

**City of Hamburg  
Carver County, Minnesota**

Chapter 160 Zoning and Subdivision Ordinance

**City Council**

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**Adopted by the Hamburg City Council**

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**ORDINANCE NO. \_\_**

**AN ORDINANCE ESTABLISHING ZONING AND SUBDIVISION REGULATIONS IN  
THE CITY OF HAMBURG**

**Chapter 160 Zoning and Subdivision Ordinance**

The City Council of the City of Hamburg, Carver County, Minnesota ordains as follows:

**SECTION A. INTRODUCTION**

A chapter of the Hamburg Code of Ordinances establishing regulations for the use of land (zoning), a zoning map and the subdivision and resubdivision of land within the City of Hamburg.

**SECTION B. TITLE AND APPLICATION**

Subdivision 1. Title

Chapter 160 of the Hamburg Code of Ordinances shall be known as the "Hamburg Zoning and Subdivision Ordinance", hereinafter referred to as "this chapter". Chapter 160 is comprised of three subparts hereinafter referred to as:

- A. Chapter 160A, which shall be known as the Zoning Ordinance,
- B. Chapter 160B, which shall be known as the Subdivision Ordinance, and
- C. Chapter 160C, which repeals the previous zoning and subdivision regulations, and adopts this chapter.

Subdivision 2. Scope

From and after the effective date of this chapter, the use of all land and every building, the erection or structural alteration of any building or portion of a building and subdivision of all land in the city shall be in conformity with the provisions of this chapter.

**SECTION C. COMPREHENSIVE PLAN**

The city has adopted a Comprehensive Plan, that may be amended from time to time, that establishes the policies for the establishment and provisions of this chapter. All land uses and development shall comply with the Comprehensive Plan and the provisions of this chapter.

**SECTION D. ADMINISTRATION**

Subdivision 1. Notices

Failure to give notice or to give adequate notice when such is required by the provisions of this chapter shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.

Subdivision 2. Interpretation

- A. The provisions of this chapter shall be interpreted as the minimum requirements necessary to accomplish the purposes of this chapter. Except as provided within this chapter, the provisions of this

chapter are cumulative and in addition to the provisions of other laws and ordinances governing the same subjects.

1. Where the provisions of this chapter impose greater restrictions than those of any law, other ordinance or regulation, the provisions of this chapter shall control.
  2. Where the provisions of any law, or other ordinance or regulation impose greater restrictions than this chapter, the greater restrictions shall be controlling.
- B. Words or terms defined in this chapter shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this chapter.
1. The singular number shall include the plural.
  2. The present tense shall include the past and future tenses.
  3. The word “shall” is mandatory and “may” is permissive.
- C. All measured distances expressed in feet shall be to the nearest tenth of a foot. In event of conflicting provisions, the more restrictive provisions shall apply.

### Subdivision 3. Separability

The city declares that the provisions of this chapter are separable in accordance with the following:

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

## **SECTION E. DEFINITIONS**

Certain words and terms, as they occur in Chapter 160, and subparts Chapter 160A and 160B shall be defined in accordance with the following definitions:

- (1.) **Abut:** To border upon or share all or a portion of a common property line, public right-of-way, alley or railroad.
- (2.) **Accessory, structure:** A building or other structure subordinate to the principal structure or use of the property and located on the same lot as the principal building or use including but not limited to garages, sheds, or storage buildings exceeding one hundred and twenty (120) sq. ft.; swimming pools, spas and other similar structures.
- (3.) **Accessory, use:** A subordinate use which is subordinate to and associated with a principal building or use and which is located on the same lot as the principal building or use.
- (4.) **Agriculture and Horticulture:** Contiguous acreage used for agricultural and horticultural purposes, excluding feedlots, that includes the raising, cultivation, drying, or storage of agricultural and horticultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity.
- (5.) **Alley:** A public right of way that affords a secondary means of access to abutting property.
- (6.) **Alteration:** Any modification, additions or change in construction or type of occupancy of a structure; any horizontal or vertical enlargement of a structure; or the moving of a structure from one location to another.

- (7.) **Amendment:** Any modification of the text of this chapter or the zoning map. A map amendment shall also be known as a rezoning.
- (8.) **Antenna Devices, Personal:** A device used for transmitting or receiving telecommunication, television or radio signals that is used for personal wireless telecommunication service.
- (9.) **Applicant:** An owner, agent or person, individual firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest to request approval of a development, variance, conditional use permit, zoning amendment, a permit or subdivision of land according to the provisions of this chapter.
- (10.) **Application, Complete:** Any necessary form, as may be provided by the city, and all accompanying information to be completed by the applicant required by this chapter for the requested action.
- (11.) **Automobile or Motor Vehicle Reduction Yard:** A lot or yard where one (1) or more unlicensed motor vehicles and motor vehicle parts are dismantled, compressed, stored, repaired or rebuilt, and where parts or scrap motor vehicles may be for sale.
- (12.) **Automobile Repair, Business:** A business that conducts general repair, rebuilding or reconditioning of engines, motor and farm vehicles or trailers, including bodywork, framework, welding and major painting services.
- (13.) **Automobile Repair, Minor:** Incidental repairs, replacement of parts and motor service to automobiles, but not including any operation specified under Automobile Repair, Business.
- (14.) **Automobile Service Station:** Any building or premises used for the retail dispensing or sale of vehicular fuels along with associated sales of lubricants, grease, tires, batteries or minor automobile accessories. Associated services may include the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. Automobile service stations shall not include the sale or storage of vehicles, automobile wrecking or detached car washes.
- (15.) **Basement:** A portion of a building partly underground, but having less than half of its floor-to-ceiling height below the average grade of the adjoining ground.
- (16.) **Bed and Breakfast:** A residential building where a maximum of four (4) guest rooms are available for overnight accommodations for transient visitors.
- (17.) **Block:** An area of land within a subdivision that is entirely bounded by public right of way, or by public right of way and the exterior boundary or boundaries of the subdivision, a public park, or a combination of the above with a water body.
- (18.) **Boulevard:** The portion of the public right-of-way located between the curb line of a street and a property line.
- (19.) **Building:** A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or personal property.
- (20.) **Building Face:** The portion of any exterior elevation of a building or other structure extending from the grade level to the top of a wall and the entire width of the building or structure elevation.
- (21.) **Building Height:** The vertical distance measured from the mean curb level along the front lot line or from the mean ground level for all of the portion of the structure having frontage on a public right-of-way, whichever is higher, to the:
  - a.) highest point of the coping of a flat or shed roof, or

- b.) to the deck line of a mansard roof, or
  - c.) to the average height of the highest gable of a pitched or hip roof.
- (22.) **Building Setback Line:** A line parallel to a lot line or the ordinary high water mark indicating the maximum extent where a building may be erected or placed.
  - (23.) **Business Service:** Commercial establishments engaged in providing services and assistance to other businesses, individuals, and government.
  - (24.) **Cemetery:** Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium's, mausoleums and associated service uses.
  - (25.) **Certificate of Survey:** A document prepared by a registered engineer or registered land surveyor, which precisely describes area, dimensions and locations of a parcel or parcels of land.
  - (26.) **City:** City of Hamburg, Carver County, Minnesota.
  - (27.) **City Council:** The governing body of the City of Hamburg, which may act as the Planning Commission and the Board of Appeals and Adjustment.
  - (28.) **Comprehensive Plan:** The document entitled *The City of Hamburg 2030 Comprehensive Plan*, as may be amended from time to time.
  - (29.) **Conditional Use Permit:** A permit to allow a conditional use in a particular zoning district as approved by the City Council.
  - (30.) **County:** the governing board of Carver County, Minnesota
  - (31.) **County Comprehensive Plan:** The document entitled *The Carver County 2030 Comprehensive Plan*, as may be amended from time to time.
  - (32.) **Cul-de-sac:** A road with only one (1) outlet that contains an area at the end to allow vehicles to turn around.
  - (33.) **Curb Elevation:** The elevation of the established curb in front of a building measured at the center of such front, or that elevation as stipulated to be by the city Engineer.
  - (34.) **Day Care Facility, State Licensed:** A day care facility licensed by the state serving twelve (12) or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
  - (35.) **Deck:** A structure without a roof and with a floor composed of boards or materials made of synthetic or natural materials.
  - (36.) **Density:** The number of dwelling units per acre of land as regulated by the Comprehensive Plan, excluding right of way, and wetlands or floodplain area.
  - (37.) **Design Standards:** Minimum requirements for the preparation and layout of subdivisions or plats and associated required improvements.
  - (38.) **Dwelling:** A building or portion thereof designed or used exclusively for residential occupancy.
  - (39.) **Dwelling, Attached Residential:** A dwelling attached to one (1) or more dwellings by common walls or floors.
  - (40.) **Dwelling, Detached Residential:** A dwelling that is not attached to any other dwelling or structure by any means.
  - (41.) **Dwelling, Double Family Residential:** A building containing two (2) dwelling units totally separated from each other by an unpierced wall extending from ground to roof or an unpierced

ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

- (42.) **Dwelling, Multiple Family Residential:** A building containing three (3) or more dwelling units totally separated from each other and designed with more than one (1) dwelling unit connecting to a common corridor or entranceway.
- (43.) **Dwelling, Townhouse:** Three (3) or more single-family residential buildings having one (1) or more walls in common with another single-family building, oriented so all exits open directly to the outside.
- (44.) **Dwelling Single Family Detached Residential:** A detached dwelling unit designed for occupancy by one (1) family.
- (45.) **Dwelling Unit, Residential:** A dwelling unit which one (1) family occupies with sanitary, culinary and sleeping facilities separate from those of other living units and intended for the exclusive use of a single family.
- (46.) **Easement:** A grant or authorization by a property owner to use certain property for a specified use, such as the construction and maintenance of utilities, roadways, parks and pedestrian trails, drainage, driveway, or other uses.
- (47.) **Educational Facility:** A public or private elementary, middle, secondary, post-secondary or vocational school having a course of instruction meeting the compulsory education requirements of the State.
- (48.) **Erosion:** The wearing away of the land surface by the action of natural elements.
- (49.) **Essential Services:** Private and public underground or overhead gas, electrical, water, cable television, telephone, sanitary sewer distribution systems, including poles, wires, pipes, conduits, cables, and associated accessory equipment, that are required for the protection of the public health, safety, and general welfare, and serve the immediate area through installation within the public right-of-way or easements.
- (50.) **Essential Service Structures:** Structures and buildings necessary for the operation of essential services, including but not limited to: telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks, lift stations. Essential service structures shall not include transmission/reception antennas exceeding the height restrictions of the applicable zoning district.
- (51.) **Family:** An individual, or two or more persons each related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household and using common cooking and kitchen facilities.
- (52.) **Fence:** Any partition, structure, wall or gate erected as a dividing marker, barrier, or enclosure and located along the boundary, or within the required yard of a lot or parcel, including invisible fencing but excluding garden fences.
- (53.) **Financial Guarantee:** A financial security posted with the city with the approval of a final plat or development contract, guaranteeing compliance with the approved final plat, construction plans, and conditions of approval set forth by the city.
- (54.) **Fireplaces, Outdoor Wood Burning:** A permanent or temporary structure located outside of a residential home that includes an area surrounded by non-combustible and non-smoke or odor-producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only and which area is depressed below ground, on the ground or on a raised bed. This definition shall not include barrels used for outside burning or outdoor wood-fired stoves or boilers.



- (55.) **Garage, Private:** A detached or attached accessory building or carport, used primarily for storing passenger vehicles, trailers, boats, and other related materials owned and operated by residents of the principal structure located on the same property.
- (56.) **Garage Sale:** Any display and sale of used goods on property used for residential purposes. The persons conducting the sale shall reside on the property.
- (57.) **Home Occupation:** An activity which is clearly secondary to the principal use on the property and does not change the nature of the principal use. It shall have no exterior evidence of the occupation, no significant increase in traffic or demand for parking, no significant increase in levels of noise, air or other pollution, no exterior signage, and no persons employed in the business who does not reside in the dwelling. It may have only limited retail sales activity.
- (58.) **Home Occupation (with a Conditional Use Permit):** An activity which is clearly secondary to the principal use and does not change the nature of the principal use. It may have a minimal exterior indication of the business use and may have only limited retail sales activity as specified in section F, subpart C of Chapter 160A.
- (59.) **Hotel or Motel:** A building containing guest rooms where temporary lodging is provided with or without meals for compensation and in which the principle access to and from all rooms is made through an inside lobby or office supervised by a person in charge.
- (60.) **Junk Yard:** An area where used, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, abandoned, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles, and lumber. Storage of such materials in conjunction with a permitted or conditional use and located within an enclosed area, as approved by the city, or building shall not be included.
- (61.) **Kenel:** A place where four (4) or more dogs or four (4) or more cats over four (4) months of age are owned, boarded, bred, or offered for sale.
- (62.) **Land Disturbing Activity:** Land disturbance activity is any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the city, including but not limited to building demolition, clearing and grubbing, grading, excavating, transporting and filling of land. Land disturbance activity does not include the following:
- a.) Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, minor repairs, and maintenance work which do not disturb more than five hundred (500) square feet of land.
  - b.) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
  - c.) Emergency work to protect life, limb, or property and emergency repairs. If the land disturbing activity would have required an approved stormwater prevention and pollution plan, as established in Chapter 160 B, section D except for the emergency, then the land area disturbed shall be shaped and stabilized.
- (63.) **Loading Space:** An unobstructed area on a property designed for the temporary parking, and loading and unloading of vehicles.
- (64.) **Lot:** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means; adequate for occupancy by a use permitted in this chapter; abutting a public street; and of sufficient size to provide the required setbacks and area required by this chapter.
- (65.) **Lot Area:** The total area within the lot lines of a lot excluding dedicated public rights of way.
- (66.) **Lot Area per Dwelling Unit:** The number of square feet of lot area required per dwelling unit.

- (67.) **Lot, Corner:** A lot abutting upon two (2) intersecting streets. The greater frontage of a corner lot shall be the lot depth and the lesser frontage is the lot width.
- (68.) **Lot Depth:** The mean horizontal distance between the front lot line and rear lot line.
- (69.) **Lot, Double Frontage:** A lot having frontage on two (2) non-intersecting streets.
- (70.) **Lot Frontage:** The portion or side of a lot that abuts public right of way.
- (71.) **Lot, Line:** A property boundary line of any lot, except any portion of the lot that extends into the abutting street or alley.
- (72.) **Lot Line, Front:** A lot line abutting a public right of way and in case of a corner lot, it shall be the shortest dimension on a public street.
- (73.) **Lot Line, Rear:** The lot line opposite and most distant from the front lot line.
- (74.) **Lot Line, Side:** Any lot line other than a front or rear lot line.
- (75.) **Lot of Record:** A parcel of land whose legal description was established in the Carver County property records by plat, subdivision, or as otherwise permitted by law prior to June 23, 1975 and which contains identical lot lines as were present on June 23, 1975.
- (76.) **Lot, Through:** A lot which contains two (2) lot lines opposite each other that abut two (2) substantially parallel streets, and which is not a corner lot.
- (77.) **Lot Width:** The shortest distance between the side lot lines measured at the midpoint of the building line.
- (78.) **Manufactured or Mobile Home:** A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for single family residential use with or without a permanent foundation when attached to the required utilities. The term does not include a recreational vehicle.
- (79.) **Manual of Standard Procedures:** A procedural manual governing the requirements and procedures for plats and registered land surveys as approved by the Carver County Board, as may be amended from time to time.
- (80.) **Metes and Bounds:** A method of property description prepared by a land surveyor registered in the State described by the direction and distance from an identifiable point of beginning.
- (81.) **Mn/DOT:** The Minnesota Department of Transportation.
- (82.) **Net Acre:** An acre of land excluding areas excluding road right of ways, wetlands, floodplain areas and other water features.
- (83.) **Nonconformity:** Any use, structure, lot of record or sign legally established before the effective date of this chapter or subsequent amendment to it that would not be permitted by, or is not in full compliance with, the regulations of this chapter.
- (84.) **Noxious Matter or Materials:** Material capable of causing injury to living organisms by chemical reaction, or which is capable of causing detrimental effects to the physical or economic well-being of individuals or animals.
- (85.) **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flow of water, either in itself, or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to damage of life and property.
- (86.) **Office Use:** A building or portion of a building for the conduct of business activities involving

predominantly professional, administrative or clerical service operations such as attorneys, financial advisors, consultants, insurance, travel, and other uses of similar character.

- (87.) **Open Sales Lot:** Land devoted to the display of goods for sale, rent, lease, advertising, or trade where such goods are not enclosed with a building.
- (88.) **Ordinary High Water Level:** The boundary of public waters at an elevation delineating the highest water level as defined by the Minnesota Department of Natural Resources which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominately terrestrial. For tributary rivers, the ordinary high water level is the elevation of the top of the bank of the channel as approved by the city Engineer.
- (89.) **Outlot:** A parcel of land subject to future platting prior to development; or a parcel of land which is designated for public or private open space, right-of-way, utilities or other similar purposes.
- (90.) **Parking Space:** A suitable permanently maintained area on privately owned property either within or outside a building of sufficient size to store one (1) standard automobile.
- (91.) **Party Wall:** A wall which divides a structure into two (2) independent buildings.
- (92.) **Pedestrian/Bicycle Trail:** A public or private sidewalk or path and associated right of way across property to provide access for pedestrians and non-motorized vehicles.
- (93.) **Percentage of Grade:** The vertical distance from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.
- (94.) **Performance Standard:** Specific criteria established in Chapter 160A, section G pertaining to land uses which are intended to protect the public health, safety or welfare.
- (95.) **Person:** A firm, association, organization, partnership, trust, company, or corporation, as well as an individual.
- (96.) **Planned Unit Development:** An integrated development involving two (2) or more principal uses or structures, including but not specifically limited to single family residential uses, multiple family residential uses, or business uses, or any combination thereof, and similar such uses or combinations.
- (97.) **Planning Commission:** The City of Hamburg Planning Commission or the Hamburg City Council, if the Planning Commission has not been established.
- (98.) **Plat:** The drawing or map of a subdivision prepared for filing of record in accordance with Minnesota Statute Chapter 505 and containing all elements and requirements in this section pursuant to Minnesota Statute Chapters 462.358 and 505.
- (99.) **Plat, Final:** A drawing or map of a subdivision presented to the City Council for approval that meets the requirements of this chapter and that is to be recorded with Carver County and meeting Minnesota State Statutes regarding the final platting of land.
- (100.) **Plat, Preliminary:** A drawing or map of a proposed subdivision meeting the requirements of this chapter.
- (101.) **Protective Covenants:** A restriction of the use placed upon the property by a present or former owner and recorded with Carver County.
- (102.) **Public Hearing Notice:** A notice published in the official newspaper of Hamburg or other qualified newspaper or communication method available to the general public as allowed by state law at least ten (10) days before the date of such hearing, which notice shall specify the general time, purpose, and place of the hearing.

- (103.) **Public Improvement:** Any sewer, water or drainage facility, street, park, or other facility for which the city or any other government may ultimately assume the responsibility for maintenance and operation.
- (104.) **Registered Land Survey (RLS):** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of registered land survey number.
- (105.) **Religious Institution:** A building, together with any accessory buildings and uses where persons regularly assemble for religious service and are maintained and controlled by an organized group for public worship.
- (106.) **Resubdivision:** A change in an approved or recorded subdivision plat if the change affects any street layout, area reserved for public use, or any lot line on the plat; or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
- (107.) **Retail Use:** The sale of goods and products in small quantities directly to the consumer and rendering services incidental to the sale of these items all occurring within an enclosed building. Examples of retail uses includes stores selling apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys, and sporting goods.
- (108.) **Right of Way:** Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.
- (109.) **Road/Street:** A vehicular way lying within public right-of-way not less than fifty (50) feet in width which affords primary access to abutting properties further defined as a local, collector or minor arterial as designated in the Hamburg *Comprehensive Plan*.
- (110.) **Road, Collector:** Roads that provide connections between cities and minor business concentrations within the County, as designated in the Hamburg *Comprehensive Plan* and the Carver County *Transportation Plan*, as may be amended.
- (111.) **Road, Local:** City and township roads that serve the shortest trips and providing access to adjacent property, as designated in the Hamburg *Comprehensive Plan* and the Carver County *Transportation Plan*, as may be amended.
- (112.) **Road, Minor Arterial:** Roadways that serve medium to short trips as designated in the Hamburg *Comprehensive Plan* and the Carver County *Transportation Plan*, as may be amended.
- (113.) **Road Right of Way Width:** The horizontal distance between the outside edges of a road right of way.
- (114.) **Setback:** The minimum horizontal distance between a structure, improvement, or use and a property line, right of way, ordinary high water level, roadway or other facility.
- (115.) **Sign:** Any structure either stationary or movable, containing any writing, number, illustration, decoration, symbol, insignia, or illumination which is displayed for informational or communicative purposes. It shall not include any official court or other public notices, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious, service or fraternal group.
- (116.) **Sign, Awning:** A sign constructed of awning material which incorporates a written message or graphics on the exterior.
- (117.) **Sign, Changeable Copy:** A sign or a portion of a sign that contains characters, letters, or illustrations that can be 1) changed or rearranged without altering the face or the surface of the

sign, or 2) incorporates a technology or an electronic method to allow the sign face to change the image without having to physically or mechanically replace the sign face or its components.

- (118.) **Sign, Flashing:** A sign where light is not maintained as stationary or constant in intensity and color at all times when the sign is in use and exhibits changing light or color effect more than once in a twenty four (24) hour period by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.
- (119.) **Sign, Freestanding:** A sign that is self-supporting and affixed to a supporting frame structure or anchored in the ground and not attached to a building.
- (120.) **Sign, Illuminated:** Any sign which is illuminated in any way, including reflection.
- (121.) **Sign, Off-premise:** A commercial speech sign that directs the attention of the public to any type of business, activity or product that is not located on the same premises where such sign is located.
- (122.) **Sign, Temporary:** A sign which is designed or intended to be displayed for a short period of time and is not permanently installed.
- (123.) **Sign, Wall:** A single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall and which does not project more than eighteen (18) inches.
- (124.) **Sketch Plan Review:** An informal, nonbinding review of a conceptual subdivision or a development of property referenced in the Planned Unit Development (PUD) District.
- (125.) **Site Plan:** A development plan for property shows the existing and proposed conditions of the property, including topography, floodplain, wetlands, open spaces, means of ingress/egress, parking, grading, drainage, utilities, structures, building elevations and other information which may reasonably be required by the city.
- (126.) **Speech, Commercial:** Speech advertising a business, profession, commodity, service or entertainment.
- (127.) **Speech, Non-commercial:** Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- (128.) **State Licensed Residential Facility or Housing with Services Establishment:** Any facility required to be licensed by the Minnesota Department of Human Services, public or private, which for gain or otherwise regularly provides one or more persons with a twenty-four (24) hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the Commissioner of Human Services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.
- (129.) **Story:** That portion of a building included between the surface of the floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a full story, and a cellar shall not be counted as a story.
- (130.) **Structure:** Anything constructed or erected on, or connected to the ground or attached to something connected to the ground.

- (131.) **Structure, Non-Conforming:** Any structure that was lawful at the time that it was constructed but does not currently conform to all of the regulations of this chapter or subsequent amendment to it governing the zoning district in which the structure is located such as height, setback, or size.
- (132.) **Structure, Temporary:** A structure composed of a frame supporting a tensioned material that acts as a weather barrier, does not require a building permit, is not intended for human occupancy, and is intended or used to provide storage for vehicles, boats, recreational vehicles, or other personal property, whether fully or partially covered. This definition includes structures commonly known as hoop buildings, canopy-covered carports and tent garages, but does not include structures that are in place for less than thirty (30) days and structures constructed in accordance with a building permit.
- (133.) **Subdivision:** The division of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new public road is involved, any division of a parcel of land except those separations:
- a.) Where all the resulting lots or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential or agricultural uses and five (5) acres or larger in size for commercial and industrial uses;
  - b.) Creating cemetery lots;
  - c.) Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.
- (134.) **Telecommunication Facilities:** Licensed wireless services used for commercial purposes including cellular, personal communication telecommunication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services.
- (135.) **Telecommunication Tower:** A free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations
- (136.) **Use:** The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by this chapter.
- (137.) **Use, Accessory:** A subordinate use which is secondary and associated with the principal use and is located on the same lot as the principal building or use.
- (138.) **Use, Conditional:** A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this chapter for the location or operation of such use. The city may impose additional conditions in specific instances to protect the public health, safety or welfare.
- (139.) **Use, Interim:** An interim use is a temporary use of property until a certain date established by the City Council or until the use is no longer permitted by Chapter 160A.
- (140.) **Use, Non-Conforming:** The use of land, buildings or structures existing at the time of adoption of this chapter or subsequent amendment to it which does not comply with all the regulations of this chapter governing the zoning district in which such use is located.
- (141.) **Use, Permitted:** A use which may be lawfully established in a particular zoning district provided it conforms with all requirements and regulations of the zoning district and complies with the applicable performance standards of this chapter.
- (142.) **Use, Principle:** The primary use of the land or buildings distinguished from subordinate or accessory uses. A principle use may be either permitted or conditional.

- (143.) **Water Management Plan, Carver County:** The Carver County *Water Management Plan*, as may be amended.
- (144.) **Water Management Plan, City:** The City of Hamburg 2006 Stormwater Management Plan, as may be amended.
- (145.) **Wetland Conservation Act:** An Act adopted by the State, as amended from time to time, classifying, governing and defining wetlands within the State.
- (146.) **Windmills (Wind Energy Conversion Systems):** An apparatus capable of converting wind energy into electricity.
- (147.) **Yard:** A required open space on a lot which is unoccupied and unobstructed by a building from its lowest ground level to the sky, except as permitted in this chapter. A yard shall extend along a lot line and at right angles to the lot line to a depth or width specified in the yard regulation for the zoning district in which the lot is located.
- (148.) **Yard, Front:** The area located between the full width of the front lot line and the front setback line for the zoning district in which the lot is located.
- (149.) **Yard, Rear:** The area located between the full width of the rear lot line and the rear setback line for the zoning district in which the lot is located.
- (150.) **Yard, Side:** The area extending along the side lot line between the front and rear yards, having a width as specified for the zoning district in which the lot is located.
- (151.) **Zoning Amendment:** A change authorized by the City Council either in the allowed use within a zoning district or in the boundaries of the district.
- (152.) **Zoning District:** An area or areas within the Hamburg municipal limits for which the regulations and requirements governing use, lot and size of building and premises are uniform.
- (153.) **Zoning Map, Official:** The map or maps incorporated into this chapter as a part thereof designating the zoning districts.
- (154.) **Zoning Officer:** The Hamburg City Clerk or authorized representative.

# CHAPTER 160A ZONING ORDINANCE

## SECTION A. TITLE

Chapter 160A shall be known as the Zoning Ordinance, except as referred to within Chapter 160A, where it shall be known as “this ordinance”.

## SECTION B. PURPOSE, AUTHORITY AND SCOPE

### Subdivision 1. Intent and Purpose

This ordinance is enacted for the following purposes:

1. To protect and promote the health, safety, morals and general welfare;
2. Dividing the portions of the City of Hamburg into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land;
3. Promoting orderly development of the residential, business, recreational and public areas;
4. Providing for adequate light, air and convenience of access to property by regulating the use of land and buildings and the characteristics of structures in relationship to surrounding properties;
5. Limiting congestion in the public rights-of-way;
6. Providing the compatibility of different land uses and the most appropriate use of the land;
7. Facilitating the adequate provision of water, sewerage and other public services and facilities;
8. Maintaining, to a reasonable extent, the values of property and the base of the city;
9. Encouraging the conservation and management of natural resources and renewable energy; and
10. Providing for the administration of this ordinance, defining the powers and duties imposed by this ordinance, and prescribing penalties for the violation of its provisions.

### Subdivision 2. Authority and Scope

- A. This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.352 to 462.365, as may be amended. The provisions of this ordinance shall be interpreted and applied in accordance and as permitted by the state.
- B. Any building, structure or use lawfully existing on June 23, 1975, which is not in conformity with this ordinance shall be regarded as nonconforming, but may be continued except as, and subject to, the requirements contained in this ordinance. This ordinance shall not repeal, annul, or in any way impair or interfere with the provisions of other ordinances or regulations of the city except as expressly provided herein.

## SECTION C. ADMINISTRATION AND ENFORCEMENT

### Subdivision 1. The Zoning Officer

- A. The zoning officer shall be responsible for the administration and enforcement of this ordinance as directed by the City Council. The zoning officer shall:
  1. Conduct the inspection of the uses of land and instruct the building inspector to conduct the inspection of buildings, as allowed by state statute, to determine compliance with the terms of this ordinance.



2. Maintain current and permanent records of this ordinance, including but not limited to all maps, amendments, conditional use and interim use permits, variances, certificate of occupancy and applications for zoning requests.
  3. Receive, file and forward all applications for amendments, appeals, variances, conditional uses, or other related matters to the Planning Commission.
  4. Receive and deposit in the city account all required fees for zoning applications and building permits.
- B. Any person aggrieved by any procedure or decision of the zoning officer may appeal to the City Council.

Subdivision 2. Fees

Permit fees and other fees required by this ordinance shall be those specified by Chapter 30 of the Code of Ordinances.

Subdivision 3. Enforcement and Penalties

- A. Any person who violates or refuses to comply with or assists, directs or permits the violation of a provision of this ordinance or who knowingly makes or submits a false statement or document in connection with an application or procedure required by this ordinance is guilty of a misdemeanor, and upon conviction shall pay the maximum fine for every offense or imprisonment permitted by law. Each day that a violation is permitted to exist constitutes a separate offense.
- B. All fines for violation shall be paid to the city and shall be credited to the general revenue funds.
- C. In the event of a violation or a threatened violation of this ordinance, the City Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations.

Subdivision 4. Amendment of Zoning Ordinance

- A. The ordinance may be amended whenever the City Council finds it consistent with the intent of this ordinance, the Comprehensive Plan, and the public health, safety or general welfare.
- B. An amendment to this ordinance may be initiated in accordance with the following:
  1. The zoning map or a use within a particular zoning district may be initiated by petition of the owner or owners of the property which is proposed to be rezoned, upon recommendation of the Planning Commission or by the City Council.
  2. An amendment to the text of this ordinance may be initiated by recommendation of the Planning Commission or City Council.
- C. All petitions for amendments which are initiated by the owner or owners of the property to be rezoned shall be filed with the zoning officer. When the petition involves the changing of a zoning district and its boundaries, it shall be accompanied by an application form provided by the city and be accompanied by the following:
  1. A map or plat showing the property proposed to be changed,
  2. All properties within three hundred fifty (350) feet of the boundaries of the property proposed to be rezoned, together with a list from the Carver County Office of Taxpayer Services of the names and addresses of the owners of the properties within three hundred fifty (350) feet,
  3. Evidence of ownership or an interest in the property,

4. The fee required by Chapter 30 of the Code of Ordinances;
5. An application for a change in the boundaries of a zoning district which would result in the creation of a zoning district which is inconsistent with the land use designation of the property in the Comprehensive Plan must be accompanied by an application for an amendment to the Comprehensive Plan; and
6. Other information as may be required by the city.

D. Referral to the Planning Commission:

1. All amendments to this ordinance shall be referred to the Planning Commission which shall hold an official public hearing. The zoning officer shall:
  - a. After submission of a complete application, publish a notice of the public hearing in the official newspaper at least ten (10) days prior to the date of the hearing.
  - b. Mail notice regarding an amendment which involves a change in the boundaries of a zoning district to the owners of all property located wholly or partially within three hundred fifty (350) feet, as shown in the certified records of the Carver County Office of Taxpayer Services.
2. The Commission shall make its recommendation to the City Council after consideration of a complete application for the request or any continuance which is not appealed by the applicant.

E. Action by the City Council:

1. After receiving the Planning Commission's recommendation, the City Council shall consider the matter and may hold whatever hearing it deems advisable.
2. The City Council shall act upon the amendment within sixty (60) days of submission of a complete application or such longer period agreed to by the petitioner of the amendment.
3. The city may take an additional sixty (60) days for a decision upon notifying the petitioner of the amendment of the reasons for such an extension.
4. In the case of an amendment involving a change in the boundaries of a zoning district, the city shall mail a copy of its decision to the petitioner of the amendment.
5. If the City Council fails to make a timely decision, the amendment will be deemed to have been approved.

Subdivision 5. Variances

- A. The City Council may grant a variance from the literal provisions of this ordinance in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration and when it is demonstrated that such actions would be consistent with the spirit and intent of this ordinance.
  1. Undue hardship means:
    - a. The property in question cannot be put to a reasonable use if used under conditions allowed by this ordinance,
    - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
    - c. The variance, if granted, would not alter the essential character of the neighborhood.
  2. Economic consideration alone shall not constitute an undue hardship if reasonable use of the property exists under the terms of this ordinance. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

- B. No variance shall be granted to declare a substandard lot buildable unless, in addition to meeting the criteria enumerated in paragraph (A) of this subdivision, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot.
- C. No variance shall be granted to permit a use which is not allowed as a permitted use, accessory use or conditional use under this ordinance for property in the district in which the land is located.
- D. Procedures:
  - 1. An application for a variance shall be filed with the zoning officer stating the exceptional conditions and the peculiar difficulties claimed along with the following information:
    - a. A map or plat of the property which shows all lot lines, existing and proposed structures, driveways and parking areas, and any significant topographical features and mature trees;
    - b. Evidence of ownership or an interest in the property,
    - c. The fee required by chapter 30 of the code of ordinances; and
    - d. Other information as may be required by the city.
  - 2. Planning Commission review:
    - a. All variance applications shall be referred to the Planning Commission, which shall hold a public hearing.
    - b. The Zoning Officer shall publish a notice of the public hearing in the official newspaper at least ten (10) days prior to the date of the hearing.
    - c. The Commission shall make its recommendation to the City Council after consideration of a complete application for the variance request or any continuance which is not appealed by the applicant.
  - 3. City Council review and action:
    - a. The City Council shall consider the Planning Commission's recommendation and may hold whatever hearing it deems advisable.
    - b. The City Council shall act upon the variance request within sixty (60) days of submission of a complete application or such longer period agreed to by the applicant.
    - c. The city may take an additional sixty (60) days for a decision upon notifying the applicant of the reasons for such an extension.
    - d. If the City Council fails to make a timely decision, the variance request will be deemed to have been approved.
- E. Term of Variance:
  - 1. Any variance granted by the city shall run with the land and shall be perpetual unless prior to December 31 of the year following the year of approval and no building permit has been issued or substantial work performed on the project that is subject to the variance, in which case the variance shall be null and void.
  - 2. The City Council may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.
- F. Variance Conditions:
  - 1. The variance shall be valid only for the project for which it was granted and construction of the project shall be in substantial compliance with the plans approved by the City Council.
  - 2. A certified copy of the variance shall be filed by the applicant with the Carver County Office of Taxpayer Services if the variance applies to abstract property. The variance shall contain a legal description of the property affected.

Subdivision 6. Conditional Use Permit

- A. It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the city.
- B. An application for a conditional use permit shall be filed with the zoning officer accompanied with the following information:
  - 1. The legal description and address of the property;
  - 2. Evidence of ownership or an interest in the property;
  - 3. A list of the names and addresses of all property owners within three hundred fifty (350) feet from the Carver County Office of Taxpayer Services;
  - 4. A site plan drawn at scale showing the location of all buildings, curb cuts, driveways, parking space and loading areas;
  - 5. Other information as may be required by the city; and
  - 6. The fee required by Chapter 30 of the Code of Ordinances.
- C. Referral to the Planning Commission:
  - 1. All applications for conditional use permits shall be referred to the Planning Commission which shall hold an official public hearing. The zoning officer shall:
    - a. Publish a notice of the public hearing in the official newspaper at least ten (10) days prior to the date of the hearing.
    - b. Mail notice regarding the conditional use permit application to the owners of all property located wholly or partially within three hundred fifty (350) feet, as shown in the certified records of the Carver County Office of Taxpayer Services.
  - 2. The Planning Commission shall make its recommendation to the City Council after consideration of a complete application for the request or any continuance which is not appealed by the applicant.
- D. City Council Consideration:
  - 1. After receiving the Planning Commission's recommendation, the City Council shall consider the matter and may hold whatever hearing it deems advisable.
  - 2. In evaluating an application for a conditional use permit, the City Council must consider and adopt findings regarding compliance with the general and specific criteria for the use as established in section F of this ordinance.
  - 3. The City Council may impose conditions on granting the permit in order to ensure compliance with the criteria or to effect the purpose of this ordinance.
- E. City Council Action and Procedures:
  - 1. The City Council shall act upon the conditional use permit within sixty (60) days of submission of a complete application or such longer period agreed to by the applicant.
  - 2. The city may take an additional sixty (60) days for a decision upon notifying the applicant of the reasons for such an extension.
  - 3. If the City Council fails to make a timely decision, the conditional use permit will be deemed to have been approved.

F. Conditional Use Permit Conditions:

1. The conditional use permit shall remain in effect as long as the conditions agreed upon by the applicant are observed.
2. A certified copy of the conditional use permit shall be recorded by the applicant with the Carver County Office of Taxpayer Services.
3. The City Council may revoke a permit upon violation of any condition of the permit, any state or federal law, county regulation or any city ordinance.
4. The conditional use permit shall remain in effect for so long as the conditions agreed upon by the applicant are observed, and shall expire if normal operation of the use has been discontinued for twelve (12) or more months.

Subdivision 7. Interim Use Permit

A. Purpose: In addition to the purposes stated in section B of this ordinance, it is intended that the interim use permit procedures allow flexibility in the use of land or structures in the city when such uses are not permanent and when such uses meet appropriate conditions and performance standards that protect the public health, safety, and welfare.

B. Intent:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
3. To establish predictable and balanced regulations for the establishment of interim uses in the location and circumstances under which the uses may be established without detriment to the public health, safety, and welfare of neighboring property owners or occupants.

C. Application and Procedural Requirements:

1. The application, public hearing, notice, and procedure requirements for interim use permits shall be the same as those for amendments, as provided in Subd. 4 – Amendment of Zoning Ordinance of this ordinance.
2. If a proposed interim use is not listed as a permitted interim use in this ordinance, an amendment to this ordinance will be required, according to the requirements of 1. above, before an interim use permit may be considered by the city.

D. Termination: All interim use permits shall terminate on the occurrence of any of the following events, whichever occurs first:

1. The termination date established by the City Council and stated in the interim use permit.
2. A violation of the conditions under which the interim use permit was issued.
3. A change in this ordinance that causes the use to become nonconforming.

E. Standards:

1. The interim use must be allowed in the zoning district where the property is located.
2. The interim use must meet or exceed the performance standards established in section G this ordinance and other applicable city regulations.

3. The interim use must comply with the specific standards for the use identified in this ordinance, and must comply with all conditions of approval of the permit.
- F. Conditions: The City Council may impose conditions on granting the interim use permit in order to ensure compliance with the criteria or to effect the purpose of this ordinance.

Subdivision 8.      Limitations on Land Use Applications and Petitions

An application or petition for a variance, conditional use permit, interim use permit or zoning amendment which has been acted upon by the City Council may not be resubmitted to the city until a period of six (6) months has passed unless the applicant can show to the satisfaction of the City Council that the conditions which were present under the earlier application request filed have changed or that the application is substantially different.

**SECTION D.      GENERAL PROVISIONS**

Subdivision 1.      Uses Not Provided for Within a Zoning District

1. Uses not specifically identified in this ordinance as a permitted use, a conditional use, an interim use or accessory use shall be prohibited.
2. Whenever a use is not specifically permitted, the City Council, the Planning Commission or the owner of the property may request consideration of an interim use permit or an amendment to this ordinance to determine if the particular use should be allowed as a permitted use, a conditional use, an interim use or accessory use.
3. The City Council within its discretion shall approve or deny the request for an interim use permit or an amendment to this zoning ordinance following the applicable procedures established in section C of this ordinance.

Subdivision 2.      Non-Conforming Uses and Structures

A. Purpose: This subdivision is established to regulate existing uses, structures and property within the city that were established before the adoption of this ordinance and no longer meet all the provisions of this ordinance. The regulation of uses, structures and property no longer meeting the requirements of this ordinance are intended to reduce their impacts on adjacent properties, prevent and abate nuisances, and to protect the public health, safety, and welfare.

B. General Standards:

1. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of this ordinance may be continued, including the repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
  - a. The nonconformity or occupancy is discontinued for a period of more than one (1) year; or
  - b. The nonconforming use is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its market value, and no building permit has been applied for within one hundred and eighty (180) days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.
2. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.
3. The city may impose reasonable regulations on a nonconforming use to prevent and abate nuisances and to protect the public health, welfare, or safety.

4. When any lawful non-conforming use of any structure or land in any district, has been changed to a conforming use, it shall not thereafter be changed to a non-conforming use.
5. A lawful non-conforming use of a structure or land may be changed to a similar non-conforming use or to another non-conforming land use of lesser intensity if it is found to be in the public interest upon review and approval by the City Council. In all instances, the applicant has the burden of proving that the proposed land use is similar or less intense than the exiting nonconforming land use. Once a structure or parcel of land has been placed in a nonconforming use of less intensity, it shall not return to a more intensive non-conforming use.
6. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the non-conforming use.

Subdivision 3. Lot and Yard Provisions and Exceptions

A. Lot Requirements:

1. A lot of record shall be deemed a buildable lot for single-family residential detached dwellings even though the lot area and/or dimensions are less than those required for the district provided as follows:
  - a. The area of such lot is not less than fifty (50) feet by one hundred (100) feet.
  - b. It fronts on a public street for at least forty (40) feet.
2. No more than one (1) principle building shall be located on a lot, except in the case of Planned Unit Developments as provided for in section E of this ordinance.
3. If two (2) or more lots are in single ownership and if all or parts of the lots do not meet the width and area requirements of this ordinance, the contiguous lots shall be considered to be an undivided parcel for the purpose of this ordinance.

B. Yard and Setback Requirements and Exceptions:

1. No required yard or open space allocated to a structure or parcel of land in compliance with this ordinance shall be used to satisfy yard, other open spaces, or minimum lot area requirements for any other structure or land.
2. On double frontage and corner lots, the required front yard setback shall be provided on both streets.
3. The following shall be exceptions on minimum yard requirements:
  - a. Detached retaining walls that are less than five (5) in height, including staged walls which cumulatively do not exceed five (5) feet in height; patio slabs; public utility and poles; mail boxes; hedges; recreation equipment; and means of access such as sidewalks, driveways, and steps unattached to a structure may occupy any part of a required front, side or rear yard setback.
  - b. Chimneys, flues, belt courses, leaders, sills, pilaster, lintels, cornices, eaves, gutters, and ornamental features may extend into a required yard by a distance not to exceed two (2) feet.
  - c. Yard lights and signs may extend into a required yard by a distance not to exceed three (3) feet.
  - d. Front yard setback exceptions:
    - 1.) The front yard setback in the R-1 Single Family Residential District may be reduced in recognition of development existing prior to the adoption of this ordinance, provided the following conditions are met:

- a.) The property is located within a platted block or subdivided area where there are existing dwellings located on fifty (50) percent or more of the parcels within the block or located between two (2) streets.
- b.) The minimum front yard setback of the property may be reduced to the average of the front yard setbacks of the existing dwellings noted in a.) above, but in no case shall be less than fifteen (15) feet.
- 2.) Balconies may extend into the required front yard by a distance not to exceed a distance of four (4) feet, provided the balcony is seven (7) feet or more above grade at building line.
- 3.) Steps, driveways, stoops and uncovered porches that are located below the second floor level of the principle building may extend into the required front yard by a distance not to exceed a distance of four (4) feet.
- e. Side yard setback exceptions: Terraces, steps, uncovered porches or stoops that are below the second floor level of the principle building may extend into the required side yard by a distance not to exceed a distance of four (4) feet.

Subdivision 4. Single Family Detached Residential Dwelling Unit Requirements

- A. All dwellings, including manufactured homes, shall have a depth of at least twenty-two (22) feet for at least fifty (50) percent of their width. All dwellings, including manufactured homes, shall have a width of at least twenty-two (22) feet for at least fifty (50) percent of their depth.
- B. All dwellings shall have a permanent foundation in conformance with the State Building Code.
- C. All dwellings shall be designed to fit the natural topographic contours of the property where it will be located.

Subdivision 5. Height Exceptions

- A. Height limitations established in the A-1 Restricted Agriculture, R-1 Single Family Residential District, and R-2 Multiple Family District may be increased by fifty (50) percent when applied to the following:
  - 1. Personal receive only satellite dish antennas, other personal antenna devices, and amateur radio devices.
  - 2. Spires, steeples and belfries on religious and educational institutions or public uses containing uninhabitable space
  - 3. Chimneys
  - 4. Flag poles
  - 5. Public water towers
  - 6. Wind mills used in conjunction with agricultural uses
  - 7. Telecommunications facilities, except as modified by B. below.
- B. The height of telecommunication facilities in any district are permitted up to 75' feet on existing structures. Telecommunication facilities that exceed 75' on an existing structure or are freestanding shall require a conditional use permit in all zoning districts.



## **SECTION E. ZONING DISTRICTS**

### Subdivision 1. Classification of Districts

For the purpose of this ordinance, the following zoning districts are hereby established:

- A. A-1 Restricted Agriculture District
- B. R-1 Single Family Residential District
- C. R-2 Multiple Family Residential District
- D. B - Downtown Business Mixed Use District
- E. I - General Industrial District
- F. PUD - Planned Unit Development District

### Subdivision 2. Official Zoning Map

- A. The boundaries for the zoning districts listed in this ordinance are indicated on the Official Zoning Map, which is hereby adopted by reference and may be amended by reference. The boundaries shall be modified in accordance with section C of this ordinance.
- B. All property within the city shall have a zoning designation shown on the Official Zoning Map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence.
  - 1. The zoning district boundary lines shown on the official zoning map are intended to follow lot lines, the centerline of streets and alleys, railroad right of way lines, the center of watercourses or the corporate limit lines, unless otherwise indicated.
  - 2. It shall be the responsibility of the zoning officer to maintain the official zoning map of the city and to make changes on the map, as directed by the City Council.

### Subdivision 3. A-1 Restricted Agriculture District

#### A. Purpose:

The A-1 Restricted Agriculture District is established to allow agricultural activities as a transitional use of the land until such time that municipal services are available to serve the property. This zoning district applies to properties that are annexed or planned to be annexed into the city limits in accordance with orderly annexation agreements or other municipal adjustment proceedings with Young America Township.

Property within this zoning category is planned for the eventual conversion to non-agricultural land uses. Because of the limited long-term duration of the agricultural uses within this zoning district and the incompatibilities, which often exist between agricultural and non-agricultural land uses, permitted uses in the A-1 Restricted Agriculture District are oriented towards non-intensive agricultural uses.

- B. Permitted Uses: Within any A-1 Restricted Agriculture District, no structure or land shall be used except for one (1) or more of the following uses:
  - 1. Single family detached residential dwellings at a density not exceeding one (1) home per forty (40) acres.
  - 2. Agriculture and horticulture land uses, excluding feedlots, including existing buildings and equipment typically associated with agriculture activities.

3. A state licensed residential facility or a housing with services establishment registered to serve six (6) or fewer persons, except those as provided for under State Statute 462.357, subd. 7.
  4. A state licensed day care facility serving twelve (12) or fewer persons or a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
  5. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to seventy-five (75) feet in height if located on an existing structure.
- C. Conditional Uses: Within the A-1 Restricted Agriculture District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in section F, subd. 3 of this ordinance:
1. Accessory structures other than garages that require a building permit and exceeds one-thousand (1,000) sq. ft. of aggregate area of all accessory structures or an accessory structure that exceeds fifteen (15) feet in height.
  2. Public and educational facilities and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit.
  3. Home occupations that do not meet the definition of a “home occupation” as defined in Ordinance 160, section E.
  4. Cemeteries.
  5. Telecommunication facilities that exceed seventy-five (75) feet in height.
- D. Permitted Accessory Uses: Within any A-1 Restricted Agriculture District, the following uses shall be permitted accessory uses:
1. Private garages and parking spaces.
  2. Accessory structures other than garages, provided the aggregate area of all accessory structures requiring a building permit does not exceed one-thousand (1,000) sq. ft. or the accessory structure does not exceed fifteen (15) feet in height.
  3. Home occupations, provided that such uses meet the definition of “home occupation” found in Ordinance 160, section E.
  4. Signs as regulated by section H of this ordinance.
  5. Private swimming pools meeting State Department of Health rules, tennis courts and other recreational facilities for exclusive use by the property owner.
  6. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
  7. Roadside stands for sale of agricultural products provided sufficient off-street parking is available.
  8. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices.
  9. Exterior wood burning fireplaces used for recreational purposes but excluding outdoor wood burning furnaces and/or boilers.
  10. Temporary structures.
- E. District Standards: No building or land in the A-1 Restricted Agriculture District shall be used except

in conformance with the following:

1. Building height: No principal structure shall exceed three (3) stories or thirty-five (35) feet whichever is least, in height except farm service structures.
2. Density: one (1) dwelling unit per forty (40) acres
3. Lot Size: 43, 560 sq. ft.
4. Road frontage and minimum width:
  - a. All new lots shall have frontage on a public road or be attached to an adjacent parcel having the required road frontage
  - b. The minimum required road frontage and minimum lot width is one-hundred twenty five (125) feet.
5. Minimum setbacks: All structures shall maintain the following minimum setbacks, except as modified by section H of this ordinance:

a. Front yard abutting minor arterial/collector roadways:	fifty (50) feet
b. Front yards abutting local streets:	thirty (30) feet
c. Interior side yard:	fifteen (15) feet
d. Corner side yard:	twenty (20) feet
e. Rear yard:	thirty-five (35) feet
6. All uses shall comply with the provisions of section G – Performance Standards of this ordinance.

Subdivision 4. R-1 Single Family Residential District

- A. Purpose: The purpose of the R-1 Single Family Residential District is to provide area for single-family detached residential homes consistent with the low-density residential land use designation in the Comprehensive Plan. Residential development within the R-1 Single Family Residential District shall occur at densities that are less than four (4) dwelling units per net acre.
- B. Permitted Uses: Within any R-1 Single Family Residential District, no structure or land shall be used except for one (1) or more of the following uses:
  1. Single family detached residential dwellings.
  2. A state licensed residential facility or a housing with services establishment registered to serve six (6) or fewer persons, except those as provided for under State Statute 462.357, subd. 7.
  3. A state licensed day care facility serving twelve (12) or fewer persons or a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children.
  4. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to seventy-five (75) feet in height if located on an existing structure.
- C. Conditional Uses: Within any R-1 Single Family Residential District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in section F, subd. 4 of this ordinance:
  1. Accessory structures other than garages and typically associated with single family residential uses that require a building permit and exceeds one-thousand (1,000) sq. ft. of aggregate area of all accessory structures or an accessory structure that exceeds fifteen (15) feet in height.
  2. Public and educational buildings and facilities, and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks,

recreational areas and playgrounds owned by a governmental unit.

3. Cemeteries.
4. Bed and breakfasts.
5. Home occupations that do not meet the definition of a “home occupation” as defined in Chapter 160, section E.
6. Telecommunication facilities that exceed seventy five (75) feet in height.

D. Accessory Uses: The following uses shall be permitted accessory uses within any R-1 Single Family Residential District:

1. Private garages and parking spaces.
2. Accessory structures other than garages and typically associated with single family residential uses, provided the aggregate area of all accessory structures requiring a building permit does not exceed one-thousand (1,000) sq. ft. or the accessory structure does not exceed fifteen (15) feet in height.
3. Exterior wood burning fireplaces used for recreational purposes but excluding outdoor wood burning furnaces, stoves and/or boilers.
4. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
5. Personal receive only satellite dish antennas, other personal antenna devices, and amateur radio devices.
6. Home occupations, provided that such uses meet the definition of “home occupation” found in Chapter 160, section E.
7. Signs as regulated by section H of this ordinance.
8. Private swimming pools meeting State Department of Health rules, tennis courts and other recreational facilities for exclusive use by the property owner.
9. Roadside stands for sale of agricultural products provided sufficient off-street parking is available.
10. Temporary structures.

E. District Standards: No building or land in the R-1 Single Family Residential District shall be used except in conformance with the following:

1. Building height: No structure shall exceed three (3) stories or thirty-five (35) feet whichever is less
2. Minimum lot dimensional requirements:
  - a. Lot size: ten-thousand (10,000) square feet
  - b. Lot depth: no more than three (3) times the width of any lot.
  - c. Lot width: no less than forty (40) feet along a public street.
3. Setbacks: All structures shall maintain the following minimum setbacks, except as modified by section F and G of this ordinance:
  - a. Front yards abutting right of way of minor arterial or new collector roadways constructed after the date of adoption of this ordinance: fifty (50) feet
  - b. Front yards abutting right of way of local streets: thirty (30) feet

- c. Interior side yard: fifteen (15) feet
- d. Corner side yard: twenty (20) feet
- e. Rear yard: thirty-five (35) feet

4. All uses shall comply with the provisions of section G – Performance Standards of this ordinance.

Subdivision 5. R-2 Multiple Family Residential District

- A. Purpose: The purpose of the R-2 Multiple Family Residential District is to provide area for multiple family residential dwelling units consistent with the medium density residential land use designation in the Comprehensive Plan. Residential development within the R-2 Multiple Family Residential District shall occur at densities that are more than four (4) dwelling units per net acre but do not exceed nine (9) dwelling units per net acre.
- B. Permitted Uses: No structure or land shall be used except for one (1) or more of the following uses within any R-2 Multiple Family Residential District:
  - 1. Any permitted use in the R-1 Single Family Residential District
  - 2. Double family residential dwellings
  - 3. Multiple family residential dwellings
  - 4. Townhouses
  - 5. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to seventy-five (75) feet in height if located on an existing structure.
- C. Conditional Uses: Within any R-2 Multiple Family Residential District, no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in section F, subd. 5 of this ordinance:
  - 1. Public and educational buildings and facilities, and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit.
  - 2. A state licensed residential facility serving from seven (7) through sixteen (16) persons.
  - 3. A state licensed day care facility serving from thirteen (13) through sixteen (16) persons.
  - 4. Home occupations that do not meet the definition of a “home occupation” as defined in Chapter 160, section E.
  - 5. Telecommunication facilities that exceed seventy (75) feet in height.
- D. Accessory Uses: The following uses shall be permitted accessory uses within any R-2 Multiple Family Residential District:
  - 1. Private recreational uses such as swimming pools and tennis courts, and other recreational facilities for exclusive use by residents of the permitted use. .
  - 2. Private garages and parking areas.
  - 3. Home occupations, provided that such uses meet the definition of “home occupation” found in Chapter 160, section E.
  - 4. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
  - 5. Signs as regulated by section H of this ordinance.

6. Personal receive only satellite dish antennas, other personal antenna devices, and amateur radio devices.
- E. District Standards: No building or land in the R- 2 Multiple Family Residential District shall be used except in conformance with the following:
1. Building height: No structure shall exceed three (3) stories or thirty-five (35) feet whichever is less
  2. Minimum lot area:
    - a. Single and double family dwellings: ten-thousand (10,000) square feet per dwelling unit
    - b. Buildings containing three (3) or four (4) dwelling units: twenty-thousand (20,000) square feet per dwelling unit
    - c. Buildings containing five (5) or more dwelling units: thirty-thousand (30,000) square feet plus an added four-thousand (4,000) square feet for each additional unit above six (6).
  3. Minimum lot width: Ninety (90) feet or not less than one-half (1/2) the depth of the lot.
  4. Setbacks: All structures shall maintain the following minimum setbacks, except as modified by sections F and G of this ordinance:
    - a. Front yards abutting right of way of minor arterial or new collector roadways constructed after the date of adoption of this ordinance: fifty (50) feet
    - b. Front yards abutting right of way of local streets: thirty (30) feet
    - c. Interior side yard: fifteen (15) feet
    - d. Corner side yard: twenty (20) feet
    - e. Rear yard: thirty-five (35) feet
  5. All uses shall comply with the provisions of section G – Performance Standards of this ordinance.

**Subdivision 6. B - Downtown Business Mixed Use District**

- A. Purpose: The B - Downtown Business Mixed Use District is established to provide areas for business, and mixed residential and commercial uses as designated in the Comprehensive Plan. The Downtown Business Mixed Use District standards are designed to accommodate retail, commercial and office uses as well as residential uses located above business establishments. This zoning district generally applies to properties within the downtown area along Broadway Avenue and Railroad Street in the central downtown where apartments are located above businesses.
- B. Permitted Principle Uses: Within any B - Downtown Business Mixed Use District no structure or land shall be used except for one (1) or more of the following uses:
  1. Retail, office or business service uses that are conducted within an enclosed building.
  2. Residential dwelling units within the same building as a retail, office or business service use.
  3. Hotels and motels, and associated recreational uses for guests, provided a minimum of four hundred square feet per rental unit is provided.
  4. Public and educational buildings and facilities, and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit.

5. Restaurants and on-sale liquor establishments within an enclosed building.
  6. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to seventy five (75) feet in height if located on an existing structure.
- C. Conditional Uses: No structure or land shall be used for the following uses within any B - Downtown Business Mixed Use District except by conditional use permit and in conformance with the standards found in section F, subd. 6 of this ordinance:
1. Accessory structures other than private garages.
  2. Funeral homes and mortuaries.
  3. Outdoor dining areas associated with restaurants and on-sale liquor establishments.
  4. Clubs, museums, historic buildings, and other similar uses designed to accommodate members and visitors.
  5. Hospitals, nursing homes, or retirement homes.
  6. Automobile service stations and other retail uses having service bays and/or gas pump islands.
  7. Uses having a drive-up window.
  8. Storage, repair and servicing related to a permitted use and occupying between thirty (30) percent and no more than fifty (50) percent of the gross floor area of the principal structure.
  9. Telecommunication facilities that exceed seventy-five (75) feet in height.
- D. Permitted Accessory Uses: The following uses shall be permitted accessory uses within any B - Downtown Business Mixed Use Business District:
1. Private garages, off-street parking and loading spaces as regulated by section G of this ordinance.
  2. Storage, repair, manufacturing and servicing related to a permitted use and occupying no more than thirty (30) percent of the gross floor area of the principal structure.
  3. Solar collection and geo-thermal heating and cooling systems used in conjunction with permitted uses.
  4. Signs as regulated by section H of this ordinance.
  5. Personal receive-only satellite dish antennas, other personal antenna devices, and amateur radio devices.
- E. District Standards: No building or land in the B - Downtown Business Mixed Use District shall be used except in conformance with the following:
1. Building height: No structure shall exceed three (3) stories or thirty-five (35) feet, whichever is less.
  2. Minimum lot area: five-thousand (5,000) square feet
  3. Minimum lot width: fifty (50) feet
  4. Setbacks: All principal structures shall maintain the following minimum setbacks
    - a. Front yard: zero (0) feet behind a sidewalk, or twenty (20) feet if no sidewalk exists.
    - b. Interior side yard: five (5) feet, except a twenty (20) foot setback shall be maintained when abutting a residential, public or semi-public use.
    - c. Corner side yard: twenty (20) feet
    - d. Rear yard: five (5) feet, except a twenty (20) foot setback shall be maintained when abutting a residential, public or semi-public use.

5. All uses shall comply with the provisions of section G – Performance Standards of this ordinance.

Subdivision 7. I - General Industrial District

- A. Purpose: The I – General Industrial District is established to provide areas for industrial uses, separate from residential land uses, as designated in the Comprehensive Plan. The General Industrial District standards are designed to accommodate business, warehouse, and manufacturing uses.
- B. Permitted Uses: No structure or land shall be used except for one (1) or more of the following uses within any I - General Industrial District:
  - 1. Research and development within an enclosed building.
  - 2. Business or professional offices within an enclosed building.
  - 3. Manufacturing, assembly, warehousing, storage and fabricating within a building.
  - 4. Auto repair businesses within an enclosed building.
  - 5. Public buildings and facilities.
  - 6. Telecommunication facilities that meet the height requirements of this district if freestanding or may be allowed up to seventy-five (75) feet in height if located on an existing structure.
- C. Conditional Uses: Within any I – General Industrial District no structure or land shall be used for the following uses except by conditional use permit and in conformance with the standards found in section F, subd. 7 of this ordinance:
  - 1. Other uses deemed similar by the City Council to other permitted uses.
  - 2. Outside storage provided it is fenced to screen views from public right-of-way and abutting the R-1 Single Family Residential or R-2 Multiple Family Residential Districts.
  - 3. Telecommunication facilities that exceed seventy-five (75) feet in height.
- D. Permitted Accessory Uses: Within any I - General Industrial District, the following uses shall be permitted accessory uses:
  - 1. Personal service facilities designated to serve the persons employed in the principle use, including facilities for education, recreation, entertainment, food or convenience goods.
  - 2. Solar collection and geo-thermal heating/cooling systems used in conjunction with permitted uses.
  - 3. Signs as regulated by section H of this ordinance.
- E. District Standards: No building or land in the I District shall be used except in conformance with the following:
  - 1. Building height: No structure shall exceed three stories or 35 feet, whichever is less.
  - 2. Minimum lot area: five-thousand (5,000) square feet
  - 3. Minimum lot width: fifty (50) feet
  - 4. Setbacks: All principal structures shall maintain the following minimum setbacks
    - a. Front yard: twenty (20) feet
    - b. Interior side yard: five (5) feet, except a thirty (30) foot setback shall be maintained when abutting a residential, public or semi-public use
    - c. Corner side yard: thirty (30) feet
    - d. Rear yard: five (5) feet, except a thirty (30) foot setback shall be maintained when abutting a residential, public or semi-public use.



5. All uses shall comply with the provisions of section G – Performance Standards of this ordinance.

Subdivision 8. Planned Unit Development (PUD) District

See Appendix A

**SECTION F. CONDITIONAL USE PERMIT STANDARDS**

Subdivision 1. Purpose

The city has established conditional uses within the zoning districts with general and specific criteria to ensure that the location, size and design of the conditional uses are consistent with the standards, purposes and procedures of this ordinance and the Comprehensive Plan. In accordance with the provisions of state law and to effect the purpose of this ordinance:

- A. The Planning Commission may recommend and the City Council may impose conditions on such uses.
- B. Additional conditions and standards may be imposed on such uses by the City Council in order to achieve the purpose of this ordinance.

Subdivision 2. General Conditional Use Permit Standards

- A. No conditional use permit shall be granted unless the City Council finds that:
  - 1. All of the standards contained in this subdivision and the standards of this ordinance will be met,
  - 2. The use is consistent with goals and policies of the Comprehensive Plan,
  - 3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements,
  - 4. The use will not negatively impact the use and enjoyment of other properties and uses in the immediate vicinity,
  - 5. The use will not impede planned development and improvement of the property, including the provision of municipal utilities, stormwater drainage, roadways and access; or the planned development of surrounding properties in accordance with the Comprehensive Plan and the standards of this ordinance, and
  - 6. The use does not have an undue adverse impact on the public health, safety or welfare.
- B. All conditional uses that involve the construction of a new building or facility, or parking area shall submit a site and/or building plan for review and approval of the plan by City Council.

Subdivision 3. Conditional Uses in the A-1 Restricted Agriculture District

- A. Accessory structures other than garages that require a building permit and exceeds one-thousand (1,000) sq. ft. of aggregate area of all accessory structures or an accessory structure that exceeds fifteen (15) feet in height shall meet the following conditions:
  - 1. Side and rear setbacks shall be equal to the height of the structure or fifteen (15) feet, whichever is greater.
  - 2. No additional curb cuts shall be permitted.
  - 3. The structure shall not be used for commercial activities.
  - 4. The exterior materials of the structure shall be consistent with the exterior materials of the principal structure on the property.

- B. Public and educational facilities and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit shall meet the following conditions:
1. No building or structure shall be located within twenty (20) feet of any lot line of an R-1 Single Family Residential District except for buildings, and structures that contain less than one-thousand (1,000) square feet in area.
  2. The building and/or structure shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets.
  3. The parking setbacks shall be the same as required for permitted structures.
  4. Outdoor recreation and play areas shall be located a minimum of twenty (20) feet from properties zoned R-1 Single Family Residential District or R-2 Multiple Family Residential District.
  5. All maintenance-related equipment shall be kept within an enclosed structure.
  6. Play areas located adjacent to public or railroad right-of-way shall be separated from the right of way by a landscaped yard area of at least thirty (30) feet or a fence that meets the requirements of section G.
  7. Landscaping be provided that is in keeping with the neighborhood and provides screening where appropriate.
- C. Home occupations that do not meet the definition of a “home occupation” as defined in Chapter 160, section E shall meet the following conditions:
1. Only limited retail sales activity.
  2. No exterior signs.
  3. Maximum of one (1) outside employee.
  4. Adequate off-street parking is available based on number of employees and customers per day.
  5. Parking area screened from off site views.
  6. No outside storage.
  7. Shall not result in significant levels of noise, air or other pollution.
  8. Business hours restricted to no earlier than 8:00 a.m. and no later than 9:00 p.m.
  9. Outside parking of no more than one (1) commercial type vehicle or vehicle identified for business purposes and meeting the following requirements:
    - a. The vehicle shall not exceed one (1) ton capacity, and
    - b. The vehicle shall be owned and registered by an occupant of the property and parked in a paved parking area.
- D. Cemeteries shall meet the following conditions:
1. Minimum lot size of five (5) acres.
  2. Shall have access on a collector or arterial roadway or be designed to minimize excessive traffic on local residential streets.
- E. Telecommunication facilities that exceed seventy-five (75) feet in height shall meet the following conditions:
1. Co-location on existing structures. New telecommunications antennae must be co-located on existing structures in the city, unless it can be documented that it is impractical to co-locate on an

existing structure because of:

- a. Technical performance,
- b. System coverage or system capacity,
- c. An existing structure cannot support co-location from a structural engineering standpoint, or
- d. The lease rate of an existing structure is not “rate reasonable.” Rate reasonable shall mean that the co-location lease rate is not more than one-hundred and fifty (150) percent of the co-location lease rate for towers within ten (10) miles for which such lease rate information can be obtained.

The determination that co-location on an existing structure is not practical because of technical performance, system coverage or system capacity shall be supported by findings from a qualified engineer.

2. New telecommunication towers shall be designed and constructed to permit the future co-location of other commercial wireless telecommunication services.
3. The height of a new telecommunication tower shall not be greater than one-hundred and fifty (150) feet in height, unless the applicant demonstrates to the City Council the need for the increased height. The reason for the increase in height must be supported by findings from a qualified engineer.
4. Telecommunications tower and antenna design
  - a. Towers and antennae shall be located and designed to blend into the surrounding environment to the maximum extent possible.
  - b. Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstances.
  - c. All towers shall be painted in a color best determined by the city to blend into the particular environment.
5. Telecommunications tower setbacks
  - a. All towers shall be setback from structures, rights-of-way and property lines at a distance equal to the height of the towers and antenna.
  - b. The setbacks may be reduced to a distance agreed upon by the city, if the applicant for the tower furnishes a registered engineer’s certification that the tower is designed to collapse or fall within a distance or zone shorter than the total tower height.
  - c. The city may waive or modify setback requirements for antennae proposed to be co-located on existing towers or structures.
6. Telecommunication towers and antennas shall not be illuminated unless required by a state or federal agency.
7. The site area for telecommunications towers and accessory facilities shall be totally fenced in to discourage access by unauthorized persons. The city shall review and approve or modify all plans for fencing and security measures.

Subdivision 4. Conditional Uses in the R-1 Single Family Residential District

- A. Accessory structures other than garages that require a building permit and exceed 1,000 sq. ft. of aggregate area of all accessory structures shall meet the conditions listed in subd. 3, subpart A of this section.
- B. Public and educational facilities and religious institutions that may include state licensed day care

facilities serving more than six persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit shall meet the conditions listed in subd. 3, subpart B of this section.

- C. Cemeteries shall meet the conditions listed in subd. 3, subpart D of this section.
- D. Bed and Breakfasts shall meet the following conditions:
  - 1. The owner of the property shall reside on the property and be responsible for overall management and day-to-day operation of the bed and breakfast facility.
  - 2. The property shall contain no more than four (4) guest rooms available for lease or rent, and all guest rooms shall be located within the principal structure of the property.
  - 3. The exterior façade of the building shall maintain a single-family character and any enlargement of the existing buildings on the property shall require review and approval by the City Council.
  - 4. The serving of meals to non-guests of the bed and breakfast facility is prohibited, unless approved by the City Council upon demonstration that the bed and breakfast has:
    - a. Adequate facilities to provide food services,
    - b. Obtains all required food service applicable permits from the city, county and/or state, and
    - c. Adequate parking exists or will be provided during the period when meals are served.
  - 5. The bed and breakfast facility shall comply with all city building and fire codes, and any applicable county and State regulations.
  - 6. Signage shall comply with the R-1 Single Family Residential District signage requirements as established in section H of this ordinance.
  - 7. Submission of a parking plan indicating that a minimum of one (1) off-street parking stall for each guest room and two (2) off-street parking stalls for the permanent residents of the primary structure shall be provided.
  - 8. All on-site dumpsters or other waste containers shall be screened from public view and those of adjacent properties.
- E. Home occupations that do not meet the definition of a “home occupation” as defined in Chapter 160, section E shall meet the conditions listed in subd. 3, subpart C of this section.
- F. Telecommunication facilities that exceed seventy-five (75) feet in height shall meet the conditions listed in subd. 3, subpart E of this section.

Subdivision 5. Conditional Uses in the R-2 Multiple Family Residential District

- A. Public and educational buildings and facilities, and religious institutions that may include state licensed day care facilities serving more than six (6) persons; and public or private parks, recreational areas and playgrounds owned by a governmental unit shall meet the conditions listed in subd. 3, subpart B of this section.
- B. A state licensed residential facility serving from seven (7) through sixteen (16) persons shall meet the following conditions:
  - 1. The facility must be in compliance with all applicable state licensing requirements, and city and state building and fire codes.
  - 2. The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift.
- C. A licensed day care facility serving from thirteen (13) through sixteen (16) persons shall meet the

following conditions:

1. The facility must be in compliance with the state licensing requirements, and all applicable city and state building and fire codes.
  2. The facility shall have adequate off-street parking to accommodate one parking space for each employee on the major shift.
  3. The site shall have loading and drop off points designed to avoid interference with traffic patterns and pedestrians.
  4. Outdoor recreation and play areas shall be located at least twenty-five (25) feet from a residential use and buffered or screened by appropriate landscape and/or fencing materials.
  5. Play areas located adjacent to public or railroad right-of-way shall be separated from the right of way by a landscaped yard area of at least thirty (30) feet or a fence that meets the requirements of section G, subd. 5 of this ordinance.
- D. Telecommunication facilities that exceed seventy-five (75) feet in height shall meet the conditions listed in subd. 3, subpart E of this section.

Subdivision 6. Conditional Uses in the B-Downtown Business Mixed Use District

- A. Accessory structures other than private garages shall meet the following conditions:
1. Side and rear setbacks shall be equal to the height of the structure or fifteen (15) feet, whichever is greater.
  2. No additional curb cuts shall be permitted.
  3. The exterior materials of the structure shall be consistent with the exterior materials of the principal structure on the property.
- B. Funeral homes and mortuaries shall meet the following conditions:
1. No building or structure shall be located within twenty (20) feet of any lot line of an R-1 Single Family Residential District and R-2 Multiple Family Residential Districts except for buildings, and structures that contain less than one-thousand (1,000) square feet in area.
  2. The building and/or structure shall have access on a collector or arterial roadway as designated in the Comprehensive Plan or access shall be designed to minimize excessive traffic on local residential streets.
  3. The parking setback shall be the same as required for permitted structures within the R-1 Single Family Residential District.
  4. Off-street parking facilities are provided in accordance with section G of this ordinance.
- C. Outdoor dining areas associated with restaurants and on-sale liquor establishments shall meet the following conditions:
1. The design and placement of the outdoor dining area shall comply with the following:
    - a. Shall not be located to obstruct parking spaces or replace the number of required parking spaces.
    - b. Shall comply with building setback requirements.
    - c. Railings or fencing shall be used to surround the outdoor dining area and access to the outdoor dining area shall be only through the principal building.
    - d. Refuse containers shall be provided and periodically patrolled for litter pick-up.
    - e. All exterior lighting shall be directed away from any residential property.

2. Outdoor dining may be allowed between the hours of 11:00 a.m. to 1:00 a.m. or as established by the City Council as part of issuance a liquor license.
  3. Noise levels from the outdoor dining area shall maintain compliance with this ordinance and the city's code of ordinances.
  4. The sale of alcoholic beverages in the outdoor dining area shall be in compliance with of the provisions of the liquor license issued by the City Council.
- D. Clubs, museums, historic buildings, and other similar uses designed to accommodate members and visitors shall meet the following conditions:
1. No building or structure shall be located within twenty (20) feet of any lot line of an R-1 Single Family Residential District except for buildings, and structures that contain less than one-thousand (1,000) square feet in area.
  2. The building and/or structure shall have access on a collector or arterial roadway or access designed to minimize excessive traffic on local residential streets.
  3. The parking setback shall be the same as required for permitted structures within the R-1 Single Family Residential District.
- E. Hospitals and nursing homes shall meet the following conditions:
1. Shall not be adjacent to low density residential areas as designated in the Comprehensive Plan.
  2. The site shall have direct access to collector or arterial roadway.
  3. Emergency vehicle access shall not be adjacent to or located across a street from any residential use.
- F. Automobile service stations and other retail uses having service bays and/or gas pump islands shall meet the following conditions:
1. No vehicles which are unlicensed and inoperable shall be stored on premises except in appropriately designed and screened storage areas.
  2. All repair, assembly, disassembly and maintenance of vehicles shall occur within closed buildings except minor maintenance, such as tire inflation, oil and wiper replacement.
  3. No public address system shall be audible from any residential parcel.
  4. Stacking for gas pumps shall be provided for at least one (1) car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way or within the required parking setback.
  5. No sales, storage or display of used vehicles, except when a conditional use permit is approved by the City Council allowing such rentals.
  6. Shall not be located within twenty (20) feet of any low-density residential parcel as designated in the Comprehensive Plan. The City Council may reduce separation requirements if the following are provided:
    - a. Landscaping and berming to shield the auto service use, and
    - b. Lighting plans which are unobtrusive to surrounding residential uses.
  7. All canopy lighting shall be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens.
  8. Canopies shall be set back at least fifteen (15) feet from all property lines, but in no case shall the

setbacks be less than twenty (20) feet of any low-density residential parcel as designated in the Comprehensive Plan.

- G. Uses having a drive-up window shall meet the following conditions:
  - 1. Shall not be located adjacent to any residential lot lines.
  - 2. Shall be provided with a suitable visual screen from adjacent properties.
  - 3. Stacking for a minimum of two (2) cars per aisle shall be provided within applicable parking lot setbacks.
- H. Storage, repair and servicing related to a permitted use and occupying between thirty (30) percent and no more than fifty (50) percent of the gross floor area of the principal structure shall meet the following conditions:
  - 1. The building and site shall maintain a predominantly commercial character.
  - 2. No exterior storage shall be permitted.
  - 3. Truck loading areas shall be fully screened and not located adjacent to any residential lot line.
- I. Telecommunication facilities that exceed seventy-five (75) feet in height shall meet the conditions listed in subd. 3, subpart E of this section.

Subdivision 7. Conditional Uses in the I- General Industrial District

- A. Other uses deemed by the City Council to be similar to permitted uses shall meet standards established by the City Council that relate to the impacts caused by the use on adjacent property, and city services and facilities.
- B. Outside storage provided it is fenced to screen views from public right-of-way and abutting the R-1 Single Family Residential or R-2 Multiple Family Residential Districts shall meet the following conditions:
  - 1. All outdoor storage yards shall be completely screened from roads or developed areas with a solid fence or wall at least fifty (50) percent closed and six (6) feet or more in height, or a thirty (30) foot wide planting strip. The fence, wall and/or planting strip shall be maintained in good condition on a continual basis maintained.
  - 2. No unscreened outdoor storage yards established after the effective date of this ordinance shall be located closer than one hundred (100) feet to any other city road or R-1 Single Family Residential or R-2 Multiple Family Residential Districts.
  - 3. All storage areas open to vehicles must be paved with asphalt surfacing, crushed rock or other dust-free materials.
- C. Telecommunication facilities that exceed seventy-five (75) feet in height shall meet the conditions listed in subd. 3, subpart E of this section.

**SECTION G. PERFORMANCE STANDARDS**

Subdivision 1. Purpose

The purpose of this section is to establish minimum standards to guide development in a manner that promotes a compatible relationship of uses, minimizes pollution, and protects public health and safety

provided certain standards are maintained to manage the impacts of the development, design and use of property. Permitted, conditional use, accessory and interim uses within all zoning districts shall conform to standards within this section.

Subdivision 2. Traffic Visibility

- A. No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway.
- B. Visibility from any street or roadway shall be unobstructed above the height of two and one-half (2 ½) feet within the triangle described as beginning from a point at the paved edge of the intersection, two sides of which extend a distance of thirty (30) feet along the edge of each street and the third side being a line connecting the other sides.

Subdivision 3. Structures and Objects in Public Right-Of-Way

- A. No structures shall be located in or on any public lands or rights-of-way without a permit issued in accordance with the city Code of Ordinances and any other applicable federal, state or county regulations.
- B. All structures and objects other than structures such as landscaping materials and rocks, shall be set back the following minimum distances from the back of curb and within the right of way:
  - 1. Local roadway - a minimum of fifteen (15) feet
  - 2. Alley - a minimum of two (2) feet, or to the extent feasible as determined by the city.
- C. Any objects placed within the right of way shall be removed by the owner of the structures or objects.

Subdivision 4. Accessory Buildings and Structures, and Temporary Structures

- A. No accessory buildings or structure shall be permitted on any lot without a principle building except as follows:
  - 1. A residential detached garage, which shall be used only for the storage of building materials for the principal structure. The principal structure must be completed within one (1) year of the date of completion of the accessory structure.
  - 2. Fences, in compliance with subdivision 5 of this section.
  - 3. A temporary construction office for development of the property, provided the temporary construction office shall be removed immediately following completion of the project.
- B. Accessory structures exceeding one hundred and twenty (120) sq. ft. on properties zoned R-1 Single Family Residential District and the residential portions of a PUD - Planned Unit Development District shall comply with the following:
  - 1. Shall not exceed fifteen (15) feet in height.
  - 2. For accessory structures designed to be entered directly from a side street or alley the distance between the doors and the lot line shall be twenty (20) feet or more.
  - 3. Accessory buildings shall be located a minimum of five (5) feet from all lot lines of any adjoining lots zoned for residential purposes and shall be considered attached to the principle building for purposes establishing required yards unless six (6) feet or more from the principle building, except as provided in 2. above.
  - 4. No cellar, garage, tent, trailer, basement with unfinished structure above or accessory building shall be used as a dwelling unit.



- C. Exterior wood burning fireplaces used for recreational purposes shall comply with the following:
1. All applicable requirements of subparts 93.65 through 93.99 of the Code of Ordinances.
  2. Shall not be allowed in the front yard of any district and shall comply with the side and rear yard requirements of the zoning district in which it is located.
  3. Shall not be located closer than 25 feet to any structure on the property or adjacent property.
  4. Shall require a building permit if the structure exceeds forty-eight (48) inches in height, or as required by the State Building Code.
  5. Outdoor wood burning furnaces, stoves and/or boilers shall not be permitted.
- D. Temporary structures over one hundred and twenty (120) sq. ft. on properties zoned A-1 restricted Agriculture District, R-1 Single Family Residential District and the residential portions of a PUD - Planned Unit Development District shall comply with the following:
1. Shall only be allowed on property that contains a principal use and shall not be utilized as a dwelling unit.
  2. All temporary structures shall be located behind the front line of the principal structure as extended to the sides of the property and be located no closer than five (5) feet from the side and rear property lines.
  3. No more than one temporary structure is allowed per property.
  4. Shall not exceed fifteen (15) feet in height.
  5. Temporary structures shall not exceed six hundred (600) square feet and shall not be considered an accessory structure.
  6. The temporary structure must be sufficiently anchored to withstand overturning, uplifting, or sliding.

Subdivision 5. Fences

A. Permit Required:

1. No fence shall be constructed or relocated without the owner of the property where the fence will be located first obtaining a permit from the zoning officer, except for temporary fences and invisible fences.
2. A site plan showing the location of the fence to represent its location on the applicant's property, and describing the type and method of anchoring the fence shall be submitted with the permit application.
3. The zoning officer may require the submission of a survey or other information with the fence permit application to establish the boundary lines of the property on which the fence will be located.

B. Location and Design:

1. No temporary or permanent fence shall be permitted on a public right-of-way or boulevard area.
2. All temporary or permanent fences shall be entirely located upon the private property of the applicant of the fence permit unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties.
3. No temporary or permanent fence may be erected in a location that creates visual obstructions at any intersection, alley, driveway or street for safe vehicular, bicycle or pedestrian movement.

4. Invisible fences shall be located a minimum of two (2) feet from property lines.
5. Temporary or permanent fences located on any corner lot erected within thirty (30) feet of the intersecting curb lines and shall comply with subd. 2 of this section.

C. Height Requirements:

1. Fences in the A-1 Restricted Agriculture District, B - Downtown Business Mixed Use District and I – General Industrial District shall not exceed a height of six (6) feet except as permitted by the City Council. If a fence is approved by the City Council that exceeds six (6) feet in height, a building permit shall be obtained before construction.
2. Fences located within the R-1 Single Family Residential, R-2 Multiple Family Residential and residential portions of PUD - Planned Unit Development Districts shall comply with the following:
  - a. Fences shall not exceed a height of six (6) feet along the side lot line up to the point where the side lot line is parallel with the front edge of the principle building on the property.
  - b. Fences shall not exceed a height of six (6) feet along the rear property line, provided that the rear line of the property is the side lot line of the adjacent property. If the rear line of the property is the side lot line of the adjacent property, the provisions of a. above shall apply.
  - c. Fences aligning the property boundaries shall not exceed a height of more than three and one-half (3 1/2) feet within the front yard setback or front edge of the principal building on the property, whichever is greater.
  - d. Fences on side lot lines adjacent to public right of way shall not exceed a height of six (6) feet except within the required front yard setback.

Subdivision 6. Sanitary Sewer and Water Facilities

All new development shall be connected to city sanitary sewer and water facilities.

Subdivision 7. Slopes and Retaining Walls

- A. Slope areas intended to be mowed must not exceed a three to one (3:1) ratio and shall be graded to provide a transition to the property line.
- B. Retaining walls exceeding five (5) feet in height, including staged walls which cumulatively exceed five (5) feet in height, must be constructed in accordance with plans prepared by a registered engineer or landscape architect, and requires a building permit.

Subdivision 8. Grading, Drainage and Surface Water Management

A. Erosion and Sedimentation Control

1. All development in the city shall conform to the natural limitations presented by the topography and soil types in order to minimize soil erosion and sedimentation; and shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes.
2. Erosion and sedimentation controls shall be consistent with the city storm water management plan, county requirements and the Minnesota Pollution Control Agency's "best management practices."
3. Land disturbing activities shall occur in increments of workable size such that adequate erosion and sediment controls can be provided throughout all phases of the development.
  - a. The smallest area of land shall be exposed or disturbed at any one period of time.

- b. Areas where natural vegetative barriers are not enough to contain erosion and sedimentation from penetrating water bodies, wetlands, water courses or neighboring properties shall be staked with silt fences and straw bales.

## B. Surface Water Management

1. All new development shall comply with the provisions of the city Surface Water Management Plan and Carver County requirements.
2. Stormwater for new development shall be managed in accordance with the National Urban Runoff Program standards for the design of new stormwater ponds and the Minnesota Pollution Control Agency's "Protecting Water Quality in Urban Areas" to reduce non-point source pollutant loadings in stormwater runoff.
3. Existing natural drainageways, natural water storage or retention areas, and vegetated soil surfaces should be used to the greatest extent possible to store, filter and retain stormwater runoff before discharge occurs into any public waters.
4. When natural features and vegetation are not available to handle stormwater runoff, constructed facilities such as diversions, settling basins, skimming devices, dikes, and manmade waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

## Subdivision 9. Off-Street Parking

### A. General Provisions

1. No change of use, tenancy or occupancy of a parcel of land or building, including construction of a new building or an addition to a building, which requires additional parking or loading spaces shall be allowed until such additional parking or loading is approved and furnished.
2. Existing off-street parking spaces and loading spaces upon the effective date of this ordinance shall not be reduced in numbers unless the number of remaining parking stalls meets the requirements of this subdivision for the existing use.

### B. Parking Area Location

1. Parking Setbacks: The setback of all parking areas shall be the same as the front yard setback of the principal structure of the zoning district in which such parking area is located except as modified in section F of this ordinance.
2. All off-street parking areas shall be designated and constructed to prevent any vehicle from encroaching more than two (2) feet to the property line.

### C. Dimensional Requirements

1. Calculating the number of spaces shall be in accordance with the following:
  - a. If the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
  - b. In religious institutions and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating shall be counted as one seat for the purpose of this subdivision.
  - c. Except where joint parking arrangements have been approved by the City Council, if a structure contains two (2) or more uses, each use shall be calculated separately in determining the total number of required off-street parking spaces.
  - d. The city may allow reductions in the number of parking spaces actually constructed on the property provided the applicant submits a proof of future parking plan showing the location

for all minimum required parking spaces in conformance with applicable setback requirements. The city may require the applicant to install additional parking spaces whenever the need arises.

2. The dimension of each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length and include an adequate system of access and internal circulation.

D. Design and Maintenance of Parking Areas:

1. Driveways within fifty (50) feet of public right-of-way shall not exceed a grade of four (4) percent and all parking lots except for those for less than (4) four vehicles shall be graded according to a drainage plan which has been approved by the city engineer. Catch basins, sumps and underground storm sewers may be required.
2. All parking, loading and driveway areas shall be surfaced with asphalt, concrete or equivalent material approved by the city.
3. Any lighting used to illuminate an off-street parking area shall be shaded or diffused to reflect the light away from adjoining property and the public right-of-way.
4. When a required parking area for six (6) or more cars is located adjacent to any R-1 Single Family Residential, R-2 Multiple Family Residential and residential portions of PUD - Planned Unit Development District, a fence of suitable material shall be constructed and maintained in good condition of not less than three and one-half (3 1/2) feet nor more than six (6) feet in height.

E. Required Off-street Parking: The following minimum parking spaces shall be provided and maintained by ownership, easement, or lease for each of the uses listed below:

1. Single-family dwelling: Two (2) parking spaces for each dwelling unit, with the following conditions:
  - a. An unattached or detached garage may be used for parking spaces.
  - b. A building permit shall not be granted to convert a garage to a living space unless other provisions are made to provide the required parking space in accordance with this ordinance.
2. Double family and townhome dwellings: One (1) parking space for each dwelling unit.
3. Multiple family dwellings:
  - a. One (1) parking space for each unit.
  - b. Additional parking spaces shall be provided for visitor parking based on the specific characteristics of the development and the anticipated demand for visitor spaces.
4. Multiple family housing developments designed for senior citizens: One (1) parking space for each unit shall be required. The city may require proof of parking of two (2) spaces per unit if conversion to general housing appears possible. The visitor parking requirements for multiple family dwellings shall apply;
5. Hotels and motels: One (1) parking space for each unit, plus one (1) additional space for each four (4) units.
6. Educational institutions, elementary and junior high: One (1) parking space for each classroom plus one (1) additional space for each one hundred (100) student capacity.
7. Educational institutions, high schools: One (1) parking space for each classroom plus one (1) additional space for five (5) students based on design capacity.
8. Licensed day care facility: One (1) parking space for each six (6) children based on the licensed capacity of the facility;

9. Religious institutions, funeral homes, places of assembly: One (1) parking space for each three (3) seats based on the design capacity of the main sanctuary or assembly space.
10. Municipal administration building, public library, museum, art gallery, post office or other municipal service building: Ten (10) parking spaces plus one (1) space for each five hundred (500 square) feet of gross floor area plus one (1) space for each vehicle customarily kept on the premises;
11. Athletic facilities such as ball fields: One (1) parking space for each eight (8) seats of design capacity.
12. Hospital: One (1) parking space for each patient bed, plus two (2) spaces for each employee on the major shift.
13. Nursing or convalescent homes: One (1) parking space for each four (4) beds for which accommodations are offered, plus three (3) spaces for each four (4) employees on the major shift.
14. Medical or dental clinics: One (1) parking space for each one hundred seventy five (175) square feet of gross floor area with a minimum of twenty (20) spaces required.
15. Bowling alley: Five (5) parking spaces for each alley plus additional spaces as may be required by the city for related uses such as a restaurant.
16. Automobile service or gas station: Four (4) parking spaces plus three (3) parking spaces for each service stall; and one (1) parking space for each 250 square feet of gross building area used for the sale of goods or services and adequate parking for gas pump areas
17. Retail store, convenience store or service shop: One (1) parking space for each two hundred (200) square feet of gross floor area.
18. Restaurant or on-sale liquor establishments: One (1) parking space for each three (3) seats based on design capacity or where there is no design layout, one (1) parking space for each thirty-five (35) square feet of gross floor area.
19. Fast food or self service restaurant: One (1) parking space per three (3) seats of design capacity or one space (1) parking space per sixty (60) square feet of gross floor area, whichever is greater.
20. Banks and offices: One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
21. Furniture, appliance, marine sales and warehouse: One (1) parking space for each four hundred (400) square feet of gross floor area.
22. Lumberyards, building material yards, automobile and truck sales: One (1) parking space for each five hundred (500) square feet of gross floor area.
23. Skating, dance hall, miniature golf and similar recreational uses: Ten (10) parking spaces plus one (1) additional parking space for each two hundred (200) square feet of gross floor space devoted to the principle use.
24. Manufacturing, fabricating or processing: Three (3) parking spaces for each one thousand (1,000) square feet of gross floor area.
25. Warehousing and storage: Three (3) parking spaces plus one (1) for each two thousand (2,000) square feet of gross floor area.
26. The parking requirement for uses not listed in this subdivision may be established by the City based on the characteristics of the use and available information on parking demand for such use.

F. Other Parking and Access Requirements:

1. Off-street residential parking spaces may be used for parking of automobiles and one (1) truck not in excess of a rated capacity of nine thousand (9,000) pounds.
2. Business establishments containing drive-up facilities, including restaurants and financial institutions, shall provide a stacking area for vehicles on the site.
  - a. A minimum of three (3) vehicle spaces per staking lane shall be provided.
  - b. All staking lanes shall be entirely on the site and shall be in addition to parking spaces required for the principal use.
  - c. The vehicle stacking area shall not extend beyond the street right-of-way line and shall be delineated in such a manner that vehicles waiting in line will not interfere with nor obstruct the primary driving, parking and pedestrian facilities on the site.

Subdivision 10. Off-street Loading and Unloading

A. Location and Use:

1. All required loading berths shall be located off-street and shall be located on the same lot as the building or use to be served.
  2. A loading berth shall not be located less than twenty-five (25) feet from the intersection of two (2) street right-of-ways; nor less than fifty (50) feet from R-1 Single Family Residential, R-2 Multiple Family Residential and residential portions of PUD - Planned Unit Development Districts unless located within a building.
  3. Loading berths shall not occupy the required front yard setback area.
  4. Any loading berth or access drive shall not be used for storage of goods, inoperable vehicles or be used as a part of the required parking space.
- B. A loading berth space shall be not less than twelve (12) feet in width, fifty (50) feet in length and fourteen (14) feet in height, exclusive of aisle space.
- C. All loading berths and access ways shall be improved with a durable material to control dust and drainage according to a plan approved by the city Engineer.

Subdivision 11. Standards for Pollution and Other Related Effects

A. Noise and Vibration:

1. Noises emanating from any use shall be in compliance with and regulated by the standards of the Minnesota Pollution Control Agency.
  2. Vibrations from all uses established after the effective date of this ordinance shall comply with the following:
    - a. Shall be operated in a manner to prevent vibration discernable at any point beyond the lot line of the property on which such use is located.
    - b. Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations.
- B. No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency.
- C. No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.
- D. No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the Minnesota Pollution Control Agency.

- E. No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.
- F. No operation that produces radiation and other health hazards shall be conducted which exceeds the standards established by applicable regulations of the Minnesota Department of Health.
- G. All uses shall be subject to the fire prevention requirements of the city and applicable regulations established by the Minnesota Pollution Control Agency.
- H. All uses shall be subject to applicable regulations of the city, county, the Metropolitan Council and state governing discharge of liquid and solid waste material into a public storm or sanitary sewer, waterway or stream.

**SECTION H. SIGNS, ADVERTISING LIGHTS AND DEVICES**

Subdivision 1. Purpose

The purpose of this section is to establish reasonable regulations to govern the placement, design and lighting of signs and other related informational devices within the city. The sign regulations are not intended to restrict, limit, or control the content or message of signs.

Specifically, the sign regulations are intended to:

- A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare, and pleasing visual appearance of Hamburg.
- B. Maintain, enhance and improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees, and the city's goals of public safety and aesthetics.
- C. To encourage creative and well-designed signs that contribute to the effective use of signs as a means of communication.
- D. To protect, conserve, and enhance property values.

Subdivision 2. General Provisions

- A. Signs existing on the effective date of this ordinance that do not conform to the regulations set forth in this section are a nonconforming use or structure and as such shall be under the regulations set forth in section B of this ordinance.
- B. No permanent sign shall be erected, altered, reconstructed, maintained or moved in the city without first obtaining a permit from the city, except as provided in subpart C below. An application for a permit shall be in writing addressed to the zoning officer and shall contain the following information:
  - 1. The name and address of the applicant, owners of the sign and the address at which the signs is to be placed.
  - 2. A sign plan that shows the location, setbacks, size, the type (i.e. wall sign, monument sign, etc.), and the sign design.
- C. A permit for a sign shall not be required for the following signs:
  - 1. Signs that do not exceed six (6) square feet.
  - 2. Signs erected by a governmental agency.
  - 3. Temporary signs less than twenty-five (25) sq. ft. in area.

4. The changing of the copy on the surface or face of a sign structure.
- D. All permanent signs shall comply with the principal building setbacks for the zoning district in which the sign is located unless specifically modified by this section.

Subdivision 3. Prohibited Signs and Lights

- A. Signs are prohibited within the public right-of-way except that the City Council may allow a temporary sign or decoration to be placed within the public right-of-way for a period of time not to exceed sixty (60) days subject to state law.
- B. Illuminated flashing signs.
- C. Any sign, device, lamp or light which is so constructed, operated or used that illumination emanating there from is concentrated or beamed.
- D. Off- premise signs.

Subdivision 4. Permitted Signs

- A. A-1 Restricted Agriculture District and the R-1 Single Family Residential, R-2 Multiple Family Residential and residential portions of PUD - Planned Unit Development Districts: Signs are permitted as follows:
  1. One (1) wall sign for each dwelling which shall not exceed two (2) square feet in area per surface.
  2. One (1) freestanding sign for each permitted use or conditional use other than a single-family detached or double family residential dwelling which shall not exceed thirty (30) square feet in area per surface.
  3. Symbols, statues, sculptures and integrated architectural features on non-residential buildings may be illuminated by floodlights, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.
- B. B - Downtown Business Mixed Use, the I – General Industrial and commercial/industrial portions of PUD - Planned Unit Development Districts: Signs are permitted as follows:
  1. Freestanding signs: Where a building does not cover the full area of the lot, one (1) freestanding sign is allowed per lot in accordance with the following:
    - a. The maximum height of the sign shall not exceed fifteen (15) feet.
    - b. The maximum sign area shall not exceed sixty (60) square feet.
    - c. Signs may be illuminated provided that the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to prevent glare.
  2. Wall signs:
    - a. One (1) wall sign shall be permitted per building face except for buildings located on a corner lot where one (1) wall sign shall be permitted per road frontage, not to exceed two (2) wall signs per building.
    - b. For multi-tenant buildings, one (1) wall sign per tenant space is allowed.
    - c. Wall signs shall meet the following requirements:
      - 1.) A maximum of ten (10) percent of the building face or sixty (60) sq. ft. whichever is less may be used for a wall sign.
      - 2.) Wall signs shall not project above the roof level.
      - 3.) Wall signs may be illuminated provided that the source of lighting is shielded to prevent visibility of the light source by translucent material, diffusion or placement to



prevent glare.

3. Awning signs:
  - a. One (1) awning sign shall be allowed per lot, provided the sign area of the awning does not exceed eight (8) square feet.
  - b. The sign area of any awning sign shall reduce, square foot for square foot, the sign area of any permitted wall signs on the same building face.

#### Subdivision 5. Temporary Signs

- A. Temporary signs less than six (6) square feet in area may be displayed no longer than thirty (30) days for occupied premises and in the case of unoccupied properties, indefinitely until the premises is occupied.
- B. Temporary signs more than six (6) square feet in area but less than twenty-five (25) sq. ft. in area may be displayed no longer than thirty (30) days.
- C. The following regulations shall apply for projects under construction within R-2 Multiple Family Residential, B - Downtown Business Mixed Use, the I – General Industrial and PUD - Planned Unit Development Districts:
  1. One temporary sign may be installed at a construction site for the period of the construction.
  2. The sign must be removed within ten (10) days of issuance of a certificate of occupancy for the property.
  3. The sign shall be located within the front yard of the property under construction and not located a minimum of fifteen (15) feet from the front or side lot lines.
  4. The sign shall be no more than thirty-two (32) square feet.
- D. All signs of any size containing non-commercial speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

#### Subdivision 6. Design and Construction Standards

- A. All signs shall be constructed in accordance with the following:
  1. The Minnesota State Building Code, as applicable to each sign.
  2. All electric signs shall be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the federal Bureau of Standards or other similar institutions of recognized standing. All illuminating elements shall be kept in satisfactory working condition or immediately repaired or replaced. Signs that are partly illuminated shall meet all electrical requirements for that portion which is illuminated.
  3. All permanent freestanding signs shall have self-supporting structures erected on and permanently attached to concrete foundations.
  4. For wall signs, the wall must be designed for and have sufficient strength to support the sign.
  5. Signs shall be constructed to withstand applicable wind loads.

All signs shall be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for distance of ten (10) feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

## APPENDIX A

### Subdivision 1. Planned Unit Development (PUD) District

#### A. Purpose

The Planned Unit Development (PUD) District is established to allow flexibility in the design and density/ intensity of development within areas served by municipal sewer, water and services. The PUD District is designed to be utilized in areas that are newly annexed to the city and where mixed uses require greater flexibility in the application of zoning standards to achieve the goals and policies of the Comprehensive Plan.

The city will apply the PUD District to new development areas or redevelopment to allow for a greater variety of uses, varying residential density within the development, and phasing of development and public improvements. Developments that utilize the PUD approach shall demonstrate high quality and sustainable development practices when compared to the use of the other applicable zoning districts.

#### B. General PUD District Standards:

1. Dimensional requirements of the city zoning districts may be modified or varied for a PUD in exchange for higher design standards, site preservation techniques, extraordinary parkland development, pedestrian circulation, trails linkage to other neighborhoods and community destinations, and other unique development considerations.
2. Proposed variations from the dimensional standards of the zoning district standards and other standards of this ordinance and Chapter 160B - Subdivision Ordinance of Chapter 160 shall only be approved when it is determined by the City Council that such variations are commensurate with benefits to the planned neighborhood and overall community. Such a determination shall include but not be limited to the following considerations:
  - a. Master site planning and creative design in the proposed development of the land and uses.
  - b. Variety in housing styles and housing types and provisions for life-cycle and affordable housing opportunities.
  - c. Architectural design components and controls for all planned uses and structures.
  - d. Protection and incorporation of unique natural features into the overall planned community.
  - e. Creation of larger expanses of usable public and private open spaces, planned recreational facilities, and pedestrian accesses throughout the proposed development.
  - f. Landscaping plans for all proposed land uses, public and private parks, open spaces when appropriate, major transportation corridors, transition areas between land uses, and within screening and buffering areas.
  - g. Appropriate screening and buffering of residential uses from major transportation corridors and dissimilar land uses.
  - h. Compatibility with the Comprehensive Plan and the goals and policies of the city.
  - i. Compatibility with existing and potential development patterns, and appropriate transitions between land uses within and adjacent to the proposed development.
  - j. Consistency with the general intent of this ordinance and strict compliance with section G - Performance Standards and section H - Signs, Advertising Lights and Devices of this ordinance.
3. The city shall require the following items be satisfied, as determined by the City Council, for any PUD District:
  - a. Private homeowner covenants necessary to guarantee adherence to architectural standards, to

implement master planning components of the proposed development, and to satisfy required private and public area maintenance provisions.

- b. Appropriate transportation access, circulation, design and impact mitigation, including required improvements to adjacent roadways serving the proposed development.
  - c. Financial participation in off-site improvements required to connect the proposed development to existing and planned neighborhoods and existing and planned public utility and transportation infrastructure.
4. The review and approval of a PUD is a discretionary action by the City Council and the eligibility of a proposed development as a PUD shall be determined solely by the city.
- C. Development Standards: All development within a PUD District shall be in compliance with the following.
1. Minimum PUD District area: The minimum site area requirements for a residential or residential/business mixed use PUD is forty (40) acres.
  2. Permitted, accessory and conditional uses:
    - a. Each PUD District shall only be used for the use or uses for which the site is designated in the Comprehensive Plan, except that the city may permit up to twenty-five (25) percent of the gross floor area of all buildings in a PUD District to be used for land uses for which the site is not designated in the Comprehensive Plan if the City Council finds that such use is in the best interests of the city and is consistent with the requirements of this section.
    - b. Within residential PUD Districts:
      - 1.) All permitted uses and accessory uses of the R-1 Single Family Residential District and R-2 Multiple Family Residential District are allowed.
      - 2.) All uses allowed by conditional use permit within the R-1 Single Family Residential District and R-2 Multiple Family Residential District are allowed by conditional use permit within the PUD District, subject to the standards of section F - Conditional Use Permit Standards of this ordinance.
    - c. Within mixed use residential PUD Districts:
      - 1.) Residential areas:
        - a.) All permitted uses and accessory uses of the R-1 Single Family Residential District and R-2 Multiple Family Residential District are allowed in the residential area of the PUD District.
        - b.) All uses allowed by conditional use permit within the R-1 Single Family Residence District and R-2 Multiple Family District are allowed are allowed by conditional use permit within the PUD District, subject to the standards of section F – Conditional Use Permit Standards of this ordinance.
      - 2.) Business areas:
        - a.) All permitted uses and accessory uses of the B – Downtown Business Mixed Use District are allowed in the business area of the PUD District.
        - b.) All uses allowed by conditional use permit within the B – Downtown Business Mixed Use District are allowed by conditional use permit within the PUD District, subject to the standards of section F – Conditional Use Permit Standards of this ordinance.
  3. Design of development:
    - a. PUD's shall require common or compatible street landscaping, street lighting, and parking lot lighting throughout the development. The quality and amount of landscaping, screening,

and buffering between dissimilar uses shall be a major component of the PUD master development plan and final site and building plan reviews.

- b. Architectural features and controls shall be a major component of all planned unit developments and all mixed-use PUD's will require compatibility of architectural features between dissimilar uses.
4. Residential density:
    - a. Each residential PUD or the residential portion of each mixed-use PUD shall have a density within the range specified in the Comprehensive Plan for the property.
    - b. If the property is designated for non-residential use in the Comprehensive Plan, the appropriate density shall be determined by the City Council based upon the housing and land use policies of the Comprehensive Plan and the design of development of the PUD.
    - c. An increase in the density allowed by the Comprehensive Plan for the property for any residential uses shall result in corresponding increase in the amount or quality of the following:
      - 1.) Usable open space, recreational amenities, and pedestrian ways.
      - 2.) Architectural features, housing styles, and housing variety.
      - 3.) Landscaping, screening, and streetscape amenities.
      - 4.) Environmental protection and controls.
      - 5.) Site design and development control.
  5. Dimensional standards:
    - a. The dimensional standards applied to lots, uses and structures within a PUD District shall be established in the review and approval process, except as follows:
      - 1.) The setback for all buildings from the exterior boundary of the PUD District not abutting a public street shall be thirty (30) feet.
      - 2.) The setback for all buildings within a PUD District from any bordering or abutting public street as designated in the Comprehensive Plan or railroad shall be as follows:
        - a.) Local street - thirty (30) feet
        - b.) Collector or arterial street – fifty (50) feet
        - c.) Railroad lines – fifty (50) feet
      - 3.) In no case shall the setback of a building from a public right of way be less than the height of the building.
      - 4.) Building setbacks from internal public or private streets shall be determined by the city based on characteristics of the specific design of the PUD.
      - 5.) Parking lots and driving lanes shall be set back at least twenty (20) feet from all exterior lot lines of a PUD District.
    - b. The city shall have total discretion in establishing dimensional criteria, and departures from the standards of this ordinance shall be based upon the level of site plan detail, architectural quality and controls, overall master planning, utility and roadway capacity, neighborhood and community benefit, public safety issues, and overall development controls.
  6. Open space and park requirements:
    - a. Each residential PUD District or residential area of a mixed-use PUD District shall provide a minimum of ten (10) percent of the gross project area in open space, recreational uses, or public recreation and park uses in accordance with Chapter 160B – Subdivision Ordinance, section E – Park Dedication of Chapter 160 for project residents.

- b. A reasonable amount of private recreational area suited to the needs of residents within the PUD may be required by the city, if deemed consistent with the goals and policies of the Comprehensive Plan.
- c. The city shall determine whether open space provisions and recreational amenities shall be publicly dedicated or privately owned and maintained.

7. Subdivision and public utilities:

The city may modify the design standards for streets, utilities, public facilities and other standards as established in Chapter 160B – Subdivision Ordinance, section D – Subdivision Design Standards of Chapter 160 due to the uniqueness of the PUD provided the city finds that strict adherence to such requirements or specifications is not required to meet the intent of this section or to protect the health, safety or welfare of the residents of the PUD, the surrounding area or the city as a whole.

8. Other requirements:

- a. Private covenants, restrictions, homeowner association agreements or other acceptable mechanisms to the city are required for private open space and recreation areas, and specific improvements on public property, such as landscaped medians or subdivision monuments and design features within public rights-of-way, that guarantee perpetual private maintenance of such areas and improvements.
- b. Signs shall be restricted to those which are permitted in a sign plan approved by the city and shall be regulated by permanent covenants.

9. Nothing in this subdivision shall be construed to approve or permit variations in construction materials, craftsmanship, building codes, electrical codes, plumbing codes, fire codes, design or construction of public improvements, which in any way suggest substandard or inferior development or construction.

D. PUD District Review Process and Procedure

1. Review process:

- a. All PUD Districts requiring the subdivision of land shall follow the platting requirements of Chapter 160B – Subdivision Ordinance of Chapter 160.
- b. Mandatory or discretionary review of the potential environmental effects of the proposed development may be required prior to the submission of a PUD sketch plan and preliminary plat.
- c. A property shall be rezoned to PUD District by the city concurrent with the adoption of a master plan for development of the property by the city. The rezoning of the property to PUD District shall be accompanied by a preliminary plat as prescribed in Chapter 160B – Subdivision Ordinance of Chapter 160.
- d. No building or grading permit shall be issued by the city for property that is zoned PUD District unless a master development plan has been approved for development of the property, and the applicant has received final site and building plan review by the city for the development or applicable phase of development for the property.

2. Procedure

a. Sketch plan review

- 1.) Prior to submission of a formal application for a master development plan and to receive guidance in the design of the development, the applicant may submit a sketch plan for review and comment by the Planning Commission and City Council.
  - a.) Comments made by the Planning Commission and the City Council shall not bind

- the city to approve subsequent applications for development of the property.
- b.) No public hearing shall be required for review of the sketch plan by the Planning Commission and City Council.
- 2.) The Planning Commission and City Council shall review the sketch plan after a complete application has been submitted to the zoning officer. The application shall be deemed complete when accompanied by the following information submitted by the applicant and found to be complete for review by the zoning officer:
    - a.) The name and address of the owner and applicant (if different) of the property.
    - b.) Evidence that the applicant has a development interest in the property.
    - c.) A map depicting the existing physical condition of the property (ies) including but not limited to all improvements, existing development, mature tree locations, and location of wetlands and any water feature.
    - d.) Existing land uses and zoning of properties within three-hundred and fifty (350) feet of the property.
    - e.) General schematic drawings of the proposed and ultimate development of the entire site including approximate building, parking area and road/driveway locations; use, height, bulk, and area of buildings; the number of dwelling units; and location of open space.
  - 3.) Prior to the Planning Commission meeting, the zoning officer shall mail notice to residents within three-hundred and fifty (350) feet of the property (ies) advising the date and time of the commission meeting that the sketch plan review is scheduled at least ten (10) days prior to the meeting.
  - 4.) The Planning Commission shall forward its comments regarding the sketch plan to the City Council within thirty (30) days of the Planning Commission meeting.
  - 5.) The City Council shall review the sketch plan and Planning Commission comments and provide advisory direction to the applicant regarding the sketch plan and application for a master development plan and PUD District zoning amendment.
- b. Master development plan and PUD District zoning amendment application and review
- 1.) The applicant shall submit an application for the review of a master development plan to the zoning officer.
  - 2.) The application shall be deemed complete when accompanied by the following information submitted by the applicant that collectively represents the master development plan and found to be complete for review by the zoning officer:
    - a.) A map depicting the location and characteristics of existing physical conditions of the property(ies) including but not limited to all improvements and development, mature trees, topography at two (2) foot contours, the delineation of wetlands, and any water features.
    - b.) Existing land uses and zoning of properties within three-hundred and fifty (350) feet of the property;
    - c.) Proposed land uses and building location(s) along with the height, bulk and gross square footage of the uses including the number and size of dwelling units, as appropriate;
    - d.) The location and design of proposed parking areas, roadways, access drives, trails and walkways;
    - e.) Type and square footage of required open space, park and recreational areas;
    - f.) Preliminary grading and drainage plan, including water storage areas, drainage

- calculations and erosion control measures;
  - g.) Preliminary landscape plan indicating the species, size and planting specifications, and tree preservation;
  - h.) A narrative or drawing describing the preliminary exterior elevations of the proposed buildings (principal and accessory) including the type and color of building materials, floor plans, and overall lighting and signage scheme;
  - i.) A preliminary plat of the property in conformance with the procedures and requirements of Chapter 160B – Subdivision Ordinance of Chapter 160, unless modified by this subdivision;
  - j.) A narrative describing the development objectives of the project, proposed development features and all proposed exceptions to or departures from conventional development standards as defined within the zoning district standards of this ordinance, anticipated development timing or phases, a description of covenants or other restrictions proposed for the development; and
  - k.) A traffic impact analysis, if determined to be necessary by the city.
- 3.) The application shall be deemed complete when all information listed in subpart 2 above has been submitted and found to be complete by the zoning officer.
  - 4.) The procedures to review on the master development plan shall occur concurrently with the review of a rezoning to PUD District and shall follow the same procedures as a zoning amendment established in section C, subdivision 4 of this ordinance, including the requirement for a public hearing.
  - 5.) The Planning Commission shall base their comments and the City Council shall base their actions regarding the application for a master development plan on consideration of :
    - a.) The effect of the development on the neighborhood and surrounding area of the city,
    - b.) The impacts of the development on community facilities including but not limited to adjacent roadways and parks,
    - c.) The quality of design of the project and its relationship to adjacent planned uses,
    - d.) The compliance of the application with the purpose and requirements of the PUD District as specified in subparts A-C of this subdivision, and
    - e.) Other such factors as the city finds relevant to the evaluation of the application.
  - 6.) The Planning Commission shall recommend and the City Council shall determine approval, approval with modifications, denial, or continuation of action, if agreed to by the applicant, the application. The City Council shall state the reasons for the extension and the anticipated length of the extension in a written notice to the applicant.
  - 7.) The City Council shall state its reasons for approval, approval with modifications or denial of the application with written notice of the action and reasons provided to the applicant.
  - 8.) If approval or approval with modifications of the application is granted, the Planning Commission may recommend and City Council may attach reasonable conditions to ensure that implementation of the master development plan is consistent with the representations made by the applicant to the city for the project and other conditions deemed necessary and convenient to accomplish the purposes of this zoning district.
- c. Final site and building plan
- 1.) Approval of a final site and building plan by the city is required for each master

- development plan or each phase of the master development plan.
- 2.) A final site and building plan application shall be submitted with the final plat application in conformance with Chapter 160B – Subdivision Ordinance of Chapter 160 to the zoning officer, containing the following information:
    - a.) Final development plan details and required modifications, except for phased developments.
    - b.) Final architectural plans for all uses and detailed site plans for all non-single family detached residential uses. The zoning officer may require the submission of additional information necessary to evaluate the final site and building plans with the approved master plan.
    - c.) Draft covenants and documents for a homeowners association, condominium association, or other joint maintenance mechanism for review by the city attorney and approval by the city that includes:
      - i.) ownership and membership requirements.
      - ii.) organization of the association.
      - iii.) time at which the applicant turns the association over to the members.
      - iv.) approximate monthly or yearly association fee for members.
      - v.) specific listing of items owned in common, including such items as roads, recreational facilities, parking, common open spaces, and utilities, and any public areas subject to association maintenance.
  - 3.) The applications shall be deemed complete when all information listed in subpart 2 above has been submitted and found to be complete by the zoning officer.
  - 4.) The final site and building plan shall be consistent with the approved Master Plan, except as modified and approved by the city.
  - 5.) The applicant may request review and consideration of a combined master development plan and final site and building plan review by the Planning Commission and City Council by submitting all information required for both reviews simultaneously to the city. The same procedure as established in this subpart shall be followed.
  - 6.) The Planning Commission shall recommend and the City Council shall determine either approval, approval with modifications, or denial of the final site and building plan, and final plat. The action shall be based upon the determination that the final site and building plan is consistent or inconsistent with the approved master plan, and the final plat is in conformance with Chapter 160B – Subdivision Ordinance of Chapter 160.

E. Development Agreement and Financial Security:

1. A development agreement shall be entered into with the city to ensure compliance with the terms and conditions of an approved master development plan. The development agreement shall include the uses permitted in the master development plan and all other special conditions and features of the master development plan. The development agreement may be combined with the development agreement required for subdivisions as established in Chapter 160B – Subdivision Ordinance of Chapter 160 to assure conformance with all ordinance requirements and financial guarantees.
2. Financial security shall be submitted to the city in a form acceptable to the city attorney prior to the issuance of any permits by the city to assure that all improvements are constructed consistent with the master development plan and any conditions placed on the approval of the master development plan by the City Council.



- a. The financial security may be combined with that required for subdivision improvements, as established in the development agreement and approved by the City Council.
- b. The city may reduce the financial security after completion of specific segments of the improvements on the PUD District property provided that such improvements are installed in a satisfactory manner as determined by the city.

F. Amendments

1. An amendment to the master development plan shall be required for any proposed development that does not substantially comply with the master development plan approved by the city. Substantial compliance shall mean:
  - a. There is no change in use of any areas of the master development plan;
  - b. There is no change to the phases of development, if a phased master development plan is approved by the city;
  - c. The location of buildings, parking areas or roads are generally in the same location as approved in the master development plan;
  - d. There is no increase or decrease in the:
    - 1.) The number of residential dwelling units by more than five (5) percent;
    - 2.) The gross floor area of non-residential buildings by more than five (5) percent or of any individual building by more than ten (10) percent;
  - e. The number of stories of any building has not increased;
  - f. The amount of open space is not altered in such a way as to change its original design or intended use; or
  - g. Any change creates non-compliance with any special condition attached to the approval of the master development plan.
2. Any other amendment may be made approved by the zoning officer, however the zoning officer may request final review and approval of the amendment by the City Council.
3. The application and review of the amendment to the master development plan requiring City Council review shall follow the same procedures established in subpart D of this subdivision..

G. Term of Approval.

1. If the applicant fails to obtain final site and building plan review for all or a part of the property within one (1) year from the date of master development plan and PUD District rezoning approval, the City Council may rezone the property to the original zoning classification at the time of the PUD District rezoning application or to a zoning classification consistent with the Comprehensive Plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property.
2. The applicant may request in writing and the City Council may approve an extension of time for the applicant to obtain final site and building plan review for all or a part of the property. The request for extension must be considered by the City Council before one (1) year has elapsed from the date of master development plan and PUD District rezoning approval.

# CHAPTER 160B SUBDIVISION ORDINANCE

## SECTION A. TITLE

Chapter 160B shall be known as the Subdivision Ordinance, except as referred to within Chapter 160B, where it shall be known as “this ordinance”.

## SECTION B. PURPOSE, AUTHORITY AND APPLICATION

### Subdivision 1. Purpose

These regulations are established to protect and provide for the public health, safety, and general welfare of the city and to:

- A. Provide for and guide the orderly, economic and safe development and redevelopment of land, and the provision of public services;
- B. Avoid piecemeal and inefficient planning of subdivisions that results in poor traffic circulation, inadequate public services, poorly designed park and trail systems, and undesirable parcels;
- C. Establish reasonable standards of design and procedures for subdivisions and resubdivisions, to provide for the orderly layout and use of land according to the requirements of this ordinance and consistent with the Comprehensive Plan;
- D. Assure that a reasonable portion of subdivisions are dedicated to the public or preserved for public and semi-public uses such as streets, sanitary sewer facilities, public water facilities, storm water drainage and associated facilities, parks and open space, electricity, gas and other similar utilities and improvements;
- E. Provide for the rights of the public to access public lands and waters;
- F. Establish requirements for public improvements to assure that the improvements are constructed to reasonable and safe standards;
- G. Protect and enhance the value of land, buildings and improvements throughout the city; and
- H. Prevent the pollution of air, streams, and lakes; ensure the adequacy of drainage facilities; protect water resources and encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the city.

### Subdivision 2. Authority

- A. The City Council shall serve as the platting authority in accordance with Minnesota State Statutes 462.358 and 505, as may be amended.
- B. No subdivision of land shall be accepted for filing by the Carver County Office of Taxpayer Services unless the subdivision is accompanied by a resolution approving the subdivision adopted by the affirmative vote of the majority of the City Council. The subdivision shall not be valid until it has been filed with the Carver County Office of Taxpayer Services.

### Subdivision 3. Application and Jurisdiction

- A. These regulations shall apply to all subdivisions of land within the city, including registered land surveys.
- B. All subdivisions of land within the city shall meet or exceed the requirements of this section unless the city has granted a variance from the provisions of this section.

- C. The city may impose additional, reasonable standards that are related to the subdivision to protect the public's health, safety and general welfare.

## **SECTION C. BUILDING PERMITS, VARIANCES AND PREMATURE SUBDIVISIONS**

### Subdivision 1. Building Permits

No building permits shall be issued by the city for the construction of any building, structure or improvement within any plat until all requirements of this ordinance have been complied with.

### Subdivision 2. Variances

- A. A subdivision shall not be approved where a variance will be required to use the lots for their intended use.
- B. The Planning Commission may recommend and the City Council may approve variances from this ordinance, provided the variances are not inconsistent with the intent and purpose of this ordinance and the Comprehensive Plan. A variance may only be granted when the City Council finds that all of the following factors pertain to the property for which the variance is requested:
1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.
  2. The conditions upon which the request for variance is based are unique to the property for which the variance is requested and are not generally applicable to other property.
  3. An unusual hardship on the property exists because of the property's particular physical surroundings, shape, or topographical conditions that warrant varying the requirements of this ordinance.
  4. That the conditions or circumstances that cause the unusual hardship do not result from actions of the property owner or the applicant.
- C. In granting the variance, the Planning Commission may recommend and the City Council may impose conditions that it finds necessary or desirable to affect the purposes of this ordinance and to protect the public interest.
- D. A variance from this ordinance shall be requested by the applicant of the subdivision at the same time the preliminary plat application is submitted to the city.
- E. The variance, if granted by the City Council, shall expire one (1) year from the date of preliminary plat approval if the final plat has not been filed with the county unless a request for a time extension is submitted by the applicant and approved by the City Council prior to the date the preliminary plat is to become void.

### Subdivision 3. Premature Subdivisions

- A. The City Council shall deny any preliminary plat of a proposed subdivision that is premature for development according to the certain conditions.
- B. A subdivision may be deemed premature should any of the conditions exist:
1. Inadequate drainage. A condition of inadequate drainage shall exist if:
    - a. Surface or subsurface water retention and runoff is such that it constitutes a hazard on or off the subdivision property resulting in flooding, loss of life, property damages, or other losses.
    - b. Drainage from or caused by the subdivision will contribute pollution to water bodies or damage other natural resources.

- c. The proposed site grading and development will cause damage from erosion, sedimentation, or slope instability off the subdivision property.
  - d. The proposed subdivision fails to comply with the City Surface Water Management Plan requirements and Carver County requirements.
  - e. Factors to be considered in making these determinations may include but are not limited to:
    - 1.) Average rainfall for the area,
    - 2.) Area drainage patterns,
    - 3.) The relationship of the land to floodplains,
    - 4.) The nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems,
    - 5.) The slope and stability of the land, and
    - 6.) The presence of woodlands, wetlands, hydric soils, water bodies, and/or other natural resources.
2. Lack of adequate potable water supply. A proposed subdivision shall lack an adequate potable water supply if the proposed subdivision cannot be connected to the municipal water system due to such factors such as distance, elevation, adequate supply to meet domestic and fire fighting needs and other such factors as determined by the City Council.
  3. Lack of adequate roads to serve the subdivision. A proposed subdivision shall be deemed to lack adequate roads to serve the subdivision when:
    - a. County or local roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and paved surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when the roads are inadequate for the intended use.
    - b. The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on the adjacent or nearby roadways due to the inadequate roadway capacity of the adjacent or nearby roadways existing at the time of the application or proposed for completion within the next two (2) years.
  4. Lack of adequate sewer disposal systems. A proposed subdivision shall be deemed to lack adequate sewer disposal systems if:
    - a. There is inadequate capacity in the present municipal sewer system to accommodate the subdivision when fully developed, or
    - b. The subdivision is located outside of the current or future utility service area, or
    - c. Conditions exist causing the lots within the subdivision to be unable to meet the requirements of this ordinance and the Minnesota Pollution Control Agency.
  5. Public service capacity. The city, county or School District lacks necessary public service capacity when services such as recreational facilities, schools, police and fire protection and other public facilities, which must be provided at public expense, cannot reasonably be provided for within the next five (5) years.
  6. Inconsistency with capital improvement policies. A proposed subdivision shall be deemed inconsistent with capital improvement policies when the city or county has not programmed improvements and/or services necessary to accommodate the proposed subdivision. This provision may be waived when it can be demonstrated that a revision to capital improvement policies can be accommodated.

- C. Burden of Evidence. The burden shall be upon the applicant or owner to show evidence that the proposed subdivision is not premature.

## **SECTION D. PROCEDURES**

### Subdivision 1. General

- A. All subdivisions shall be platted or described by Registered Land Survey in accordance with Minnesota Statute 505. No subdivision shall be allowed if the conveyance is described by metes and bounds.
- B. Registered Land Surveys
1. All registered land surveys shall be filed with the county and the zoning officer according to the procedure required for the filing of a preliminary plat.
  2. The standards and requirements of this section shall apply to all registered land surveys.
  3. Unless approved by the City Council, a registered land survey shall not be used to divide a parcel of land into lots for the purpose of transfer of ownership or building development, if any of the tracts do not have the required frontage on a dedicated public street.
- C. The city shall not approve any preliminary plat unless a public hearing is held in accordance with Minnesota Statutes 462.358.
- D. The applicant shall pay all reasonable fees and other extraordinary costs incurred by the city for the review of the subdivision. The zoning officer shall deposit all fees and payments in the city account. These fees shall include:
1. An application fee as specified by Chapter 30 of the Code of Ordinances to recover costs associated with the administration and review of the subdivision.
  2. Costs incurred by the city for the subdivision review by city consultants, as required, such as the city engineer, city planner and city attorney. The applicant shall deposit fees in an escrow account or other form of financial security, approved by the city attorney, at the time of submission of the subdivision application to the city in an amount established by resolution of the City Council.
- E. No improvements shall be installed unless the preliminary plat is approved by the City Council, and no public funds shall be expended for road and utility maintenance services until the City Council has approved the final plat.

### Subdivision 2. Minor Subdivisions.

- A. The provisions of this subdivision shall only apply to minor subdivisions that are defined as:
1. Moving a lot line between no more than two (2) existing lots.
  2. Platting of county or city road rights-of-way.
  3. A division of a lot along a party wall(s) of a multi-family building provided that the multi-family building is existing; the lot line(s) is along an existing, common wall; and verification that the building will meet building code requirements with the new lot line.
  4. The creation of no more than three (3) lots provided that no new public road is created or required by the city and that all lots have the minimum required frontage on a public road.
  5. Subdivisions creating separate lots to be combined with adjacent parcels provided that the newly created lots or parcels, when combined, meet all dimensional and area requirements this ordinance and Chapter 160A - Zoning Ordinance.

- B. The applicant shall submit the following information:
1. A complete application for a minor subdivision on a form provided by the city.
  2. Copies (of a number determined by the city) of a certificate of survey prepared by a registered land surveyor that includes:
    - a. Legal descriptions for the parcels to be created,
    - b. The existing and proposed lot lines and dimensions,
    - c. Lot acreage,
    - d. Existing and proposed structures and utilities,
    - e. Existing and proposed easements, and
    - f. A wetland delineation, as required by the Wetland Conservation Act.
  3. Title evidence for the property in a form acceptable to the city attorney.
  4. Fees in accordance with subdivision 1, subpart D of this section.
- C. Review Procedure
1. The zoning officer shall schedule the review of the minor subdivision at a Planning Commission meeting after submission of a complete application by the applicant.
  2. The zoning officer may provide a courtesy notice to property owners abutting the proposed minor subdivision property prior to action by the Planning Commission.
  3. The Planning Commission shall determine if the minor subdivision complies with this ordinance and the Comprehensive Plan, and shall recommend that the City Council approve, approve with modifications, or disapprove the application. The Planning Commission shall state reasons for their recommendation regarding the minor subdivision to the City Council.
  4. The City Council shall act to approve, approve with modifications, or deny the minor subdivision application within one hundred and twenty (120) days of submittal of a complete application, unless the applicant agrees to a delay in writing.
  5. The City Council shall approve, approve with modifications, or disapprove the application and shall include findings of fact as part of the official record of the City Council decision.
- D. The minor subdivision shall comply with all standards as required in section D – Subdivision Design Standards of this ordinance.
- E. Recording
1. The applicant shall submit easements, agreements and other documents pertaining to essential services and access provided to the property and their maintenance to the city attorney for review and approval as to form before the subdivision is filed with the county.
  2. The applicant shall furnish evidence that the subdivision documents, including any agreements or easements, have been filed with the county within six (6) months of the City Council approval or before a building permit is requested, whichever occurs first.

Subdivision 3. Sketch Plan Review

- A. Prior to the filing of the preliminary plat, the applicant shall submit a sketch plan depicting the proposed subdivision and property development to serve as the basis for informal discussion and review with the Planning Commission and zoning officer. This requirement may be waived by the city if the same development of the property has been previously reviewed by the Planning Commission.

- B. The applicant shall submit ten (10) copies of the required information for sketch plan review to the zoning officer a minimum of ten (10) business days prior to the next regularly scheduled Planning Commission meeting.
- C. The following information is required for sketch plan review:
  - 1. The proposed lot layouts and size, intended land use, general street layout, and generalized natural features.
  - 2. Any required zoning amendments and/or amendments to the Comprehensive Plan.
  - 3. A narrative explaining the applicant's interest in the property, timing and staging of the development.
- D. The Planning Commission will informally advise the applicant of the extent to which the proposed subdivision conforms to the requirements of Chapter 160 and the Comprehensive Plan, and will discuss possible plan modifications as necessary to ensure conformance with this ordinance and any other city requirements.
- E. Any comments and recommendations by the Planning Commission are advisory and shall not constitute approval or a commitment to approve a request for any preliminary plat approval for the property.

Subdivision 4. Preliminary Plat

- A. Following sketch plan review, the applicant shall submit the following to the zoning officer:
  - 1. A completed application on a form provided by the city and documents demonstrating the applicant has sufficient interest in the property to apply for a subdivision.
  - 2. Ten (10) copies of the preliminary plan including an 8 ½" x 11" reproducible copy and supporting documentation of the proposed subdivision containing information required in section E – Preliminary and Final Plat Submittal Requirements of this ordinance.
  - 3. Fees in accordance with subdivision 1, subpart D of this section, including those required for the calculation of existing or planned special assessments.
  - 4. A county certified list of the names and addresses of owners of properties within a three hundred and fifty (350) foot radius of the property to be subdivided.
- B. The zoning officer shall determine if the application is complete and notify the applicant if the application and/or supporting documentation is found incomplete and shall identify the items required to complete the submittal.
- C. The zoning officer may distribute copies of the complete application and preliminary plat to the following persons and agencies for review and comment prior to consideration by the Planning Commission and City Council:
  - 1. Other staff, as may be appropriate, including any other city consultants.
  - 2. The Carver County Engineer, if abutting a county road, or access is requested from a county road,
  - 3. The Carver County Planning and Zoning Department for review of applicability of watershed management rules, and
  - 4. Any other state or county agency as required or deemed appropriate by the zoning officer.
- D. Planning Commission Public Hearing
  - 1. The zoning officer shall set a date for a public hearing within thirty (30) days of receipt of a

complete application.

2. A notice of the public hearing shall be published by the zoning officer in the city's official newspaper and mailed to property owners within three hundred and fifty (350) feet of the property to be subdivided a minimum of ten (10) days prior to the hearing. The public hearing notice shall state:
  - a. The date, time, and location of the hearing before the Planning Commission;
  - b. A description of the request to be heard; and
  - c. The address or location of the property to be subdivided.
3. The zoning officer shall submit any comments from city staff, consultants or any agency pertaining to the preliminary plat, and the preliminary plat to the Planning Commission for review.

E. Planning Commission Hearing and Action

1. The Planning Commission may request the applicant to submit additional information, relevant to the subdivision, to properly consider the plat before or after the public hearing.
2. The Planning Commission shall determine whether the preliminary plat conforms to this ordinance, the Comprehensive Plan and any other city regulations.
3. The Planning Commission shall recommend that the City Council approve, approve with modifications or deny the preliminary plat. If the Planning Commission recommends that the City Council deny the preliminary plat, the zoning officer shall notify the applicant of the reason(s) for denial.
4. The zoning officer shall forward the Planning Commissions recommendation and/or proceedings to City Council for consideration.

F. City Council consideration and action.

1. The City Council shall consider any comments submitted by the staff, agencies and the public; and the recommendation and/or proceedings of the Planning Commission.
2. The City Council shall act on the preliminary plat within one hundred and twenty (120) days of submittal of a complete application to the city, unless the applicant agrees to a delay in writing.
3. The City Council shall approve, approve with modifications or deny the preliminary plat, and shall include findings of fact as part of the official record of the City Council decision.
4. If the City Council approves the preliminary plat, the applicant may complete a final plat in accordance with the requirements of this section.
5. The preliminary plat shall be void if the final plat has not been approved by the City Council within one (1) year from the date of preliminary plat approval, unless a request for a time extension is submitted by the applicant and approved by the City Council prior to the date the preliminary plat is to become void.

Subdivision 5. Final Plat

A. Review Requirements

1. The final plat shall be in substantial compliance with the preliminary plat and shall incorporate all of the conditions of the City Council approval of the preliminary plat.
2. If the final plat is for a portion of the preliminary plat, the applicant must submit the remainder of the preliminary plat as a final plat within three (3) years from the date of preliminary plat



approval or that portion of the preliminary plat shall become void unless a request by the applicant for a time extension is approved by the City Council.

B. Application Requirements: The applicant shall submit the following to the zoning officer:

1. A completed application on a form provided by the city and the following:
  - a. Ten (10) copies of the final plat including an 8 ½" x 11" reproducible copy of the final plat and information required in section C of this ordinance.
  - b. An up-to-date certified abstract of title or registered property report, and such other evidence, as the city attorney or zoning officer may require showing sufficient title or control in the applicant.
  - c. Fees in accordance with subdivision 1, subpart D of this section.
2. The zoning officer shall determine if the information is complete and notify the applicant if the application and/or final plat information is found incomplete and shall identify the items required to complete the submittal.
3. The zoning officer shall distribute copies of the complete application and final plat to any other staff, city consultants, or any other person or agency deemed appropriate by the zoning officer.

C. Planning Commission Review.

1. The zoning officer shall submit the final plat and any comments from city staff and consultants and any agency or person to the Planning Commission.
2. The Planning Commission shall review the final plat and all supporting documentation to determine compliance with the preliminary plat approval and provide a recommendation to the City Council.
3. The Planning Commission recommendation and/or proceedings shall be forwarded to City Council for consideration.

D. City Council Consideration and Action.

1. The City Council shall act on the final plat within sixty (60) days of the date the zoning officer has determined the application, final plat and supporting documentation is complete and meets the requirements of this section, unless the applicant agrees to a delay in writing.
2. The City Council shall consider conformance of the final plat to the preliminary plat approval, the comments of the staff and recommendations and/or proceedings of the Planning Commission, and state statute requirements.
3. The City Council shall approve or deny the final plat and include findings of fact supporting the motion that shall be entered into the proceedings of the City Council and transmitted to the applicant in writing.
4. Upon approval by the City Council, the applicant shall submit a reproducible mylar print or other permanent prints suitable for recording and meeting the requirements of state statute and Carver County Office of Taxpayer Services for signatures by the city.

E. Recording of Final Plat

1. The applicant shall record the final plat with the Carver County Office of Taxpayer Services within one (1) year of the City Council approval of the final plat. No changes, modifications or revisions shall be made to the final plat after the plat has been approved by the City Council.
2. Immediately upon recording, the applicant shall furnish the city with one (1) print of the final plat showing evidence of the recording and an electronic copy of the final plat.

3. The city will not issue any permits for the property unless the applicant:
  - a. Has furnished evidence that the plat has been filed with the county,
  - b. Submitted an electronic copy of the final plat to the city in a format acceptable to the city, and
  - c. Paid all required fees associated with the review of the preliminary and final plat to the city.

**SECTION E. PRELIMINARY AND FINAL PLAT SUBMITTAL REQUIREMENTS**

Subdivision 1. Preliminary Plat

The preliminary plat shall contain or be accompanied with the following information:

A. Identification and Description

1. The proposed name of the subdivision, which shall not duplicate or be similar in pronunciation or spelling to the name of any other plat recorded in the county,
2. Correct legal description of the existing property (ies),
3. A north arrow and a graphic scale that is not less than one (1) inch to one-hundred (100) feet,
4. Vicinity map of area showing geographical points for orientation within a three-hundred and fifty (350) foot radius of the preliminary plat,
5. Names and addresses of the property owner(s), the applicant, the surveyor of the plat, and applicant's engineer, as appropriate, and
6. Date of preliminary plat preparation.

B. Existing Features and Conditions.

1. A certificate of survey of the property (ies) that comprise the preliminary plat including all contiguous land owned or controlled by the owner(s) of the property (ies) to be subdivided.
2. The total acreage of the property to be subdivided.
3. The existing zoning classification and land use for the property(ies) to be subdivided and properties within one-hundred (100) feet of the subdivision including floodplain, wetlands and shoreland areas.
4. The following existing improvements and encumbrances within the property to be subdivided and to a distance of one hundred (100) feet beyond the property boundaries:
  - a. Public and private properties, structures, easements or other encumbrances and their purpose, and public boundaries
  - b. Location, right of way, width and names of existing or platted streets or other public roadways;
  - c. The location and width of private driveways, roads and accesses;
  - d. The location, size and capacity of existing and abandoned drainage and storm water facilities;
  - e. The location, size and invert elevations of any utilities and associated structures including private wells; and
  - f. Other essential services and telecommunication facilities including poles and corridors; and
5. The following topographic data and natural features within the property to be subdivided and to a distance of one hundred (100) feet beyond the property boundaries:
  - a. Topography showing contour intervals of no more than two (2) feet,

- b. Water courses, drainageways, lakes and wetlands. Wetlands within the property to be subdivided shall be delineated in accordance with the Wetland Conservation Act, and
    - c. The ordinary high water level, the Flood Insurance Rate Map (FIRM) zone line and one hundred (100) year flood elevations,
  - 6. Other information as required by the zoning officer.
- C. Proposed Features and Conditions
- 1. Proposed lot and block layout, lot lines and dimensions including acreage, and lot and block numbers of all new lots.
  - 2. Proposed uses of all lots within the subdivision including public areas, drainage areas and common open space.
  - 3. The minimum required setbacks, including those required by public agencies from any public facilities, water resources, or adjacent land uses.
  - 4. The location and general design of individual access from lots within the subdivision to public roads.
  - 5. Location, right of way, width, drainage facilities and profiles of all proposed roads and pedestrian/bicycle trails and a narrative describing planned short and long-term road maintenance responsibility.
  - 6. Location, right of way and width of any road extensions to adjacent property (ies), as required by the zoning officer.
  - 7. Location, dimensions and purpose of all proposed easements.
  - 8. Stormwater pollution prevention plan that meets the requirements of the city Surface Water Management Plan and county requirements including:
    - a. Grading plans showing how the subdivision will be graded and the final contours of the property (ies),
    - b. Drainage facilities and any required design computations,
    - c. Erosion control measures to prevent erosion and sedimentation both during and after development,
    - d. Construction schedule,
    - e. Location of rock construction entrance, and
    - f. Plan for maintenance and inspections.
  - 9. Location and preliminary design including profiles of public sanitary sewer and public water.
  - 10. Tree preservation and landscape plan.
  - 11. If the entire property(ies) will not be subdivided, a sketch showing how the remaining property(ies) can be subdivided in compliance with the Comprehensive Plan and this ordinance, and how access will be provided.
  - 12. Any proposed protective covenants, restrictions or homeowner association documents.
- D. The zoning officer or the Planning Commission may require the submission of a sketch plan demonstrating how the proposed subdivision will relate to the layout, land use and access of the existing and potential subdivisions of adjacent properties.
- E. Other information as required by the zoning officer or Planning Commission.

Subdivision 2.      Final Plat

- A. The form and content of the final plat shall conform to the county requirements and Minnesota State Statute 505, as may be amended from time to time, and shall include:
  - 1. The name of the subdivision that shall not duplicate or be similar to any existing subdivision names in the county.
  - 2. The boundary line of the property included with the plat, fully dimensioned, including:
    - a. All angles of the boundary excepting the closing angle,
    - b. All monuments and survey's irons, and
    - c. Each angle point of the boundary perimeter to be monumented.
  - 3. All lot, block and outlot dimensions, including all necessary angles and other information to reproduce the plat on the ground.
  - 4. Lots and blocks clearly numbered and labeled in numerical order.
  - 5. Streets and roadways named, as approved by the city and county, with all dimensions including horizontal curve data and the lengths of all areas.
  - 6. The location, dimensions and purpose of any area to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision.
  - 7. The location, dimensions and purpose of all easements to be dedicated.
  - 8. Certification by a registered land surveyor as required by Minnesota Statutes 505.03, as may be amended.
  - 9. Space for:
    - a. Signatures of all owners of any interest in the land and mortgage holders in a form required by the county,
    - b. Certification of approval and signature of the Mayor and space for attestation of the signatures by the City Clerk, and
    - c. Certificates of approval and review as required by the county.
- B. The final plat shall be accompanied with a copy of all private restrictions or covenants, and homeowner association documents for the subdivision in a form approved by the city attorney.

**SECTION F.      SUBDIVISION DESIGN STANDARDS**

Subdivision 1.      General

- A. No subdivision shall be approved if the property is not suitable for the proposed land uses of the plat because of potential flooding, topography, inaccessibility, adverse soil conditions, rock formations or protected waters or wetlands.
- B. Subdivisions shall be designed to complement the surrounding properties, natural features, environmental conditions and public access to allow for coordinated, attractive and efficient development within the city and environs.
- C. If the subdivision plan shows that one or more lots may be resubdivided in compliance with the zoning district of the property and/or the Comprehensive Plan, the city may require the platting of public right of way and/or dedication of easements to allow for the extension of public roads.
- D. In addition to this ordinance, the design of all improvements required by the subdivision shall comply with the:

1. The plans and specifications approved by the city pertaining to the design of street, sidewalk, trail, municipal sewer and water facilities,
2. The city Surface Water Management Plan, as amended from time to time, and
3. The county requirements for surface water management.

Subdivision 2. Block and Lot Standards

A. Blocks. All blocks shall be designed to meet the following minimum standards:

1. Blocks shall be designed to provide two (2) tiers of lots except if the property adjoins a lake, stream, railroad or minor arterial roadway or where one tier of lot is necessary because of topographic or environmental conditions.
2. The maximum block length shall not exceed one thousand eight hundred (1,800) feet nor be less than six hundred (600) feet in length to serve cross-traffic adequately and to meet existing streets, except where topography or other conditions justify a departure from this standard.
3. The city may require the placement of rights-of-way and/or easement(s) for pedestrian/bicycle trails through the block to provide access to parks and pedestrian/ bicycle oriented destinations.
4. Blocks intended for business or industrial use shall be designed to satisfy the zoning district requirements and accommodate adequate space for off-street parking, deliveries and loading in locations where safe and convenient limited access to the roadway system exists.

B. Lots. All lots shall be designed to meet the following minimum standards:

5. The area and dimensional standards for the zoning district in which the lot is located, and demonstration that the lot can accommodate the intended use and meet all required setbacks and any applicable zoning provisions.
6. A minimum of forty (40) feet of lot frontage along a public street.
7. Each lot shall be of sufficient size to provide for the off-street parking and loading facilities required for the type of use contemplated, as established in Chapter 160A - Zoning Ordinance.
8. Side lot lines shall be at right angles to street lines or radial to curved street lines unless the city determines that due to topographic conditions an alternative layout will result in a better street or lot plan.
9. Corner lots shall contain sufficient width and depth to comply with the front yard building setback requirement from both streets.
10. Double-frontage lots shall not be permitted except where topographic or other conditions make subdividing otherwise unreasonable.
11. When a lot within a subdivision is large enough to be further subdivided according to the zoning district the property is located within, the lot shall be arranged to permit the logical location and openings of future roads and utilities, and resubdivision.
12. All lot remnants below the minimum required dimensions for the zoning district of the lot must be added to adjacent or abutting lots unless the applicant can demonstrate an acceptable use for the remnant to the city.
13. No outlots shall be created except when related to the phasing of development or for a specific purpose as approved by the City Council. No outlots shall become buildable unless approved by the City Council.

C. Lot Access (Driveways).

1. All lots shall be provided with direct access to an improved public roadway, or a private roadway within a PUD District that has been approved by the City Council.
2. All lots within the subdivision shall be provided access from the subdivision roadway unless the subdivision contains no roadway or the City Council finds that topography, environmental conditions or existing development prohibits access from the subdivision roadway.
3. All driveways shall be constructed of concrete or bituminous and installed within one (1) year of issuance of a building permit for the house served by the driveway.
4. A shared driveway may serve no more than two (2) single-family lots. Private cross access easements and a cooperative maintenance agreement in a form approved by the city attorney shall be filed with the county and a copy submitted to the city prior to the issuance of a certificate of occupancy for any home served by the driveway.
5. The following shall apply to lots that obtain access from a minor arterial or collector roadway:
  - a. A maximum of one access per lot shall be permitted.
  - b. The driveway shall have a turn-around area to prevent backing onto the roadway.
6. For double frontage or corner lots, access shall be obtained from the lower functional class roadway.
7. Commercial/industrial accesses shall also meet the following standards:
  - a. The city engineer in review of Mn/DOT standards shall determine the minimum spacing between accesses, or between an access and a public road. If lot frontage is inadequate to meet this requirement, access via a shared entrance or cross-access easement with adjacent property shall be required.
  - b. Turn lanes shall be provided as required by the city engineer to improve safety.

Subdivision 3. Streets

- A. The arrangement and function of streets designed within a subdivision shall be consistent with the Comprehensive Plan and include consideration of:
  1. Reasonable traffic circulation within the subdivision and the existing and future supporting road network,
  2. Topographic, vegetation and environmental conditions,
  3. Wetland preservation,
  4. Proper storm water drainage,
  5. Public convenience and safety, and
  6. The proposed uses of the area to be served.
- B. Streets shall be designed to:
  1. Provide access to all lots within the subdivision and to adjacent un-subdivided parcels, when reasonable and practical; and
  2. Connect with existing and planned streets in adjoining or adjacent subdivisions, or to provide for future connections to adjoining unsubdivided parcels.
- C. Reserved strips and land-locked areas or parcels; alleys constructed after the date of adoption of this

ordinance; dead-end streets and private roads are prohibited, except for private roadways approved by the City Council within a PUD District.

- D. All streets shall be dedicated for public use and the roadway shall be located within the street right of way. If a proposed subdivision includes an existing private roadway, the private roadway shall be dedicated for public use and improved to public street standards.
- E. Cul-de-sacs are permitted when designed to permit future road extensions into adjoining properties or where topography, environmental, land use or existing conditions justify their use as approved by the City Council.
  - 1. Permanent cul-de-sac roads shall not exceed five hundred (500) feet in length, as measured along the centerline from the nearest intersection to the center point of the cul-de-sac bubble.
  - 2. The road right of way for a temporary cul-de-sac shall be continued to the property line to permit future extension to the adjoining property. Right of way for a temporary turnaround shall be provided at an appropriate location near the adjacent property.
  - 3. The land included for a temporary turnaround that is no longer needed for right of way when the road is extended to adjacent property shall revert to the abutting property owners.
- F. Wherever the proposed subdivision includes or is adjacent to the right of way of an arterial roadway, or railroad right of way, the City Council may require the platting and installation of a frontage or backage road. The distance of the frontage/backage road intersection from the arterial roadway or railroad shall be based upon the function of the intersecting roads, existing and future traffic volumes, land use, lot depths, and other factors that contribute to the design of safe and convenient access.
- G. Subdivision road access spacing shall be as follows:
  - 1. No less than five hundred (500) feet onto local roads.
  - 2. No less than one-quarter (1/4) mile onto local collector roads.
  - 3. As required by the county or Mn/DOT requirements on minor arterial or other arterial roads.
- H. All street connections to minor arterials and collector roads shall be located to provide adequate intersection sight distance, as determined by the city engineer.
- I. No public street connection shall be located within a turn lane to another public street or a private driveway.
- J. The minimum right-of-way widths and pavement widths (face to face of curb) for each type of public road shall be as follows:

<u>Type of road</u>	<u>Right of way width</u>	<u>Pavement width</u>
1. Minor arterial road	eighty (80) feet	thirty-six (36) feet
2. Collector street	seventy (70) feet	thirty-six (36) feet
3. Local street	sixty (60) feet	thirty-two (32) feet
4. Cul de sac – bubble	one-hundred eighty (180) feet diameter	one-hundred twenty (120) feet diameter

- K. Where a subdivision abuts or contains an existing road of right of way width that is less than required, additional width shall be dedicated to meet J. above.
- L. Dedication of substandard width right of way and roads to the city may be approved by the City Council where:

1. The proposed right of way is adjacent to a platted right of way and, when combined, the rights of way meet the requirements of this ordinance,
  2. The city finds that such dedication will allow for reasonable access and circulation when the adjoining property is subdivided, or
  3. Where satisfactory assurance to the city for dedication of the remaining part of the street can be secured.
- M. The City Council may require the dedication of additional right of way and pavement width within subdivisions, as permitted by law, to accommodate anticipated traffic volumes in a manner that promotes public safety and convenience.
- N. Roadway design shall comply with the following:
1. Road jogs with centerline offsets of less than one hundred fifty (150) feet shall not be allowed.
  2. When connecting road lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius of not less than one hundred (100) feet.
  3. Centerline gradients shall be at least four (4) percent and but no greater than eight (8) percent on local roads.
  4. Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall be twenty (20) times the algebraic difference in the percent of grade of the two (2) adjacent slopes.
  5. The angle formed by intersecting streets shall not be less than eighty (80) degrees, with ninety (90) degree intersections preferred.
  6. Intersections of more than four (4) corners shall be prohibited.
  7. Roadways of street intersections shall be rounded by a radius of not less than fifteen (15) feet. Corners at entrances to the turn-around portions of cul-de-sacs shall be designed for installation along both sides of all roadways.

Subdivision 4. Street Lights, Mail Boxes and Public Street Signs

1. A street light fixture of a design approved by the city shall be provided at each street intersection within or abutting the subdivision in a location(s) to be approved by the city engineer and matching adjacent street lighting.
2. All mailboxes shall be placed in locations approved by the US Postal Service and mailboxes serving homes on cul de sacs shall be grouped in a location approved by the city engineer.
3. The type and location of public street name, regulatory and traffic control signs shall be determined by the city engineer and provided within the right of way of the subdivision.

Subdivision 5. Trails and Sidewalks

- A. Pedestrian/bicycle trails or sidewalks shall be located in areas of the subdivision as required by the city.
- B. All pedestrian/bicycle trails or sidewalks shall be placed in the public right-of-way or within easements that are a minimum of twenty (20) feet in width.
- C. The design of the pedestrian/bicycle trails or sidewalks shall be in conformance with the city engineer's requirements as approved by the City Council.



Subdivision 6. Sanitary Sewer and Water Utilities

- A. New subdivisions must be served with public sanitary sewer and public water. Sewer and water systems shall be provided according to the specifications of the city engineer, as approved by the City Council.
- B. Public sewer and water facilities, including fire hydrants, shall be designed to serve each lot in the subdivision.
- C. Sewer and water trunk lines shall be extended to the lot lines of abutting sites that do not have municipal sewer and water service.
- D. The city may require oversizing of utilities to provide future service for more intense development of the land or to provide future service to other areas.

Subdivision 7. Drainage and Water Quality

- A. All subdivisions shall include provisions or facilities that control the quantity and quality of stormwater runoff.
- B. A stormwater pollution prevention plan shall be required for the subdivision that complies with the goals and policies of the city Water Management Plan and the requirements of the County Water Management Plan.
- C. Drainage facilities shall be of an adequate size to accommodate upstream drainage areas that may be located outside of the boundaries of the subdivision.
- D. No stormwater drainage within a subdivision shall be designed to enter the public sanitary sewer system.
- E. All subdivisions shall be designed and constructed in accordance with Best Management Practices to treat storm water discharge.
- F. Private storm water facilities shall be maintained as follows:
  - 1. All private storm water facilities shall be privately maintained in proper condition consistent with the performance standards for which they were originally designed.
  - 2. All settled materials from drainage facilities shall be removed and properly disposed of on an annual basis as required by the city engineer.

Subdivision 8. Erosion and Sediment Control

- A. The design of the subdivision shall conform to the overall topography of the land, to the extent reasonable, to minimize the potential for erosion and sedimentation resulting from land disturbing activities.
- B. No subdivision shall be approved that requires land disturbing activities unless erosion and sedimentation controls are submitted to the city as part of the stormwater pollution prevention plan that meets the requirements of the city Water Management Plan and County Water Management Plan requirements.
- C. Easements for drainage and utilities of at least ten (10) feet wide shall be provided on all lot lines. In the case of side or rear lot lines, these may be centered on the lot line.
- D. Drainage easements shall be provided along each side of the centerline of any watercourse or drainage channel; and over ponding and wetland areas to a sufficient elevation as determined by the city engineer to provide protection of property, proper maintenance, storm water runoff, and for installation and maintenance of public utilities.

- E. Utility easements shall connect with easements established on adjoining properties.
- F. All easements shall be dedicated to the city for the required use and shall be shown on the final plat in accordance with county requirements.

Subdivision 9. Tree Preservation and Landscaping Requirements

- A. A tree preservation and landscaping plan shall be prepared for all subdivisions containing three (3) or more lots.
- B. All subdivisions shall be planned, designed and maintained so that:
  - 1. Existing healthy trees and native vegetation on the site are preserved to the maximum extent feasible and are protected during construction by techniques approved by the city.
  - 2. Existing native vegetation shall not be disturbed, injured, or removed prior to grading and site development.
  - 3. Prior to issuance of a grading permit for the subdivision, the applicant or owner shall indicate the measures to be utilized for protection of significant trees that may include, but are not limited to:
    - a. Installation of snow fencing or similar device at the drip line.
    - b. The prohibition of fill placed against the trunk, on the root crown, and under the drip line of the tree.
    - c. Installation of erosion control measures.
    - d. Prevention of spillage or leakage of harmful or toxic materials near tree preservation areas.
    - e. Prohibition of pruning of oak trees from April 15 through July 1.
  - 4. The tree preservation plan and protection measures shall be followed during all grading activities including subdivision development and home construction.
- C. Each new subdivision shall include the equivalent of two (2) shade trees per lot meeting the following standards:
  - 1. All trees are to be planted at least within five (5) feet outside of the right-of-way of the road or roads within and abutting the subdivision.
  - 2. All shade trees shall have a minimum trunk diameter (measured twelve inches above ground level) when planted of not less than two (2) inches.
  - 3. The shade tree species to be planted shall be limited to oak, honey locust, hard maples, ginkgo, or other long-lived shade trees, acceptable to the City Council.
  - 4. The location of all new trees to be provided shall be approved by the zoning officer.

**SECTION G. PARK DEDICATION.**

Subdivision 1. Purpose and Application

- A. The purpose of the city park dedication requirements is to:
  - 1. Provide areas in the city for public parks, recreational facilities, playgrounds, trails or open space as allowed by Minnesota Statute 462.358, Subd. 2b, as may be amended.
  - 2. Allow and enhance active and passive recreational opportunities for city residents and visitors as a part of overall community development and improvement activities.
  - 3. Require a reasonable contribution of land or funds from subdivision development that result in

additional demands on city parks, trails, open spaces and associated facilities in order to maintain commensurate amounts of park and open space opportunities within the city.

B. The park dedication requirements shall be applied to all subdivisions as follows:

1. The applicant for a subdivision of land into more than one lot shall dedicate land for parks, playgrounds, public open spaces and pedestrian bicycle/trails or sidewalks, or make a cash contribution to the city's Park Fund as provided for in this section. The city may elect to receive a combination of cash, land and/or private park and open space development, in accordance with Subdivision 2 of this section, as the park dedication requirement.
2. Property that is resubdivided with the same number of lots shall be exempt from all park dedication requirements.
3. The park dedication requirement shall be in addition to property dedicated in fee title or as easement to the city or another government agency for public streets or other public improvements unrelated to parks, open space and trails.
4. The property to be conveyed as the park dedication requirement shall not be used in calculating any of the density, lot area or dimensions, or open space requirements of the zoning district of the property.
5. If the number of lots within a subdivision is increased or if land outside the previously recorded subdivision is added, the park dedication requirement shall be based on the additional lots and on the additional land being added to the plat.
6. The applicant of a PUD District with mixed land uses shall make cash and/or land park dedication contributions in accordance with this section based upon the acreage of land devoted to commercial or industrial uses and the number of residential units.

Subdivision 2. Dedication Requirements

A. Land Dedication

1. In all new subdivisions, ten (10) percent of the gross area to be subdivided shall be dedicated for public park and open space or related public use.
2. Land to be dedicated shall be reasonably suitable for park and open space activities as determined by the city and shall be at a location that is convenient to the public. Factors used in evaluating the adequacy of proposed park and open space areas shall include size, shape, topography, geology, hydrology, tree cover, access, location and consistency with the Comprehensive Plan.
3. Land that is occupied by floodplain or wetlands, or is required for stormwater ponding areas, drainageways or essential services as defined in Minnesota Statute 462.358, Subd. 2b. may not be considered as the parkland dedication to the city.
4. The preliminary plat shall show the location and dimensions of all park, trail and open space areas proposed for dedication to the city. The Planning Commission shall provide a recommendation regarding the location and adequacy of the proposed park and open space area to the City Council.
5. Property designated for parks or open space in the Comprehensive Plan shall be dedicated to the city or other appropriate governmental unit. If the applicant elects not to dedicate more area than required by this subdivision, the city may acquire the additional land through purchase or condemnation.
6. Private park and/or open space proposed within the subdivision may fulfill all or a part of the

requirement for park dedication at the discretion of the city. The private park and/or open space area shall be designated and protected for long-term park and/or open space purposes in a form to be approved by the city attorney.

**B. Cash Contribution**

1. The applicant shall be required to pay an equivalent cash fee if the subdivision is insufficient in area or unsuitable for all or a part of public park and open space dedication requirement established in subpart A above.
2. The equivalent cash fee shall be based on ten (10) percent of the fair market value of the gross area of land to be subdivided.
3. The fair market value shall be determined for undeveloped land at the day of final plat approval by the City Council in accordance with the following:
  - a. The city and the applicant may agree as to the fair market value based upon a current appraisal.
  - b. The market value of the property as determined by a recent selling price of the land to be platted.

**Subdivision 3. Payment**

- A. The terms for the payment of the park dedication cash fee for each land use shall be included in the development agreement and in no event shall be later than issuance of a building permit for the property.
- B. Park cash contributions shall be deposited in the city's Park Fund and shall only be used for the acquisition or improvements of public parks, recreational facilities, playgrounds, trails or open space.

**SECTION H. INSTALLATION AND CONSTRUCTION OF BASIC IMPROVEMENTS.**

**Subdivision 1. Development Agreement Required**

After receiving preliminary plat approval, the applicant may construct the required improvements within the subdivision in accordance with city requirements, provided that the applicant enters into a Development Agreement with the city, as established in section I of this ordinance.

**Subdivision 2. Payment for Required Improvements**

- A. The required improvements listed in this section shall be furnished and installed at the sole expense of the applicant except as provided in subdivision B below, and the applicant shall pay for all costs of inspection by the city in compliance with the requirements of the city engineer, as approved by the City Council.
- B. If any improvement installed within the subdivision will be of substantial benefit to property outside the subdivision boundaries, the city may assess the respective portion of the improvement cost to the benefited property. In such a situation, the applicant will be required to pay for the portion of the improvement cost that benefits property within the subdivision.

**Subdivision 3. Required Basic Improvements**

**A. Monuments**

1. Official permanent monuments shall be placed as required by Minnesota Statutes, Section 505.02, as may be amended.
2. All monument markers shall be correctly in place upon final grading and installation of utilities.

3. All federal, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

B. Streets, Sidewalks and Trails

1. Streets shall be graded the entire width of the right-of-way and shall provide a boulevard section, in addition to the minimum pavement width.
2. The portion of the right of way outside of the pavement or surface material shall be sodded.
3. All roads shall have a sub-base and shall be improved with concrete or bituminous surface, in accordance with the following:

<u>Classification</u>	<u>Pavement Design: Axle Load</u>
minor arterial, collector streets and streets serving commercial or industrial uses:	10 ton minimum
local streets:	7 ton minimum

4. Soil samples shall be collected and analyzed by a testing laboratory with a report submitted to the city engineer with the street pavement plans before construction. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding three hundred (300) feet unless otherwise approved by the city engineer.
5. Concrete curb and gutter, of a design to be approved by the city engineer, shall be constructed on both sides of all streets.
6. The design and type all street name and traffic control signs, mailboxes and street lighting fixtures shall be approved by the city engineer, and provided and installed by the applicant.
7. All sidewalks shall be constructed of concrete four (4) inches thick placed on a four (4) inch gravel base. Grades shall be as approved by the city engineer. Sidewalks shall be placed in the public right-of-way, one foot from the property lines.

C. Public Utilities

1. Sanitary sewer and water mains that are oversized for the subdivision and designed to accommodate the development of adjacent property may be required, and the additional cost shall be allocated according to city policy.
2. A minimum water main of six (6) inch ductile cast iron pipe or other approved pipe shall be required.
3. The following shall be provided and approved by the city engineer:
  - a. Sewer lines shall be of PVC pipe of a size with appropriate grades.
  - b. Service wyes shall be six (6) inches.
  - c. Root repellent joint material shall be required.
4. Public sewer and water lines shall be stubbed to the property line of each lot within the subdivision.
  - a. A cap or plug shall be placed at property line until the service is extended to the structure.
  - b. A one inch, Type K, copper water service, corporation cock and curb box and stop and six (6) inch of the type and class of adjoining pipe sewer service shall be minimum requirements and may be placed in a common trench in accordance with the city Plumbing Code.
  - c. Curb boxes shall be easily located and visible.

5. Utility and road construction restoration shall be required in accordance with the following:
  - a. Utility trenches are to be backfilled according to the specifications of the city engineer.
  - b. All areas disturbed by construction are to be restored to a condition equal to or better than what existed prior to construction.
  - c. Topsoil shall be applied to the restoration areas prior to sod or seed. Topsoil shall be pulverized black dirt acceptable to the city engineer and shall be spread to a compacted thickness of three (3) inches.
  - d. Sod shall be required where improved lawn areas are disturbed. Sod shall be densely rooted blue grass or other approved grasses free of noxious weeds and objectionable grasses. After placement, sod shall be pressed into the underlying soil by rolling or tamping. Pegging of sod shall be required in ditches and drainage channels and on steeper slopes.
  - e. Seed shall be required where construction activities disturb unimproved areas. The application of seed and mulch shall conform to specifications approved by the city engineer.
  - f. In areas of steep slopes, seeding with wood fiber blankets may be substituted for sod, if approved by the city engineer.
  - g. All sodded and seeded areas are to be watered and maintained in a satisfactory condition until acceptance of that portion of the work. Sod and seed that dies, or washes out, prior to acceptance are to be replaced by the applicant.
  - h. Waste materials of any kind shall not be buried in any land or left deposited on any lot or road.

#### D. Grading and Drainage

1. All surface and underground drainage systems shall be installed to adequately remove all drainage that accumulates on the developed property. All such systems shall provide complete removal and a permanent solution for the removal of drainage water.
2. All land disturbing or land filling activities or soil storage shall be undertaken in a manner consistent with the stormwater pollution prevention plan approved for the subdivision, the city Water Management Plan and county requirements.
3. A grading permit shall be obtained from the zoning officer before any land disturbing activity associated with the subdivision commences on the property.
  - a. The grading permit shall be accompanied by the final stormwater pollution prevention plan that was submitted to the county.
  - b. The city shall not issue the grading permit until the applicant provides evidence that the final stormwater pollution prevention plan has been approved by the county.
  - c. The applicant shall:
    - 1.) Install the erosion and sedimentation controls as approved on the final plans,
    - 2.) Comply with all requirements of the county and the city, and
    - 3.) Maintain the erosion and sedimentation controls on a continual basis until the city authorizes the discontinuance or removal of the measures.
4. All individual lots shall be graded to avoid creating steep slopes with an average grade of thirty (30) percent or more or slopes that create a potential erosion, drainage or public safety hazard. The city may require the applicant to incorporate the following techniques to mitigate such hazards:
  - a. Design slopes to be in character with the surrounding natural terrain;
  - b. Use benching, terracing, or other slope-stabilizing techniques for fill, as determined

- appropriate by the city engineer;
- c. Install and maintain erosion control measures during construction in accordance with the current Minnesota Pollution Control Agency *Best Management Practices*;
  - d. Revegetate disturbed slopes as soon as practical after grading to stabilize steep slopes and prevent erosion, as required by the city: or
  - e. Install fencing or other protective measures to protect public safety.
- E. All essential service lines shall be placed underground, including electrical service, unless overhead lines are specifically approved by the city and shall be completed prior to street surfacing. All essential service lines shall be placed in rear line easements when carried on overhead poles if approved by the City Council.
- F. These shall include any required tree preservation, landscaping, wetland mitigation, the installation of mailboxes, driveways and curb boxes and other improvements as may be required by the city.

Subdivision 4. Construction Plans and Inspection

- A. All of the construction plans for the required improvements shall conform to the requirements of the city engineer and shall be prepared, at the applicants' expense, by a registered professional engineer.
- B. The construction plans with grades, profiles and other details for the improvements accompanied by the quantities of construction items and an estimate of the total costs for the grading, erosion control and public improvements shall be submitted to the city engineer for review and approval prior to the issuance of any permit for the property. Upon approval by the city engineer, the construction plans shall become a part of the required development agreement.
- C. The city engineer shall inspect all required improvements in the subdivision installed under the provisions of this ordinance during construction at the applicants' expense.

Subdivision 5. Completion of Required Basic Improvements

- A. The applicant shall complete all required basic improvements no later than one (1) year following the commencement of work on the improvements except:
  - 1. Street lighting shall be completed within two (2) years following the initial commencement of work on the required basic improvements.
  - 2. Landscaping shall be completed within one (1) year following the issuance of a building permit for the last vacant lot within the subdivision unless weather precludes completion, in which case the landscaping shall be completed at the outset of the next growing season.
  - 3. All streets constructed in conjunction with sanitary sewer, water main and/or storm sewer improvements shall be completed over two (2) construction seasons, except for phased developments. The initial phase of construction shall include the complete installation of the underground utilities, gravel base, curb and gutter and bituminous base course within the street areas. The bituminous wearing course shall be completed after at least one winter but before the third winter.
    - a. The minimum thickness of the bituminous base shall be two inches during the interim period.
    - b. All manholes and valve boxes are to be installed in the bituminous base course and left ½-inch below the surface throughout the winter and then raised to ½-inch below the final surface prior to placing the bituminous wearing course.
  - 4. For developments that are approved as phased developments by the City Council, a phasing schedule for completion of the roadway and utilities within a reasonable period of time shall be

submitted by the applicant to the city engineer for review and approval. The City Council may require the submittal of an additional financial guarantee to assure completion of the phased improvements within a reasonable period of time.

- B. The acceptance of the public improvements and any release of the required financial guarantee by the city for the public and private improvements shall be subject to the:
  - 1. The city engineer's or zoning officer's certificate of compliance of all improvements with the final construction plans in the development agreement.
  - 2. Submission of a warranty/maintenance guarantee in the form of a bond or a letter of credit to be approved by the city attorney that is equal to the original cost of the improvements or a lesser amount as agreed to by the city engineer.
    - a. The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two (2) years from the date of final city acceptance of the work.
    - b. The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, curb boxes, materials and equipment shall be subject to:
      - 1.) One (1) year from the date of final city acceptance, or
      - 2.) Two (2) years from the date of final city acceptance of the work if the wearing course is applied during the same construction season as the bituminous base.
    - c. The required warranty period for sod, trees, and landscaping is two (2) years following installation of landscaping materials.
    - d. Warranties for other public improvements and phased developments approved by the City Council, shall be established by the City Council.
- C. The applicant shall be required to replace and/or repair any public improvements, including curb stops, public signage, manholes, etc. that are damaged during the grading of the property for building constructions.
- D. A paper copy and electronic copy of a complete set of as-built construction drawings of all public improvements shall be submitted to the city within one hundred and twenty (120) days after construction of the public improvements is completed and approved by the city. The final financial guarantees shall not be released until the as-built drawings have been submitted to the city.

## **SECTION I. DEVELOPMENT AGREEMENT**

### Subdivision 1. Development Agreement Required

The applicant of any subdivision that requires the installation of public improvements is required to enter into a development agreement with the city prior to the installation of any required improvements and before the final plat is released for recording at the county to ensure that all conditions of the subdivision approval are incorporated into the development and that the required improvements are properly installed.

### Subdivision 2. Development Agreement Provisions

- A. Prior to final plat approval by the City Council, the applicant shall agree to install the required improvements within the subdivision in conformity with the construction plans approved by the city engineer and all city and county requirements.
- B. The applicant shall arrange for the installation of telecommunications, electrical and natural gas service following the grading of boulevard or utility easements.



C. Financial Guarantee.

1. The development agreement shall require the applicant to make a financial guarantee, in conformance to the requirements of this section and as allowed by law, in a form acceptable to the city attorney.
2. The guarantee shall be in an amount equal to:
  - a. One hundred fifty (150) percent of the total cost of all the public improvements listed in subd. 3, of section H to be furnished and installed by the applicant, unless as otherwise provided for in this section, as estimated by city engineer.
  - b. One thousand dollars (1,000.00) per lot or as determined by the City Council, to guarantee the tree preservation represented in the approved tree preservation and landscape plan and installation of the required landscaping.
  - c. The costs of inspection and administration by the city and other necessary review and inspection by the city's consultants.
3. The development agreement may provide for completion of part or all of the improvements prior to the recording of the final plat with the county. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the financial guarantee may be reduced in a sum to equal the estimated costs of the improvements completed in a manner approved by the city engineer prior to the recording of the plat.
4. The financial guarantee may be reduced if the city accepts the public improvement by a ratio that the cost of the dedicated public improvement bears to the total cost of public improvements for the plat.
5. The city shall be entitled to reimburse itself out of the guarantee for any cost and expense incurred by the city for completion of the work in case of default of the applicant under the development agreement.
6. The financial guarantee for the public improvements shall not be released until:
  - a. The registered engineer responsible for the installation of the improvements has certified that the required improvements have been satisfactorily completed and the city engineer has approved the certification.
  - b. As-built construction plans that verify that all public improvements comply with the approved construction plans have been submitted to the city.
  - c. A title insurance policy approved by the city attorney has been submitted to the city indicating that the improvements are free and clear of any and all liens and encumbrances.
7. Upon completion of the work and termination of any liability, the balance remaining in the financial guarantee with any accrued interest shall be refunded to the applicant within thirty (30) days of satisfaction of the items in subpart 6 of this subdivision.

**SECTION J. ADMINISTRATION AND ENFORCEMENT**

Subdivision 1. Unapproved Subdivisions

No conveyance of land to which these regulations are applicable shall be filed or recorded with the county, if the plat has not approved by the City Council. This provision does not apply to a conveyance if the land described:

- A. Was a separate parcel of record May 1, 1959.
- B. Was the subject of a written agreement to convey entered into prior to such time.

- C. Was a separate parcel of not less than two and one-half (2 ½) acres in area and one hundred fifty (150) feet in width on January 1, 1966.
- D. Was a separate parcel of not less than five (5) acres in area and three hundred (300) feet in width on July 1, 1980.
- E. Is a single parcel of:
  - 1. Commercial or industrial land of not less than five (5) acres and having a width of not less than three hundred (300) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than five (5) acres in area or three hundred (300) feet in width, or
  - 2. Residential or agricultural land of not less than twenty (20) acres and having a width of not less than five hundred (500) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than twenty (20) acres in area or five hundred (500) feet in width.

Subdivision 2.      Vacation of Public Right of Way and Easements

- A. The City Council may vacate all or part of public streets, alleys, public ways, drainage and utility easements and public grounds after a public hearing is held and by the adoption of a resolution provided the Council finds it is in the public interest.
- B. A vacation may be initiated by:
  - 1. The City Council however, the resolution approving the vacation must be adopted by at least four-fifths (4/5) of all members of the City Council, or
  - 2. The submission of a petition for vacation by the owner (s) of land abutting the property as verified by current tax records from the county. The resolution approving the vacation must be adopted by a majority of all members of the City Council.
- C. If the vacation is initiated by petition, the owner (s) shall submit a completed application for a vacation on a form provided by the city along with the fee established by resolution of the City Council, as may be amended, to be used for city expenses related to the review, approval or disapproval of the vacation request.
- D. The notice of the public hearing shall be published in the city’s official newspaper and mailed to the owner of each abutting property owner a minimum of ten (10) days prior to the hearing. The public hearing notice shall state:
  - 1. The date, time, and location of the hearing before the City Council;
  - 2. A description of the vacation request; and the address or location of the property to be subdivided
- E. Failure to give the notice or any defects in the notice shall not invalidate the proceedings.
- F. Following approval of the resolution, a copy of the vacation resolution prepared in accordance with Minnesota Statutes 412.851, as may be amended, and the resolution shall be filed with the county.

Subdivision 3.      Violations and Penalty

- A. It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land within any subdivision unless the subdivision has been recorded with the county.
- B. It shall be unlawful to receive or record in any public office any subdivision of land unless it has been approved by the City Council.
- C. It shall be a misdemeanor for any person owning an addition or subdivision within the city to

represent that any improvement within the addition or subdivision has been supervised, inspected or constructed according to the plans and specifications approved by the City Council, when such actions have not occurred.

**CHAPTER 160C REPEAL AND EFFECTIVE DATE**

**SECTION A. REPEALS**

Chapter 5 – Zoning, Subdivision and Land Use, referred to as the City of Hamburg Zoning Ordinance, adopted on June 23, 1975 and all amendments to Chapter 5 – Zoning, Subdivision and Land Use are hereby repealed.

**SECTION B. EFFECTIVE DATE**

This ordinance becomes effective from and after its passage and publication, according to law.

Passed by the City Council of Hamburg, Minnesota on November 24, 2009.

\_\_\_\_\_  
Richard Malz, Mayor

ATTEST:

\_\_\_\_\_  
Jeremy Gruenhagen, City Clerk-Treasurer

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