C
Community center, including senior center.	E	C	C	P	P	C	C	C
Controlled Access Lot	E	C	C	C	C	C	C	C
Cultural facilities, such as museums, art centers or cultural education.	E	C	C	C	C	C	C	C
Educational institution/school and incidental uses when situated on the same site or unit of property	E	C	C	C	C	C	C	C
Essential services, governmental use buildings and storage.	E	C	C	C	C	C	C	C
Fairgrounds	E	C	C	C	C	C	C	C
Temporary Festivals/Carnivals, Sales and Promotional Events	E	P	P	P	P	P	P	P
Parking lot	E	A	A	A	A	A	A	A
Public or semi-public/club parks, playgrounds, sport courts, beaches, swimming pools, recreation areas, hiking trails and historic monuments	E	C	C	C	C	C	C	C
Other uses of the same general character as those listed above, provided they are deemed fitting or compatible to the district by the Planning Commission	E	C	C	C	C	C	C	C

Key: A = Allowed, no permit required; P = A use allowed, but which may require a land use permit; CU = A use requiring a Conditional Use Permit; IU = A use requiring an Interim Use Permit; X = not permitted

<b>SIGNAGE</b>	<b>NR</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>DMU</b>	<b>PU</b>	<b>C2</b>	<b>I</b>
<i>Sign, Digital Display</i>	E	E	E	E	C	C	C	C
<i>Sign, Directory</i>	E	C	C	C	A	A	A	A
<i>Sign, Awning</i>	E	E	E	E	P	P	P	P
<i>Sign, Flashing</i>	E	E	E	E	C	C	C	C
<i>Sign, Marquee</i>	E	E	E	E	C	P	P	P



<i>Sign, Off-premise</i>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>C</u>	<u>E</u>
<i>Sign, On-premise</i>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Sign, Portable</i>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>E</u>
<i>Sign, Pylon</i>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>
<i>Sign, Scrolling</i>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<i>Sign, Shimmering</i>	<u>E</u>	<u>E</u>	<u>E</u>	<u>E</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Table 1- City of Motley Land Use Matrix

A – Denotes Allowed without a Permit	AC – Denotes <i>Accessory use</i>									
P – Denotes <i>Permitted use</i>	E – Denotes Excluded Use									
C – Denotes <i>Conditional use</i>	-									
Use	NR	R1	R2	R3	DMU	PU	C2	C1	I	
<i>Abandoned Building</i>	E	E	E	E	E	-	-	-	-	
<i>Abandoned Motor Vehicle</i>	E	E	E	E	E	-	-	-	-	
<i>Accessory Apartment</i>	-	C	C	-	C	-	-	-	-	
<i>Accessory Structure</i>	E	-	P	P	P	C	P	P	-	
<i>Adult Oriented Business</i>	-	E	E	E	E	-	E	E	C	
<i>Agricultural – Cropland and Pasture</i>	-	P(1)	-	-	E	-	-	-	-	
<i>Agricultural Use</i>	E	-	P	E	E	-	-	-	E	
<i>Airport, Public or Private</i>	-	-	-	-	E	C	C	-	-	
<i>Animal Boarding Facility</i>	-	E	C(2)	E	E	-	C	-	-	
<i>Animal Feed Distribution and Processing</i>	-	-	-	-	C	-	C	-	-	
<i>Animal Grooming Facility</i>	-	-	-	-	P	-	C	-	-	
<i>Animal Husbandry, Domestic</i>	-	-	C	C	C	-	-	-	E	
<i>Animal Husbandry, Food</i>	-	C	C	-	E	-	-	-	E	
<i>Animal Husbandry, Wild</i>	-	E	E	E	E	-	-	-	E	
<i>Appliance Repair</i>	-	-	-	-	C	-	C	E	-	
<i>Artist Studio</i>	-	-	-	-	P	-	-	P	-	
<i>Assembly Plants</i>	-	-	-	-	C	-	-	-	C	
<i>Athletic Clubs or Gymnasiums</i>	-	-	-	-	P	-	P	E	-	
<i>Automobile Repair Shops and Garages</i>	-	-	-	-	E	-	C	E	-	
<i>Automobile Sales</i>	-	-	-	-	E	-	C	E	-	
<i>Auto Salvage Yard</i>	-	-	-	-	E	-	-	-	C	
<i>Banks</i>	-	-	-	-	P	-	P	P	-	
<i>Beach</i>	-	-	-	-	E	C	-	-	-	

SECTION VI - SUBDIVISION STANDARDS RESERVED

**NOTE: This section will be rewritten and created as a separate ordinance.**

**6.1 Sketch Plan:**

A sketch plan shall contain the following data:

- 1.—Existing Conditions
  - A.—Approximate exterior boundary drawn to a scale of not less than 1" = 100' with the scale and northerly direction shown thereon.
  - B.—Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark.
  - C.—Use of adjoining properties including street locations, structure locations and property lines.
  - D.—Significant historical sites.
- 2.—Proposed Design
  - A.—Proposed roads and walkways.
  - B.—Proposed lots with building setbacks and bluff impact zones.
  - C.—Proposed Green Space.
  - D.—Proposed City sewer and water system connections or sewage treatment systems and well locations.

**6.2 Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres:**

A Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres shall contain the following data: (except as waived by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal:

- 1.—Existing Conditions
  - A.—Boundary lines with lengths and bearings drawn to exact scale of no less than 1" = 100' taken from a boundary survey by a Registered Land Surveyor with the legal description of the property, total acreage, name of the fee owner, developer and surveyor. North arrow and scale.
  - B.—Topography consisting of 2-foot contour intervals, or at the discretion of the Planning Commission during the sketch plan review, 10-foot contour intervals taken from the USGS mapping with additional field determined spot elevations added to define drainage ways, 100-year floodplains, wetlands, slopes and the Ordinary High Water Mark. Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation.
  - C.—Tree cover limits, specimen tree locations.
  - D.—Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems. At least one boring for each unit unless waived by the Planning Commission.
  - E.—Location of adjoining streets, wetlands, structure and property lines within 200 feet of subject parcel, including acreage of any property owned by the developer not included in the preliminary plat.
  - F.—Significant historical sites.
  - G.—Date of boundary survey, topography and proposed plat.

areas and facilities with the applicant proposes to reserve for public use within the subdivision. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358, Subdivision 2b, of the Minnesota Statutes.

3. All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.

## SECTION VII - SPECIAL PROVISIONS

### 7.1 Adult Oriented Businesses

1. ~~General. It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulations. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation of restriction on the content of any communicative material, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.~~

2. ~~Standards:~~

- A. ~~All adult oriented businesses are permitted only by conditional use permit in designated zones.~~
- B. ~~Such businesses are required to have proper licensure from Morrison County and/or Cass County.~~
- C. ~~During the term of this Ordinance, no Adult Oriented Businesses shall be located less than 500 feet from any residential zoning district boundary or site used for residential purposes, nor less than 500 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no Adult Oriented Business may be located within 300 feet of another Adult Oriented Business. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site, or another Adult Oriented Business site to the nearest boundary of the proposed Adult Oriented Business site.~~
- D. ~~No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.~~

1. Purposes and Intent. In the development and adoption of this Section, it is recognized that:

- A. There are some adult use establishments which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.
- B. These establishments have deleterious impact upon property values.
- C. These establishments frequently become places of criminality.
- D. 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 the restricting their

Commented [BJO5]: The regulation of adult uses, due to a number of court cases over the past couple decades, requires a much more detailed ordinance to be found constitutional. The proposal here is meant to address those requirements.

close proximity to established facilities such as, but not limited to churches, parks, schools, and residential areas.

E. 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 purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials.

F. 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.

## 2. Findings:

A. The Motley 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; Benvenue, 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 Business (June 5, 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 on these 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 (Minnesota 1994); S.O.B., Inc. v. County of Benton, 371F.3d 856 (8<sup>th</sup> Cir., Minnesota 2003); Jakes, LT, Inc., v. City of Coates, 284 F.3d 884 (8<sup>th</sup> Cir., Minnesota 2002); and Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minnesota App. 2000); and the City Council's knowledge of actual conditions within the City of Little Falls and surrounding communities.

B. Based on these studies, cases and other documentation, the City Council hereby finds:

- 1) 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:
  - a) 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;

- b) 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 stimulation or sexual gratification to such customers;
  - c) Where straddle dancing, lap dancing, private modeling, prostitution, unlawful drug transactions, or lewd and lascivious touching occurs between customers and workers or performers;
  - d) Where sexually oriented media are offered for sale or rental;
  - e) Where sexually oriented adult toys or novelties are offered for sale.
- 2) 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.
- 3) 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.
- 4) The general welfare, health and safety of the citizens of this City will be promoted by enactment of this ordinance.
- 5) 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.
- 6) 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 of 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, specifically 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.
- 7) 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.
- 8) 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.

- 9) 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.
- 10) 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.
- 11) The 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 (4<sup>th</sup> 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.3<sup>rd</sup> 1069 (9<sup>th</sup> Cir. 1997); and U.S. v. Thomas, 74 F.3<sup>rd</sup> 701 (6<sup>th</sup> 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 geographical boundaries. An adult business no longer needs to be actually physically located within a community to be available to the community.
- 12) The 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 Motley, 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.]
- 13) 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 (11<sup>th</sup> Cir. 2000); Sammy's Ltd. v. City of Mobile, 140 F.3d 993, 996 (11<sup>th</sup> Cir. 1998), cert. denied, 529 U.S. 1052, 146 L. Ed. 2d 459, 120 S. Ct. 1553 (2000).
- 14) 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.
- 15) 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.

Commented [BJO6]: This section may not be necessary if the City decides to only regulate the location of adult uses, rather than their operation.

- 16) 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 conditional use permit prior to their being allowed to operate. A thorough but prompt investigation and review of the permit will facilitate this public purpose. Suspension or revocation of adult entertainment licenses or conditional 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 denial, suspension or revocation of a license or land use permit will protect the rights of the licensee of applicant.
- 17) Prohibiting adult use establishments from operating within set distances of areas zoned for residential use, religious institutions, and parks and other areas where minor are customarily found, will serve to protect minors from the adverse secondary impacts that accompany such establishments.
- 18) 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.
- 19) 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 ordinance the purpose of increasing profits at the establishment to the detriment of the community and contrary to the purposes of these ordinances.
- 20) Sexual acts, including masturbation, and or 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.
- 21) 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.
- 22) 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.
- 23) 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, None A, None B amebiasis, salmonella infections, and shigella infections. See, e.g. Study of Fort Myers, Florida.
- 24) 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.

- 25) 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).
- 26) Nude dancing in adult use establishments increase the likelihood of drug-dealing and drug use. See, e.g. Kev, Inc. vs. Kitsap County, 793 F.2d 1053, 1056 (9<sup>th</sup> Cir. 1986).
- 27) 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.
- 28) The disclosure of certain information by those persons ultimately responsible for the day-to-day operations 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.
- 29) 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.

3. 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; or
- 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

Commented [BJO7]: The City should discuss whether it wants to require a license for adult use businesses. It does not have to.



certificate required by Minnesota Statute 333.01, as amended from time to time, shall be submitted.

9) Whether the applicant has had a previous adult use establishment license suspended or revoked.

10) If the applicant is a natural person:

- a) The name, place and date of birth, street, city and mailing address, and phone number of the applicant.
- b) 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.
- c) The street and city addresses at which the applicant has lived during the preceding two years.
- d) 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.
- e) Whether the applicant has ever been convicted of a gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult use establishments.

11) If the applicant is a partnership:

- a) 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 D of this Section.
- b) Whether the partnership is general or limited.
- c) 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 Minnesota Statute 333.01, as amended from time to time, a certified copy of the certificate shall be attached to the application.

12) If the applicant is a corporation or other organization:

- a) The name of the corporation or business form, and if incorporated, the date and state of incorporation.
- b) 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 Certified of Authority as required by Minnesota Statutes 303.06, as amended from time to time, 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.
- c) 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 D of this Section.
- d) Accurate and complete business records, showing the names, addresses and dates of birth of all officers, directors and controlling stockholders for the business.

- e) The name of the registered corporate agent and the address of the registered office for service of process.

C. License Issuance, Expiration, Renewal, Suspension and Revocation:

1) License eligibility:

- a) An applicant may qualify for a license:
  - (1) If they are at least twenty-one (21) years of age; and
  - (2) 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 assess against them or imposed upon them; and
  - (3) If they have not been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity or adult use establishment; and
  - (4) 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
  - (5) If more than one year has elapsed in the case of a previous license revocation; and
  - (6) 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
  - (7) 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
  - (8) 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.

2) License Issuance:

- a) 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 the fee schedule established by the City Council.
- b) 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.
- c) The City Council shall hold a public hearing with notification equivalent to the 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 licenses within thirty (30) days of the conclusion of the hearing.

- d) The City will issue a license to an applicant unless one or more of the following conditions exist:
  - (1) The applicant has not met the eligibility requirements as noted in this ordinance;
  - (2) The applicant failed to supply all of the information required on the license application;
  - (3) The applicant gives false, fraudulent or untruthful information on the license application;
  - (4) The adult use establishment is not in full compliance with the Little Falls City Code and all provisions of County, State and Federal law;
  - (5) The applicant has not paid the required license fee;
  - (6) The applicant has been denied a license by the City of 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;
  - (7) The applicant is not the proprietor of the establishment for which the license is issued; or
  - (8) The adult use establishment owner or operator holds an intoxicating liquor, beer or wine license applicable to the premises.

3) Expiration and Renewal:

- a) An adult use establishment license expires on December 31 of each calendar year.
- b) 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.

4) Suspension:

- a) 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;
- b) 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:
  - c) Violated or is not in compliance with any provisions of this Ordinance;
  - d) 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;
  - e) Refused to allow an inspection of the adult use establishment as authorized by this Ordinance;
  - f) Knowingly permitted unlawful gambling by any person on the adult use establishment premises;

g) 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 ten (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 eh same at the licensed business premises with the person in charge thereof, or may mailing the notice by United State 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.

5) Revocation:

a) The City may revoke a license if:

(1) A licensee fails to make application for renewal of the license by February 28 or of the year after the previous license has expired;

(2) A cause of suspension occurs and the license has been suspended at least once before within the preceding twelve (12) moths;

(3) It determines that:

(a) A licensee gave false or misleading information in the material submitted to the City during the application process;

(b) A licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;

(c) A licensee or an employee has knowingly allowed prostitution on the premises; and

(d) A licensee has been convicted of an offense listed in Section 11.05.A. for which the time period required that same section has not elapsed; or

(e) 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.

b) The fact that a conviction for an offense listed in this Ordinance, is being appealed shall have no effect on the revocation of the licensee.

c) When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult use establishment license for one (1) 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 11.05.A., an applicant may not be granted another license until the appropriate number of years required under Section 11.05.A. has elapsed.

d) Procedures for Appeal: Nonrenewals, suspensions and revocations of an adult use establishment license are governed by the following:

(1) In the event that the City proposed 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 of the license expires. The hearing must be within thirty (30) days of the date of the notice. The City Council must determine whether to not review, to suspend or to revoke a license within 30 days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The City must notify the licensee of its decisions within that period.

- (2) If the City determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after notification of the decision to the licensee. If, within fifteen (15) days, the licensee files and serves an action in State of 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 fifteen (15) days after receiving notice of such nonrenewal, if the licensee files and serves as action in State of Federal court within the fifteen (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.

6) Inspection:

- a) 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.
- b) Refusal to permit a lawful inspection of the premises by health officials, representatives of the police 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 is a violation of this Ordinance. Refusal to permit inspections may result in nonrenewal, suspension or revocation of the license.
- c) 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 at least twelve (12) hours.

7) Transfer of License: 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.

8) Changes in Design or Use:

- a) 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.
- b) If an adult use license 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.

4. Granting of Permit:

A. 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.

B. An adult use license shall be valid only for the specific building and type of use described in the application.

C. Adult uses are subject to the location restrictions, performance standards, and conditions listed in this Ordinance.

D. 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.

E. The license 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 purchase or rented. These written records must be provided to the City or to law enforcement upon request.

F. 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 and Federal permits and/or licenses.

5. License Fees: Each application for an adult use license shall be accompanied by the required fee. All fees shall be paid at the time of application.

A. The annual license fee for adult use establishment is set annual by the City Council by resolution. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half of the regular amount. The fee is nonrefundable.

6. Restrictions: The City may issue an adult use license to businesses, subject the following conditions:

A. General Prohibitions:

1) Activities classified as obscene as defined by Minnesota Statutes, Section 617.241, as amended from time to time, or successor statutes, are not permitted and are prohibited.

2) 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 ordinance prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale or distribution of specified materials to minors.

3) No principal adult use shall be conducted in any manner that permits the perception of 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.

4) A building owner or operator may not have more than one (1) adult use present in the same building or structure.

#### B. Location Restrictions:

1) All Adult Use Establishments (principal or accessory):

- a) Adult use establishments may only be located in industrial zoned districts.
- b) 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.

Commented [BJ08]: This is the part that details which zoning districts can be allowed in. The current ordinance restricts them to the Industrial zone.

2) Principal Adult Use:

- a) A principal adult use shall be setback a minimum of 500 feet from the following land uses:
    - (1) Any other principal adult use or accessory adult use;
    - (2) Church;
    - (3) School;
    - (4) Public library;
    - (5) Public park;
    - (6) Pool hall, video arcade or other entertainment facility open to minors;
    - (7) Hotel or Motel;
    - (8) Licensed daycare/child care home or center;
    - (9) Licensed group family daycare home or center; or
    - (10) Any building that contains a business that sells or dispenses nonintoxicating or intoxicating liquors or holds a consumption and display permit.
  - b) An accessory adult use shall meet the same setback as is required for structures within the applicable zoning district.
- 3) 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 such 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.
- 4) 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 a 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 nonintoxicating liquors or hold a consumption and display permit, as those terms are defined in Minnesota Statutes 340A, nor shall an adult use be located in a building that contains a business that sells or dispenses nonintoxicating or intoxicating liquors or holds a consumption and display permit.
- 2) A principal adult use shall not allow the consumption of nonintoxicating or intoxicating liquors anywhere on a parcel containing that use or business.

D. 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.

E. Hours of Operation: Principal adult uses shall not be open at any time on Sunday nor between the hours of 12:00 a.m. (midnight) and 4:00 p.m. on the days of Monday through Saturday.

F. Adult Cabarets: The following additional conditions apply to adult cabarets:

- 1) No dancers, 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 entertainers 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.

G. 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 time.
- 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.

H. Nudity Prohibited: No person may be nude on the premises of any adult use establishment.

I. Sign Restrictions: Signs identifying or advertising adult use establishments must comply with the following restrictions:



- 1) 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.
- 2) 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.
- 3) 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.

**7.2 Mobile Home/Manufactured Housing Development.**

~~1. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, water and fire protection. The City of Motley shall limit the number of these developments due to the heavy demand on municipal facilities.~~

1. General. Manufactured housing development shall be administered as a Conditional Use in the zoning district where said use is allowed. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, water and fire protection. In addition these developments are often the most dense in a community requiring heavier streets, more public recreation facilities and nearby shopping.

2. Minimum Standards:

- A. A Minnesota Department of Health Permit shall be required. Where Department of Health regulations are more restrictive than those in this section, the stricter regulations shall apply.
- B. Parcel size shall be a minimum of 20 acres.
- C. At least two (2) acres or 10 percent of the total parcel, whichever is greater, shall be set aside for parks and recreation.
- D. Minimum individual lot dimensions shall be 40' x 100' when served by an on-site sewage treatment system or 40' x 70' if the park is served by a municipal sewage system.
- E. At least 20% of the land shall be in common ownership not used for individual lots, which may include the area set aside for parks and recreation.
- F. The common roadway area, where private, shall be a minimum of 40-feet wide with a 24-foot wide bituminous surfaced road.
- G. There shall be a minimum of 2 and a maximum of three parking spaces for each unit.
- H. Each unit shall be a minimum of 640 square feet.
- I. All units must be skirted, unless placed on an enclosed foundation.
- J. Landscaping shall be required as per the direction of the Planning Commission.
- K. When served by public utilities, there shall be individualized sewer, water and electrical connection for each site.
- L. An adequate number of fly tight, watertight and rodent-proof containers must be provided for all garbage and refuse. Garbage must be collected for disposal as often as necessary to prevent nuisance conditions and at least once each week.

Commented [BJO9]: Currently, the City does not allow new mobile home parks. This section would only be necessary if it decides to allow them.

M. Each unit must meet the requirements of the state building code, HUD standards and Minn. Stat. §§327.21 -327.35, as amended; and shall not be in disrepair or unsafe condition at time of installation and have the required state seal attached.

N. Sufficient storm shelter, or a plan for the evacuation and sheltering of residents in times of severe weather, shall be provided to accommodate all residents of the development. Such shelters or plans shall meet the requirements of the Minnesota Department of Health and any local requirements.

O. Water meters shall be installed and maintained for each manufactured home unit.

P. Each manufactured home unit must be placed on a concrete, or other hard-surface pad, as approved by the City.

### 7.3 Campgrounds/Campsites.

- ~~1. Minimum parcel size—No campground or Recreational Vehicle Park shall be allowed on a parcel of less than 40 acres.~~
- ~~2. Dwelling site requirements—The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
  - ~~A. Campsites or recreational vehicle sites shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet, center to center.~~
  - ~~B. A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites.~~
  - ~~C. Parking shall be off the road.~~
  - ~~D. Recreational facilities shall be included sufficient to provide for the number of sites.~~
  - ~~E. A water system capable of providing 100 gallons per site, per day, at 200 psi at the most remote fixture for RV sites, or within 400 feet of each campsite for non-RV sites.~~
  - ~~F. Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.~~
  - ~~G. Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals, and screened.~~
  - ~~H. Fire pit for each campsite.~~
  - ~~I. Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided.~~
  - ~~J. Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities.~~
  - ~~K. Grass or other complete ground cover shall be maintained except in parking areas and roads.~~
  - ~~L. Recreation vehicles shall be moved off site or into a designated storage area for at least 4 months of every year.~~
  - ~~M. Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.~~
  - ~~N. All sites shall be well drained.~~~~
- ~~3. The submission requirements for a campground shall be the same as a subdivision, except as determined not applicable by the Zoning Administrator.~~

1. General. Campgrounds/RV parks shall be administered as Conditional Uses in the zones where said use is allowed.
2. Minimum parcel size. No campground or recreational vehicle park shall be allowed on a parcel of less than 2.5 acres.
3. Dwelling site requirements. The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
  - A. Campsites or recreational vehicle sites shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet, center to center.
  - B. A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites.
  - C. Parking shall be off the road.
  - D. A water system capable of providing 100 gallons per site, per day, at 20 psi at the most remote fixture for RV sites, or within 400 feet of each campsite for non RV sites.
  - E. Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.
  - F. Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals, and screened.
  - G. Fire pit for each campsite.
  - H. Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided.
  - I. Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities.
  - J. Grass or other complete ground cover shall be maintained except in parking areas and roads.
  - K. Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.
  - ~~A.L.~~ All sites shall be well drained.
  - ~~B.M.~~ Sufficient storm shelter shall be provided to accommodate all occupants of the campground.

Commented [BJO10]: The current ordinance requires at least 40 acres for a campground. Given that the Council has informally discussed whether camping should be allowed in the current Industrial District, I reduced the number so as to allow greater flexibility. Given that they are a conditional use, you could address lot size on a case-by-case basis.

#### **7.4 Extractive Uses and Restoration.**

1. Extractive Uses. Extractive uses, where allowed, shall be permitted only by Conditional Use Permit. Such permit shall include, as a condition: a site plan, a completion plan and a haul route with a provision for road restoration.
2. Restoration. Upon completion of mining or other extraction, the site shall be shaped and natural overburden replaced, then natural topsoil placed thereon and seeded. The haul road shall be restored to the condition prior to the beginning of the extraction operation.
3. No processing machinery shall be placed closer than 1,000 feet from any residence or 200 feet from the OHW of any lake, river or stream.

## 7.5 Home Occupation.

- ~~1. General. Residents may establish home occupations consistent with the following standards:
  - ~~A. All business activities including storage shall be inside buildings.~~
  - ~~B. All activities shall be clearly incidental to the use of the property for residential purposes.~~
  - ~~C. If the hours of operation exceed normal business hours (8:00 AM to 6:00 PM Monday thru Saturday), hours of operation shall be limited by Conditional Use Permit to be compatible with the residential use.~~
  - ~~D. If there are employees beyond the owner of the property, the number of employees shall be limited by Conditional Use Permit.~~
  - ~~E. On the premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by Conditional Use Permit.~~
  - ~~F. All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.~~~~
1. General. Each home occupation in the City shall require an interim use permit. Home occupation permits are not transferable to a new owner/renter/occupant, thus the permit will not run with the property, nor be transferable to a different property.
2. Standards
  - A. All business activities, including storage, shall be inside buildings or completely screened from adjacent properties, except where specifically allowed otherwise by the City.
  - B. All activities shall be clearly incidental to the use of the property for residential purposes. Not more than twenty-five percent (25%) of the gross floor area of the residence or 50% of the gross floor area of a garage or storage building shall be used for commercial purposes.
  - C. No home occupation shall be conducted between the hours of 10:00 p.m. and 7:00 a.m. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
  - D. Not more than two non-residents may be employed on the premises by the home occupation.
  - E. On the premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by Conditional Use Permit.
  - F. No articles for sale shall be displayed so as to be visible from the street.
  - G. All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.
  - H. The home occupation shall not generate more than two (2) customer vehicles at one time. Off-street parking shall be provided, but no more than two (2) spaces.
  - I. No mechanical or electrical equipment shall be used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered. No equipment shall be used in the home occupation which will

create electrical interference to surrounding properties.

J. A person having a home occupation shall provide proof of meeting the above requirements upon request by the City.

3. Yard Sales/Garage Sales. Yard sales and garage sales do not require a home occupation permit so long as they do not exceed seven cumulative days in one calendar year.

4. Private Automobile Sales. One automobile displayed for sale on a property shall not require a home occupation permit so long as not more than two automobiles are sold over thirty cumulative days per calendar year.

### **7.6 Proposed Telecommunication Towers**

1. Purpose and Intent.  
To establish predictable and balanced regulations that protect the public health, safety, and general welfare of the City.
  - A. Facilitate the provision of telecommunications services and facilities including commercial wireless telecommunication services in Motley.
  - B. Minimize adverse visual effects of towers through careful design standards.
  - C. Avoid potential damage to adjacent properties from tower or antenna failure and weather related occurrences through structural standards, careful siting, and setback requirements;
  - D. Encourage the use of existing towers and buildings to accommodate commercial wireless telecommunication service antennas in order to minimize the number of towers needed to serve the City.
2. Permits Required. It shall be unlawful for any person, firm or corporation to erect, construct in place, place or re-erect any tower, unless it shall replace a like tower, without first making application to the City and securing a permit. A change in construction, dimension, lighting design or design type shall also require a permit. The placement of antennae on previously approved towers may be administratively approved by the City.
3. Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:
  - A. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
  - B. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
  - C. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standards.
  - D. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
  - E. Metal towers shall be constructed of, or treated with, corrosive resistant material.
4. Tower Setbacks. Towers and all accessory structures or buildings shall conform to the following minimum setback requirements:
  - A. Towers shall be set back from all property lines and existing structures an amount equal to the height of the structure.

- D. *Maintenance.* Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be prepared or replaced in a timely manner.
  - E. *Setbacks.* No fence may be located less than six inches from a property line. No fence, wall, hedge or other screening device shall be permitted to encroach on any public right-of-way.
4. Downtown Mixed Use District:
- A. *Approved material.* Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.
  - B. *Maximum height.* Fences not exceeding 78 inches (6'6") in height may be constructed.
  - C. *Setbacks.* Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right-of-way.
5. Commercial and Industrial Districts:
- A. *Approved material.* Materials shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire. Barbed or electrified wire is allowed only with the permission of the Planning Commission.
  - B. *Maximum height.* Fences not exceeding 90 inches (7'6") in height may be constructed. Taller fences may be constructed only by conditional use permit.
  - C. *Setbacks.* Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right-of-way.

SECTION VIII - ~~IMPROVEMENTS RESERVED~~

Commented [BJO12]: This would be rewritten and placed in a new, separate subdivision ordinance.

- ~~8.1 — Prior to the City Council approving a Final Plat or a metes and bounds split, the sub divider shall provide for the construction of the required improvements at his expense and shall have the work completed or shall enter a Development Contract and give bond or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the uncompleted improvements except as provided in 9.3. The bond shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.~~
- ~~8.2 — The required improvements shall conform to the standards of Sections VI of this Ordinance and shall include City street signs and lighting in conformance with City standards.~~
- ~~8.3 — All costs of the City Engineer, City Attorney, Bond Council, financial experts and other professional costs borne by the City in writing and/or executing Development Contracts; estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the sub divider, shall be borne by the sub divider.~~

SECTION IX - ADMINISTRATION

**9.1 Zoning Administration.**

6. The Zoning Administrator shall be appointed by the City Council.
7. Duties of the Zoning Administrator:
  - A. Determine if applications are complete and comply with the terms of the Ordinance.
  - B. Direct or conduct inspections of building, sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
  - C. Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.
  - D. Review, file and forward applications for appeals, Variances, Conditional Uses and Zoning amendments.
  - E. Enforce the provisions of this Ordinance by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time and with the approval of the Planning Commission and City Council instituting with the City Attorney in the name of the City any appropriate actions or proceedings against any violator.
  - F. Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
  - G. Issue permitted Zoning Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
  - H. To mail a copy of the finding to an applicant.
  - I. To file copies of Conditional Use Permits and Variances with the County Recorder.
  - J. To communicate with the DNR where required by the Ordinance or State Law.
  - K. To ensure that the City Council, Planning Commission and Board Adjustment review land use application or public hearing applications as prescribed by State Statutes.
  - L. To conduct periodic and final inspections with a member of the Planning & Zoning Committee, of property subject to conditions of approval relating to variances, conditional use permits and other land use applications.
  - M. To issue *Land Use Certificates of Compliance*.
8. The Zoning Administrator and their duly authorized deputies shall have the right to ~~trespass~~ enter private property within the City of Motley in the reasonable pursuit of their duties.

**9.2 Board of Adjustment.**

1. The Board of Adjustment shall consist of the members of the Planning Commission, and shall hold its meetings concurrently with the Planning Commission meetings on a monthly or more frequent basis at the discretion of the Chairman.
2. Duties of the Board of Adjustment.
  - A. To consider appeals from the action of the Zoning Administrator wherein the

offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.

7. The conditional use will not result in the 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.
5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
  6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Council.
  7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall make a recommendation to the City Council on conditions for reinstating the permit or revocation. The City Council shall make the final decision on reinstating or revoking the suspended permit.
  8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.
  9. Appeals from the action of the City shall be filed with District Court within 30 days after Council action.
  10. The Conditional Use Permit shall be filed with the County Recorder within 45 days.

## **9.5 Interim Use Permits.**

### 1. General.

- A. The purpose of an interim use permit is to allow a temporary use that is not designated as permitted or conditionally permitted but is acceptable for a limited period of time subject to conditions set forth in this section. An interim use is granted to a particular individual or other applicant and does not accrue to the subject property.
- B. An interim use is intended to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future, or will be replaced in the future by a permitted or conditional use allowed within the respective zoning district. Buildings and other improvements allowed by interim use shall be of a size and nature such that they can be easily removed from the property or will conform to zoning regulations for permitted or conditional uses should the interim use permit expire.
- C. Interim Use Permits shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for an Interim Use



Permit shall be submitted to the Zoning Administrator 30 days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

D. An application for an interim use permit shall follow the same procedures applicable to a conditional use permit, as outlined in this Ordinance.

2. Criteria for Granting Interim Use Permits.

A. In granting an interim use permit, the Alexandria Town Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants or surrounding lands. The criteria used for reviewing conditional use permit shall also be used when considering interim use permits, along with the following additional considerations:

1. The use will conform to the applicable zoning regulations, including any dimensional restrictions the regulations may impose on buildings or uses; and
2. The use will terminate upon a date or event that can be identified with certainty and/or clarity; and
3. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
4. The use will be subjected to, by agreement with the property owner, any conditions that the City deems appropriate in allowing the proposed interim use, including a condition that the owner will provide an appropriate surety to cover costs that would be necessary to eliminate the interim use from the property, including removal of buildings, equipment, restoration of the landscape to a suitable condition or other appropriate and necessary costs.

3. Termination of an Interim Use Permit

A. An interim use permit shall terminate upon the occurrence of any of the following events, whichever comes first:

1. Five (5) years from the initial approval of an interim use, unless a shorter time period is specified in the initial approval. After the initial approval period and if a renewal is approved by the Township, the interim use permit shall terminate upon the date or event stated in the permit approval; or
2. When the use has been discontinued for one year or more; or
3. When there is a change in ownership of the property of any kind, unless the Town Board approves such change in ownership as not substantially changing who is operating and/or managing the use and property.

Such requests must be presented to the Planning Commission for a recommendation to the Town Board, but need not require a public hearing; or

4. Within 24 months of the date of an amendment to the Zoning Ordinance that no longer allows the use as an interim or permitted use.
5. When any of the conditions have not been adhered to and the applicant has not corrected the violation upon written notice of the violation from the Zoning Administrator within the timeframe specified in such written notice; or
6. When there have been more than two separate violations of any condition of approval (such violations need not be of the same condition), even if the previous violations have been corrected upon written notice from the Zoning Administrator.**Error! Bookmark not defined.**

4. Renewal or Amendment of Interim Use Permit.

A. Renewal: An application to extend an interim use permit may be renewed within 24 months prior to the date or event upon which it is to expire. The application shall be processed and administered as if it were a new application. Should such application to renew be denied, the applicant shall be allowed to continue the use until the expiration of the interim use permit provided all conditions of the original approval are being met. If the application to renew is approved, the Township shall specify a new date or event on which the renewed permit will expire. There shall not be a limit on the number of times an interim use permit may be extended. Application fees for renewal of an interim use permit shall be as established in the Township fee schedule.

B. Amendment: Any change in an approved interim use permit involving more than minor structural alterations, enlargement, intensification of use, or similar changes not specifically permitted by an interim use permit, as determined by the Zoning Administrator, shall require an amended interim use permit to be reviewed as if it were a new interim use permit.

5. Procedure.

A. An application for an interim use permit shall follow the same procedures applicable to a conditional use permit, as outlined in this Ordinance.

B. The City hereby reserves the right, upon approval of an interim use, to inspect the premises in which an interim use is being conducted to ensure compliance with the provisions of this section or any additional conditions imposed.

C. An interim use permit shall only be terminated by the City Council after the Planning Commission has provided its recommendation following a public hearing.

**9.6-7 Variances.**

1. Variances shall not create a use not provided for in a zoning district.
2. Variances shall be issued to the property and are not transferable.
3. Variances shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the

City Council. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
5. In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions<sup>77</sup>.
6. Variances shall be decided within the required time frame with consideration for the following:
  - A. The strict interpretation of the Ordinance would create undue hardship, and
  - B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
  - C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance, and
  - D. The variance will not create a land use not permitted in the zone, and
  - E. The variance will not alter the essential character of the locality, and
  - F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

~~7. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.~~

~~8.7. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.~~

~~9. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.~~

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<sup>77</sup> Amended by Ordinance 153.05, 3/9/2010

~~40. The Variance shall be filed with the County Recorder within 45 days.~~

### **9.7 Zoning Permits.**

1. Zoning Permits shall be issued for all new structures and any change in structure exterior, plumbing or number of bedrooms, any construction or repair of a sewage system and any grading and filling in shoreland not exempted by this ordinance. No person shall assemble, install, repair, remodel, remove or construct any structure prior to applying for and receiving a Zoning Permit.
2. Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be issued or security posted before the Zoning Permit is issued.
3. The City shall not accept applications where the applicant has past due fees or charges due to the City or the County until the account is made current.
4. The Zoning Permit shall contain the parcel number of the property and the signature of the fee or contract owner of the property or his authorized agent.
5. Unless extended by the Zoning Administrator, where a Zoning Permit has been issued but no action has occurred within 12 months, the Zoning Permit shall be null and void. Exterior work on the structure shall be complete in 18 months from the issuance of the Zoning Permit. The time limit may be extended by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission.
6. Granting of a Zoning Permit shall occur when all requirements of the Ordinance have been met, but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with the Ordinance.
7. If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

### **9.8 Subdivision**

- ~~1. Pre-Application Meeting. At the sub divider's option, a pre-application meeting shall be held including the sub divider, City Zoning Administrator, City Engineer, if requested by the Zoning Administrator, and the City Clerk. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.~~
- ~~2. Sketch Plan Review Meeting with Planning Commission. At the sub divider's option, a review of a sketch plan will be made by the Planning Commission prior to a public hearing. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.~~

Commented [BJO13]: This section will be rewritten and placed into a new, separate subdivision ordinance.

- A. ~~The sub divider shall submit 9 copies of the sketch plan, 14 days prior to the normal Planning Commission meeting, and request a position on the formal agenda.~~
  - B. ~~The Planning Commission shall not take action on the proposal, but may make suggestions to facilitate the preparation of an approvable preliminary plat or plan.~~
3. ~~Metes and Bounds Lot Split Approval. Where appropriate, under the provisions of this Ordinance, the sub divider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval. The review of the Planning Commission need not include a public hearing.~~
- A. ~~The sub divider shall submit 9 copies of his proposal to the Zoning Administrator 30 days prior to the normal Planning Commission meeting and pay the corresponding fee.~~
  - B. ~~The Zoning Administrator shall review the proposed lot split for compliance with the Zoning Ordinance including a field review at his discretion.~~
  - C. ~~The Planning Commission make a recommendation to the Council on approval of the lot split within a reasonable time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) split into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.~~
  - D. ~~The City Council shall review the recommendation of the Planning Commission and make the final determination.~~
  - E. ~~The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.~~
  - F. ~~Failure of the sub divider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.~~
4. ~~Preliminary Plat or Preliminary Condominium Plat Approval. The preliminary Plat or Preliminary Condominium plan approval constitutes formal approval of the concept and design of the subdivision. The Planning Commission review shall include a public hearing and may include a field review at their discretion. All reports of City staff, DNR and Road authorities shall be reviewed and included in the hearing record. Related variance requests, rezoning requests and conditional use requests shall be heard concurrently with a subdivision request.~~
- A. ~~The sub divider shall submit 9 copies of his proposed plat or condominium plat to the Zoning Administrator 30 days prior to the normal Planning Commission meeting, pay the required fees and request a public hearing.~~
  - B. ~~The Zoning Administrator shall notify all property owner's within 350 feet, by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing, including sufficient legal property description in the advertisement. The Zoning Administrator shall distribute one (1) copy to each Planning Commission member, if the proposal is adjacent to a County Highway, one (1) copy to the County Engineer, and if the plat is in shorelands, one (1) copy to the DNR postmarked at least ten (10) days before the public hearing for review and comment.~~
  - C. ~~The Zoning Administrator shall review the proposed plat or plan as to content~~

and Zoning Administrator and make recommendation to the City Council within 45 days of submission. The Planning Commission shall consider the following:

- i. Has the applicant compiled with all conditions and requirements upon which the preliminary approval is expressly conditioned wither through performance or execution of appropriate agreements assuring performance?
- ii. Does the Final Plat or Final Condominium Plat agree with the Preliminary Plat or Preliminary Condominium Plat?
- iii. Does the City Attorney agree that all parties with an interest in the property are shown as signers of the document?
- iv. Does the City Engineer agree that all improvements required are satisfactorily completed or are guaranteed by contract with adequate financial security?
- v. Does an independent Professional Land Surveyor agree the final document meets the statutory requirements?
- vi. Has financial security been posted in the appropriate amount

D. The City Council shall review the proposal at their next regular meeting and decide the approval within sixty (60) days of the submission of the Final Plat or Final Condominium Plat to the City.

E. Following approval by the City Council, the sub-divider shall submit to the Zoning Administrator, two (2) double mounted cloth backed prints on card stock (hard-shells) and two (2) mylar prints of the Final Plat or Final Condominium Plat for signature by the Mayor and Clerk. The Zoning Administrator shall send one copy of any approved Final Plat within shorelands to the DNR postmarked within ten (10) days of approval.

F. Upon signature, the sub-divider shall file all pertinent documents with the County Recorder. Failure to file a Final Plat or Plan, within two (2) years shall void the approval unless extended by the City Council.

## **9.9 Fees.**

The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications shall require the payment of three times the normal fee unless specifically stated otherwise in the fee schedule.

The City shall not accept applications where the applicant has any past due fees or charges due to the City until the account is made current.

## **9.10 Financial Requirements**

Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.

When costs associated with processing or reviewing any application submitted pursuant to this Ordinance exceed the original application fees, the applicant shall may be required to

reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.

The City of Motley may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the City for direct costs relating to professional services provided during the review, approval and inspection of the project. The City may charge the applicant a rate equal to the value of the service to the City. Services provided by City staff or contract professionals will be billed at an established rate<sup>78</sup>.

### **9.11 Required Decision Making Time Frames.**

1. ~~Pursuant to Minnesota Statutes, Chapter 15.99, as amended, the City of Motley establishes the following time frames for decisions made on all land use requests before the City, including Variances, Conditional Use Permits, Zoning District Boundary Changes, Zoning Ordinance Amendments, Appeals of Decisions by the Zoning Administrator or Planning Commission and Zoning Permits.~~
  - A. ~~It shall be the applicant's responsibility to submit a completed application packet, which shall by definition include the application forms approved by the City, site plan with all information required by this ordinance and remit proper fees for the land use application. Once the Zoning Administrator or appointee has received the completed application packet, the review time frame shall commence. The Zoning Administrator shall notify applicants in writing when a completed application has been received.~~
  - B. ~~The City shall within sixty (60) days of the receipt of a completed application, make a decision on the request. A determination shall be either a recommendation to another body or a final action approving or denying a request. Time frames for other reviews required by statutes or other government units shall not be counted as time during the local decision-making process. Once the other agency or governmental unit has made their determination, the time frame for local review shall again commence.~~
  - C. ~~If the City is unable to make a proper determination within the prescribed sixty (60) day time frame, it shall have the right to extend the time frame another sixty (60) days. The City shall, in writing, notify the applicant that it is unable to complete the review process and state the specific reasons why the process must be extended.~~
  - D. ~~If the City is unable to make the final determination within 120 days of the original application date, it shall, in writing, request an extension from the applicant. The applicant shall have the authority to approve or deny the request for an extension.~~

## **SECTION X - ENFORCEMENT**

### **10.1 Violations and Penalties.**

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<sup>78</sup> Amended by Ordinance 153.05, 3/9/2010

The violation of any provision of this ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine of not more than \$500 or imprisonment for a term not to exceed 90 days or both. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

#### **10.2 Liability of City Officials.**

The failure of any officer of the City or Board or employees of the City to act pursuant to this Ordinance, except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Board or employee to any penalty except those provided under the City personnel policies.

#### **10.3 Equitable Relief.**

In the event of a violation or threatened violation of any provision of this ordinance or the conditions of any permit issued pursuant to the ordinance, the City, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate such violation or threatened violation.

### **SECTION XI - SEPARABILITY, SUPREMACY, EFFECTUATION, AMENDMENTS, NOTICES**

#### **11.1 Separability.**

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

#### **11.2 Supremacy.**

When any condition implied by this Ordinance on the use of land or buildings is more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other City ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restriction or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable of this Ordinance, the Ordinance shall prevail.

#### **11.3 Effectuation.**

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.



#### **11.4 Amendment.**

The City Council may adopt amendments by 4/5 vote to either the Zoning Ordinance or Zoning map in relation to the land uses within a District or the boundaries of the District(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

##### 1. Procedure.

- A. An amendment may be initiated by the Council, the Planning Commission or by any property owner.
- B. The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
- C. The Planning Commission shall make a reasonable attempt to cause all property owners within a minimum of 350 feet of proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the legal section of the official newspaper and shall provide notice to the DNR at least 10 days ahead of the public hearing. The Planning Commission shall hold the hearing and make a timely recommendation to the City Council. Adoption of a new Zoning map shall require published notice only. The Planning Commission shall consider the criteria for land use categories, Sec 5.1(8), in its decision.
- D. The City Council shall review the recommendations and shall make a timely decision. An amendment requires a 4/5 vote to be enacted.
- E. The City Clerk shall publish a summary of the text of the change or description of boundary change or a new Zoning map, whichever is appropriate, in the official newspaper within 30 days after action by the Council and shall send a copy to the DNR.

#### **11.5 Notices.**

Failure to receive notice called for by this Ordinance shall not invalidate any action taken by the City so long as the City acted reasonably in its attempt to provide such notice.